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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Parts 1600, 1601, 1603, 1605, 1650, 1651 and 1690

Blended Retirement System

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Final rule.

SUMMARY: The Federal Retirement Thrift Investment Board (“FRTIB”) is amending its regulations to implement changes to the uniformed services’ retirement system that are mandated by the National Defense Authorization Act for Fiscal Year 2016.

DATES: This rule is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Brandon Ford, Attorney-Advisor, Federal Retirement Thrift Investment Board, Office of General Counsel, 77 K Street NE, Suite 1000, Washington, DC 20002, 202-864-8734, Brandon.Ford@tsp.gov.

SUPPLEMENTARY INFORMATION: The FRTIB administers the Thrift Savings Plan (TSP), which was established by the Federal Employees’ Retirement System Act of 1986 (FERSA), Public Law 99-335, 100 Stat. 514. The TSP provisions of FERSA are codified, as amended, largely at 5 U.S.C. 8351 and 8401-79. The TSP is a tax-deferred retirement savings plan for Federal civilian employees and members of the uniformed services. The TSP is similar to cash or deferred arrangements established for private-sector employees under section 401(k) of the Internal Revenue Code (26 U.S.C. 401(k)).

The National Defense Authorization Act for Fiscal Year 2016 (NDAA), Public Law 114-92, signed into law November 25, 2015, changed the uniformed services’ retirement plan from one that relied primarily on a cliff-vested defined benefit to one that blends a reduced defined benefit with enhanced TSP benefits, continuation pay, and lump-

sum options. The new retirement system is known as the Blended Retirement System (BRS).

On September 11, 2017, the Agency published a proposed rule with request for comments in the **Federal Register** (82 FR 42613). The Agency received one or more comments from four individuals and a Federal Agency.

One individual provided suggestions for improving the Department of Defense (DoD) calculator. Although this comment does not affect these regulations, the comment was forwarded to DoD for its review. Another individual commented supporting the implementation of BRS.

One individual noted that contributing continuation pay to the TSP may potentially limit the amount of Service Matching Contributions available if doing so causes the individual to exceed the IRC section 402(g) elective deferral limit. The commenter suggested that continuation pay not count towards that limit. The TSP is subject to the same elective deferral limits as private-sector 401(k) plans. Therefore, the Agency is bound by the Internal Revenue Code and Treasury Regulations which state that elective deferrals from bonuses (such as continuation pay) are included in the overall limit along with contributions made from basic pay.

One individual along with the Department of Defense requested that affirmative (voluntary) contribution elections made by members of the uniformed services who first join a service on or after January 1, 2018 be effective immediately. The proposed regulations had a 60 day delay in automatic enrollment along with a 60 day delay for contributions made by an affirmative election. This design made sense because the underlying purpose of automatic enrollment in retirement plans is to have employees contributing as soon as they are eligible to participate, and DoD requested that automatic enrollment occur 60 days after the service member’s Pay Entry Base Date (PEBD). Additionally, these service members would not be eligible to receive the Service Automatic (1%) Contributions until after they have reached 60 days of service.

The comment from DoD presented different positions as to why affirmative contribution elections in the first 60 days of service should be effective

immediately and automatic enrollment should remain delayed until the first pay period after 60 days from the member’s PEBD. In particular, DoD noted that if automatic enrollment begins immediately upon accession, some service members may not be given ample opportunity to request a refund because they will still be in basic training. However, in the view of DoD, this is not a concern with contributions made through an affirmative election. DoD posits that because the ability to request a refund is unique to automatic enrollment and not contributions made through an affirmative election, it is permissible to delay automatic enrollment for 60 days while allowing for contributions made by affirmative election to be effective immediately, even if made within the first 60 days of service. DoD further suggests that doing so would be beneficial to those service members who make an affirmative contribution election within the first 60 days of service.

The Agency supports the position put forth by DoD. Therefore, in this final rule, the amendments made to section 1600.12 in the proposed rule are deleted. However, the Board is publishing the remaining provisions of the proposed rule as final without modification.

BRS Eligibility

BRS covers service members who first enter a uniformed service on or after January 1, 2018. It also covers service members who (1) have completed fewer than 12 years of service (or, if in the reserve component, have fewer than 4,320 retirement points) as of December 31, 2017, and (2) elect, within a certain timeframe, to transfer from the legacy retirement system to BRS (this process is also known as electing to “opt-in” to BRS). The employing services are responsible for making BRS eligibility determinations and reporting each service member’s retirement coverage status to the TSP.

Service Automatic (1%) Contributions

Timing Restrictions

The NDAA placed timing restrictions on the receipt of Service Automatic 1% Contributions to a service member’s TSP account. Service members who first enter duty on or after January 1, 2018 cannot receive any Service Automatic (1%) Contributions until the first full

pay period following the date that is 60 days after the member's Pay Entry Base Date (PEBD).¹ For members who elect to transfer to the BRS, Service Automatic (1%) Contributions will begin the first full pay period following their election to transfer.

Service Automatic (1%) Contributions must stop the first full pay period that is 26 years after the service member's PEBD. This rule applies to all BRS participants whether they entered duty on or after January 1, 2018, or they elected to transfer to BRS. For example, a member who has served six years before electing to transfer to BRS can receive matching contributions for only 20 years.

Vesting

The NDAA requires each BRS participant to complete 2 years of military service before they are vested in their Service Automatic (1%) Contributions. A service member's civil service will not count toward the completion of that two years. Therefore, the FRTIB amends section 1603.1 to have separate definitions for civilian service and military service. The definition for civilian service will remain the same as it is today. Military service will be defined as service that is creditable under 37 U.S.C. 205, which is the provision that defines years of service for purposes of computing basic pay. For service members who elect to transfer to BRS, all military service completed prior to the election will count towards the vesting requirement. For example, if a service member has completed 3 years of service prior to transferring to BRS, that member will be immediately vested in the Service Automatic (1%) Contributions made to his or her TSP account.

Enrollment and Member Contributions

Automatic Enrollment

The NDAA requires employing services to automatically enroll all uniformed service members who first enter service on or after January 1, 2018. Employing services must also automatically enroll all BRS participants (whether they entered duty on or after January 1, 2018, or transferred to BRS) who separate from service and later re-enter service.

Automatic Enrollment is deferred for BRS participants until the first full pay

period following the date that is 60 days after the member's PEBD because some service members would be in basic training for the entire refund period if automatic enrollment were not delayed. This delay will mitigate that concern and place all automatically enrolled service members on equal footing.

The Executive Director has the statutory authority to select a default contribution percentage rate for automatically enrolled participants that is no less than 2% and no more than 5%. The default percentage rate for BRS participants is set at 3%. This is the same contribution rate at which civilian participants are automatically enrolled. A participant who is automatically enrolled may change the amount that he or she is contributing by filing a contribution election with his or her payroll office.

Service members who elect to transfer to BRS, absent a contribution election in the alternative, will continue to make contributions at the rate that they were making contributions prior to their election to transfer. They will not be automatically enrolled. However, if a member who transfers to BRS separates from service and later re-enters service, that member will be automatically enrolled to contribute 3% of his or her basic pay beginning the first full pay period following the date that is 60 days after the member's PEBD.

Service members who are not covered by BRS will not be automatically enrolled even if they separate from service and later re-enter service.

Annual Automatic Re-Enrollment

NDAA requires employing services to automatically re-enroll, on January 1st of each year, BRS participants who have declined automatic enrollment for a year. Accordingly, service members subject to automatic enrollment who terminate their contributions at any point during the year and do not elect to resume them by the last full pay period of the year will be automatically re-enrolled at a contribution rate of 3% as of January 1st of the following year. The employing services are responsible for determining which BRS participants are not making contributions in the last full pay period of the year.

Automatic Enrollment Refunds

Service members who are automatically enrolled in the TSP may request a refund of the automatic enrollment contributions deducted from their basic pay (including associated earnings) within the first 90 days of the member's first automatic enrollment contribution. Members who stop making contributions are not eligible for refunds

of contributions deducted when they are automatically re-enrolled on January 1st because, under rules mandated by the Internal Revenue Service, a new 90-day refund period is not allowed unless one full calendar year (January through December) has passed since the member's last automatic enrollment contribution.

There are very few participants who will go an entire plan year without any default employee contributions because they will be subject to automatic re-enrollment for each plan year. There are significant programming limitations to track the small number of members who will go an entire plan year without any default employee contributions. For these reasons, the Board has decided to disallow refunds of contributions associated with automatic re-enrollment.

Hardship Withdrawals and Automatic Enrollment

Under existing IRS rules, a participant who obtains a financial hardship in-service withdrawal may not contribute to the TSP for a period of six months after the withdrawal is processed. This final rule provides that no BRS participant will be automatically enrolled or re-enrolled during a six month non-contribution period. For example, a service member who is in a non-contribution period at the end of the year will not be reenrolled in January. However, if the member does not resume contributions after the end of the six month non-contribution period and consequently is not making contributions during the last full pay period of the year, the member's employing service must automatically enroll the member on January 1st of the subsequent year.

Service Matching Contributions

Timing Restrictions

Service Matching Contributions begin the first full pay period that is 2 years after the service member's PEBD. For members who elect to transfer to the BRS, Service Matching Contributions begin the first full pay period following their election to transfer. For example, a member who has served 1 year before electing to transfer to BRS will receive Service Matching Contributions beginning the first full pay period following their election even though 2 years have not passed since their PEBD.

Service Matching Contributions must stop at the same time Service Automatic (1%) Contributions stop, which is the first full pay period that is 26 years after the service member's PEBD. This is true

¹ PEBD is the date that denotes how much service a member has for the purpose of determining longevity pay rates. The Navy and Marine Corps refer to this as the pay entry base date, while the Air Force calls it simply the pay date. DoD refers to it as the basic pay date. The services are responsible for determining each member's PEBD and providing each member's PEBD to the TSP.

regardless of how the service member became covered by BRS.

Vesting

All BRS participants will immediately vest in their Service Matching Contributions.

Repeal of Existing Matching Program for Critical Specialties

The NDAA repeals the service matching program described in 37 U.S.C. 211(d) as of January 1, 2018. There are no service members currently participating in the program. Therefore, this final rule deletes all references to 37 U.S.C. 211(d).

Default Investment Fund

A member who first enters service on or after January 1, 2018, will have his or her contributions invested in an age-appropriate L Fund by default until the member makes an affirmative contribution allocation that directs incoming contributions into a different fund or combination of funds. Likewise, if a service member who elects to transfer to BRS has not made either an affirmative contribution allocation or an interfund transfer, then any contributions made after becoming covered by BRS will be invested in an age-appropriate L Fund.

If a service member who elects to transfer to BRS has made an interfund transfer in the past but not a contribution allocation, then any contributions made after becoming covered by BRS will be invested in the G Fund. If a service member who elects to transfer to BRS has made an affirmative contribution allocation in the past, then any contributions made after becoming covered by BRS will be invested in accordance with the member's contribution allocation. However, if a member elects to transfer to BRS and has a zero account balance, contributions will be invested in an age-appropriate L Fund regardless of any past contribution allocation or interfund transfer. The investment of contributions made prior to becoming covered by BRS will remain unchanged. Uniformed service members who are not covered by BRS will continue to have their contributions defaulted into the G Fund.

When an employing agency automatically re-enrolls a participant because they were not making contributions in the last full pay period of the year, the participant's contributions will be invested in the same manner as they were prior to re-enrollment (regardless of whether it was an affirmative contribution allocation or a default investment). Likewise,

contributions of a rehired service member will be invested in the fund(s) to which they were being invested prior to being rehired (regardless of whether the fund(s) were an affirmative contribution allocation or a default investment and regardless of how much time has passed since the rehired service member separated from service). However, if a re-enrolled or re-hired service member has a zero account balance, future contributions will be defaulted to an age-appropriate L Fund.

The first time a BRS participant's employing agency automatically enrolls him or her, or when he or she first transfers to BRS, or as soon as practicable thereafter, the TSP will provide each BRS participant who is subject to default investment in an age-appropriate L Fund with a notification concerning the risk of investing.

Correction of Administrative Errors

BRS introduces new potential errors that are not currently addressed in regulations. Specifically, employing services may classify members of the uniformed services in the wrong retirement system (*i.e.*, legacy instead of BRS and vice versa). If this error occurs, it is possible that service members will not be automatically enrolled and not receive service contributions. Additionally, if this error were to occur, service member contributions may be invested in the wrong default investment fund which would require breakage calculations. Therefore, the FRTIB amends Part 1605 to provide the necessary mechanisms to correct errors related to BRS.

If a BRS participant is misclassified by an employing agency as a non-BRS participant, when the misclassification is corrected, the participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a BRS participant during the period of misclassification. In addition, the employing service must, under the rules of § 1605.11, make up Service Automatic (1%) Contributions and Service Matching Contributions on employee contributions.

If a non-BRS participant is misclassified by an employing service as a BRS participant, employee contributions may remain in the participant's account when the misclassification is corrected. If the participant requests a refund of employee contributions, the employing service must submit a negative adjustment record to remove the funds under the procedure described in § 1605.12. The TSP will forfeit all service contributions that were made to

a non-BRS participant's account, except that an employing service may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

The TSP will charge the employing service for any positive breakage that results from an incorrect default investment. To initiate a breakage calculation for the uniformed service member, the employing service must notify the TSP that the participant is entitled to breakage. Notification from the employing service to the TSP that the participant has been misclassified will not itself trigger the TSP to take corrective action other than to update the participant's retirement system coverage.

Finally, the FRTIB amends section 1605.31 to reduce makeup civilian agency contributions by any Service Automatic (1%) Contributions the participant receives while in military service. Currently, USERRA requires civilian agencies to makeup automatic (1%) and matching contributions missed while a member was separated or in a non-pay status for military service. The regulations currently reduce the agency makeup matching contributions by any matching contributions received while performing military service. These amendments will extend that reduction to include Service Automatic (1%) Contributions received while performing military service. The amendments also provide that breakage on agency or service contributions will be based on the contribution allocation(s) on file for the participant during the period of military service.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities. This regulation will affect Federal employees and members of the uniformed services who participate in the TSP.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act.

Unfunded Mandates Reform Act of 1995

Pursuant to the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 602, 632, 653, and 1501–1571, the effects of this regulation on state, local, and tribal governments and the private sector have been assessed. This regulation will not compel the expenditure in any one year of \$100 million or more by state, local,

and tribal governments, in the aggregate, or by the private sector. Therefore, a statement under 2 U.S.C. 1532 is not required.

Submission to Congress and the General Accounting Office

Pursuant to 5 U.S.C. 810(a)(1)(A), the Agency submitted a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States before publication of this rule in the **Federal Register**. This rule is not a major rule as defined at 5 U.S.C. 814(2).

List of Subjects

5 CFR Part 1600

Government employees, Pensions, Retirement.

5 CFR Part 1601

Government employees, Pensions, Retirement.

5 CFR Part 1603

Government employees, Pensions, Retirement.

5 CFR Part 1605

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1650

Alimony, Claims, Government employees, Pensions, Retirement.

5 CFR Part 1651

Claims, Government employees, Pensions, Retirement.

5 CFR Part 1690

Government employees, Pensions, Retirement.

Ravindra Deo,

Executive Director, Federal Retirement Thrift Investment Board.

For the reasons stated in the preamble, the FRTIB amends 5 CFR Chapter VI as follows:

PART 1600—EMPLOYEE CONTRIBUTION ELECTIONS, CONTRIBUTION ALLOCATIONS, AND AUTOMATIC ENROLLMENT PROGRAM

■ 1. The authority citation for part 1600 is revised to read as follows:

Authority: 5 U.S.C. 8351, 8432(a), 8432(b), 8432(c), 8432(j), 8432d, 8474(b)(5) and (c)(1), and 8440e.

■ 2. Add § 1600.14 to subpart B to read as follows:

§ 1600.14 Effect of election to be covered by BRS.

(a) If a uniformed service member elects to be covered by BRS, the member may make a contribution election at any time.

(b) Eligibility to make employee contributions, and therefore to have Agency Matching Contributions made on the member's behalf, is subject to the restrictions on making employee contributions after receipt of a financial hardship in-service withdrawal described at 5 CFR part 1650.

(c) If the member had elected to make TSP contributions while not covered by BRS, the election remains effective until the member makes a new election.

(d) Agency Automatic (1%) Contributions for all members covered under this section and, if applicable, Agency Matching Contributions attributable to employee contributions must begin the first full pay period that the transfer to BRS becomes effective.

■ 3. Amend § 1600.19 to revise paragraphs (a), (b)(1) introductory text, (b)(2) and (c) to read as follows:

§ 1600.19 Employing agency contributions.

(a) *Agency Automatic (1%) Contributions.* Each pay period, subject to the limitations in paragraph (d) of this section, any agency that employs an individual covered by FERS or BRS must make a contribution to that employee's tax-deferred balance for the benefit of the individual equal to 1% of the basic pay paid to such employee for service performed during that pay period. The employing agency must make Agency Automatic (1%) Contributions without regard to whether the employee elects to make employee contributions.

(b) *Agency Matching Contributions.* (1) Subject to the limitations in paragraph (d) of this section, any agency that employs an individual covered by FERS or BRS must make a contribution to the employee's tax-deferred balance for the benefit of the employee equal to the sum of:

* * * * *

(2) A uniformed service member is not entitled to matching contributions for contributions deducted from special or incentive pay (including bonuses).

(c) *Timing of employing agency contributions.* (1) An employee appointed or reappointed to a position covered by FERS is immediately eligible to receive employing agency contributions.

(2) A uniformed service member covered by BRS will be eligible to receive employing agency contributions pursuant to the following rules:

(i) A uniformed service member who first entered service on or after January 1, 2018 is entitled to:

(A) Agency Automatic (1%) Contributions beginning in the first full pay period following the date that is 60 days after the uniformed service member's PEBD and ending in the first full pay period following the date that is 26 years after the uniformed service member's PEBD.

(B) Agency Matching Contributions beginning in the first full pay period following the date that is 2 years after the uniformed service member's PEBD and ending in the first full pay period following the date that is 26 years after the uniformed service member's PEBD.

(ii) A uniformed service member who elects to enroll in BRS is entitled to:

(A) Agency Automatic (1%) Contributions beginning in the first full pay period following the date the uniformed service member enrolled in BRS and ending in the first full pay period following the date that is 26 years after the Uniformed service member's PEBD.

(B) Agency Matching Contributions beginning in the first full pay period following the date the uniformed service member enrolled in BRS and ending in the first full pay period following the date that is 26 years after the uniformed service member's PEBD.

■ 4. Revise § 1600.34 to read as follows:

§ 1600.34 Automatic enrollment program.

(a) All newly hired civilian employees who are eligible to participate in the Thrift Savings Plan and those civilian employees who are rehired after a separation in service of 31 or more calendar days and who are eligible to participate in the TSP will automatically have 3% of their basic pay contributed to the employee's traditional TSP balance (default employee contribution) unless, by the end of the employee's first pay period (subject to the agency's processing time frames), they elect:

- (1) To not contribute;
 - (2) To contribute at some other level;
- or

(3) To make Roth contributions in addition to, or in lieu of, traditional contributions.

(b) All uniformed service members who either enter service on or after January 1, 2018 or re-enter service after a separation in service of 31 or more calendar days after having been covered by BRS at the time of separation will automatically have 3% of their basic pay contributed to the member's traditional TSP balance (default employee contribution) beginning the first full pay period following the date

that is 60 days after the member's PEBD unless they elect by the end of that 60 day period:

- (1) To not contribute;
- (2) To contribute at some other level;

or

(3) To make Roth contributions in addition to, or in lieu of, traditional contributions.

(c) If, for any calendar year, a uniformed service member described in paragraph (b) of this section does not make a contribution in the final full pay period of such calendar year due to the member's election to terminate contributions prior to the final full pay period, then that member will automatically have 3% of his or her basic pay contributed to his or her traditional TSP balance beginning the first full pay period of the following calendar year unless he or she makes a subsequent election by December 31st:

- (1) To not contribute;
- (2) To contribute at some other level;
- (3) To make Roth contributions in addition to, or in lieu of, traditional contributions.

■ 5. Amend § 1600.35 by revising the first sentence of paragraph (a) and adding paragraph (f) to read as follows:

§ 1600.35 Refunds of default employee contributions.

(a) Subject to the limitations in paragraph (f) of this section, a participant may request a refund of any default employee contributions made on his or her behalf (*i.e.*, the contributions made while under the automatic enrollment program) provided the request is received within 90 days after the date that the first default employee contribution was processed. * * *

* * * * *

(f) A participant may not receive a refund of default employee contributions made pursuant to § 1600.34(c).

■ 6. Amend § 1600.37 by revising the introductory text and paragraph (d) to read as follows:

§ 1600.37 Notice.

The Board shall furnish all new employees and all rehired employees covered by the automatic enrollment program, and all employees described in paragraph (c) of § 1600.34, covered by the automatic enrollment program a notice that accurately describes:

* * * * *

(d) The employee's ability (or inability) to request a refund of any default employee contributions (adjusted for allocable gains and losses) and the procedure to request such a refund; and

* * * * *

PART 1601—PARTICIPANTS' CHOICES OF TSP FUNDS

■ 7. The authority citation for part 1601 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8438, 8474(b)(5) and (c)(1).

■ 8. Revise § 1601.13 to read as follows:

§ 1601.13 Elections.

(a) *Contribution allocation.* Each participant may indicate his or her choice of TSP Funds for the allocation of future deposits by using the TSP website or the ThriftLine, or by completing and filing the appropriate paper TSP form with the TSP record keeper in accordance with the form's instructions. The following rules apply to contribution allocations:

(1) Contribution allocations must be made in one percent increments. The sum of the percentages elected for all of the TSP Funds must equal 100 percent;

(2) The percentage elected by a participant for investment of future deposits in a TSP Fund will be applied to all sources of contributions and transfers (or rollovers) from traditional IRAs and eligible employer plans. A participant may not make different percentage elections for different sources of contributions;

(3) The following default investment rules shall apply to civilian participants:

(i) All deposits made on behalf of a civilian participant enrolled prior to September 5, 2015 who does not have a contribution allocation in effect will be invested in the G Fund. A civilian participant who is enrolled prior to September 5, 2015 and subsequently rehired on or after September 5, 2015 and has a positive account balance will be considered enrolled prior to September 5, 2015 for purposes of this paragraph; and

(ii) All deposits made on behalf of a civilian participant first enrolled on or after September 5, 2015 who does not have a contribution allocation in effect will be invested in the age-appropriate TSP Lifecycle Fund;

(iii) A civilian participant enrolled prior to September 5, 2015 who elects for the first time to invest in a TSP Fund other than the G Fund must execute an acknowledgement of risk in accordance with § 1601.33;

(4) The following default investment rules shall apply to uniformed services participants:

(i) All deposits made on behalf of a uniformed services participant who first entered service prior to January 1, 2018, has not elected to be covered by BRS, and does not have a contribution allocation in effect will be invested in the G Fund;

(ii) All deposits made on behalf of a uniformed services participant who first entered service on or after January 1, 2018 and who does not have a contribution allocation in effect will be invested in the age-appropriate TSP Lifecycle Fund;

(iii) If a uniformed services participant makes an election to be covered by BRS as described in 5 CFR 1600.14 and does not have a contribution allocation in effect at the time of the election, then all deposits made after the date of such election will be invested in the age-appropriate TSP Lifecycle Fund. Deposits made prior to the date of the election will remain invested in the G Fund.

(iv) A uniformed services participant who first entered service prior to January 1, 2018 and has not made an election to be covered by the BRS who elects for the first time to invest in a TSP Fund other than the G Fund must execute an acknowledgement of risk in accordance with § 1601.33;

(5) Once a contribution allocation becomes effective, it remains in effect until it is superseded by a subsequent contribution allocation or the participant's account balance is reduced to zero. If a rehired participant has a positive account balance and a contribution allocation in effect, then the participant's contribution allocation will remain in effect until a new allocation is made. If, however, the participant (other than a participant described in paragraph (a)(4)(i) of this section) has a zero account balance, then the participant's contributions will be allocated to the age-appropriate TSP Lifecycle Fund until a new allocation is made.

(b) *Effect of rejection of contribution allocation.* If a participant does not correctly complete a contribution allocation, the attempted allocation will have no effect. The TSP will provide the participant with a written statement of the reason the transaction was rejected.

(c) *Contribution elections.* A participant may designate the amount or type of employee contributions he or she wishes to make to the TSP or may stop contributions only in accordance with 5 CFR part 1600.

■ 9. Amend § 1601.33 by revising the first sentence of paragraph (a) to read as follows:

§ 1601.33 Acknowledgment of risk.

(a) Uniformed services participants who first entered service prior to January 1, 2018 and who have not elected to be covered by BRS and civilian participants who enrolled prior to September 5, 2015 must execute an acknowledgement of risk in order to

invest in a TSP Fund other than the G Fund. * * *

PART 1603—VESTING

- 10. The authority citation for part 1603 continues to read as follows:
Authority: 5 U.S.C. 8432(g), 8432b(h)(1), 8474(b)(5) and (c)(1).
- 11. Amend paragraph (b) of § 1603.1 as follows:
 - a. Amend the definition of “Service” by removing “Service means” and adding in its place “Civilian service means”; and
 - b. Add a definition of “Military service” in alphabetical order to read as follows:

§ 1603.1 Definitions.

* * * * *

(b) * * *

Military service means service that is creditable under 37 U.S.C. 205.

* * * * *

- 12. Revise § 1603.2 to read as follows:

§ 1603.2 Basic vesting rules.

(a) All amounts in a CSRS employee’s individual account are immediately vested.

(b) Except as provided in paragraph (c) of this section, all amounts in a FERS employee’s or uniformed service member’s individual account (including all first conversion contributions) are immediately vested.

(c) Except as provided in paragraph (d) of this section, upon separation from Government service without meeting the applicable service requirements of § 1603.3, a FERS employee’s or a BRS uniformed service member’s Agency Automatic (1%) Contributions and attributable earnings will be forfeited.

(d) If a FERS employee or uniformed service member dies (or died) after January 7, 1988, without meeting the applicable service requirements set forth in § 1603.3, the Agency Automatic (1%) Contributions and attributable earnings in his or her individual account are deemed vested and shall not be forfeited. If a FERS employee died on or before January 7, 1988, without meeting those service requirements, his or her Agency Automatic (1%) Contributions and attributable earnings are forfeited to the Thrift Savings Plan.

- 13. Amend § 1603.3 by revising paragraph (a) and the introductory text of paragraph (b), and adding paragraph (c) to read as follows:

§ 1603.3 Service requirements.

(a) Except as provided under paragraph (b) of this section, FERS

employees will be vested in their Agency Automatic (1%) Contributions and attributable earnings upon separating from Government only if, as of their separation date, they have completed three years of civilian service.

(b) FERS employees will be vested in their Agency Automatic (1%) Contributions and attributable earnings upon separating from Government service if, as of their separation date, they have completed two years of civilian service and they are serving in one of the following positions:

* * * * *

(c) Uniformed service members who are covered by BRS will be vested in their Agency Automatic (1%) Contributions and attributable earnings upon separation from the uniformed services only if, as of their separation date, they have completed two years of military service.

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

- 14. The authority citation for part 1605 continues to read as follows:
Authority: 5 U.S.C. 8351, 8432a, 8432d, 8474(b)(5) and (c)(1). Subpart B also issued under section 1043(b) of Public Law 104–106, 110 Stat. 186 and § 7202(m)(2) of Public Law 101–508, 104 Stat. 1388.
- 15. Amend paragraph (b) of § 1605.1 by adding definitions of “BRS participant” and “Non-BRS participant” in alphabetical order to read as follows:

§ 1605.1 Definitions.

* * * * *

(b) * * *

BRS participant means any member of the Uniformed Services described in 5 U.S.C. 8440e(e)(1).

* * * * *

Non-BRS participant means any member of the Uniformed Services not described in 5 U.S.C. 8440e(e)(1).

* * * * *

- 16. Amend § 1605.3 by adding paragraph (c) to read as follows:

§ 1605.3 Calculating, posting, and charging breakage on errors involving investment in the wrong fund.

* * * * *

(c) If a uniformed services participant’s retirement system is misclassified and the error results in default investment in the wrong fund, when the error is corrected pursuant to § 1605.14(f)–(g), the TSP will charge the employing agency for any positive breakage that results from the incorrect default investment. The retirement misclassification correction received from an employing agency will not

trigger corrective action other than to update the participant’s retirement system coverage. To initiate a breakage calculation for the uniformed service member, the employing agency must notify the TSP that the participant is entitled to breakage.

- 17. Amend § 1605.11 by revising the introductory text of paragraph (b) to read as follows:

§ 1605.11 Makeup of missed or insufficient contributions.

* * * * *

(b) *Employer makeup contributions.* If an employing agency has failed to make Agency Automatic (1%) Contributions that are required under 5 U.S.C. 8432(c)(1)(A) and 5 U.S.C. 8440e(e)(3)(A), or Agency Matching Contributions that are required under section 8432(c)(2) and 5 U.S.C. 8440e(e)(3)(B), the following rules apply:

* * * * *

- 18. Amend § 1605.14 by adding paragraphs (f) and (g) to read as follows:

§ 1605.14 Misclassified retirement system coverage.

* * * * *

(f) If a BRS participant is misclassified by an employing agency as a non-BRS participant, when the misclassification is corrected:

- (1) The participant may not elect to have the contributions made while classified as non-BRS removed from his or her account;
- (2) The participant may, under the rules of § 1605.11, elect to make up contributions that he or she would have been eligible to make as a BRS participant during the period of misclassification;
- (3) The employing agency must, under the rules of § 1605.11, make Agency Automatic (1%) Contributions and Agency Matching Contributions on employee contributions that were made while the participant was misclassified; and
- (4) The employing agency must submit makeup employee contributions on current payment records and service makeup contributions may be submitted on either current or late payment records.

(g) If a non-BRS participant is misclassified by an employing agency as a BRS participant, when the misclassification is corrected:

- (1) Employee contributions may remain in the participant’s account. If the participant requests a refund of employee contributions, the employing agency must submit a negative adjustment record to remove these

funds under the procedure described in § 1605.12.

(2) The TSP will forfeit all agency contributions that were made to a non-BRS participant's account. An employing service may submit a negative adjustment record to request the return of an erroneous contribution that has been in the participant's account for less than one year.

■ 19. Amend § 1605.31 by revising paragraph (c)(1), adding paragraph (c)(5), and revising paragraph (d) to read as follows:

§ 1605.31 Contributions missed as a result of military service.

* * * * *

(c) * * *

(1) The employee is entitled to receive the Agency Automatic (1%) Contributions that he or she would have received had he or she remained in civilian service or pay status. Within 60 days of the employee's reemployment or restoration to pay status, the employing agency must calculate the Agency Automatic (1%) makeup contributions and report those contributions to the record keeper, subject to any reduction in Automatic (1%) Contributions required by paragraph (c)(5) of this section.

* * * * *

(5) If the employee received uniformed services Automatic (1%) Contributions, the Agency Automatic (1%) Contributions will be reduced by the amount of the uniformed services Automatic (1%) Contributions.

(d) *Breakage*. The employee is entitled to breakage on agency contributions made under paragraph (c) of this section. Breakage will be calculated based on the contribution allocation(s) on file for the participant during the period of military service.

PART 1650—METHODS OF WITHDRAWING FUNDS FROM THE THRIFT SAVINGS PLAN

■ 20. The authority citation for part 1650 continues to read as follows:

Authority: 5 U.S.C. 8351, 8432d, 8433, 8434, 8435, 8474(b)(5) and 8474(c)(1).

■ 21. Amend § 1650.33 by revising the second sentence of paragraph (b) to read as follows:

§ 1650.33 Contributing to the TSP after an in-service withdrawal.

* * * * *

(b) * * * Therefore, the participant's employing agency will discontinue his or her contributions (and any applicable Agency Matching Contributions) for six months after the agency is notified by the TSP; in the case of a FERS or BRS

participant, Agency Automatic (1%) Contributions will continue. * * *

PART 1651—DEATH BENEFITS

■ 22. The authority citation for part 1651 continues to read as follows:

Authority: 5 U.S.C. 8424(d), 8432d, 8432(j), 8433(e), 8435(c)(2), 8474(b)(5) and 8474(c)(1).

■ 23. Amend § 1651.3 by revising paragraph (c)(3) to read as follows:

§ 1651.3 Designation of beneficiary.

* * * * *

(c) * * *

(3) Be signed and properly dated by the participant and signed and properly dated by one witness;

(i) The participant must either sign the form in the presence of the witness or acknowledge his or her signature on the form to the witness;

(ii) All submitted and attached pages of the form must be signed and dated by the participant;

(iii) All submitted and attached pages of the form must be signed and dated by the same witness;

(iv) A witness must be age 21 or older; and

(v) A witness designated as a beneficiary will not be entitled to receive a death benefit payment; if a witness is the only named beneficiary, the designation of the beneficiary is invalid. If more than one beneficiary is named, the share of the witness beneficiary will be allocated among the remaining beneficiaries pro rata.

* * * * *

PART 1690—THRIFT SAVINGS PLAN

■ 24. The authority citation for part 1690 continues to read as follows:

Authority: 5 U.S.C. 8474.

■ 25. Amend § 1690.1 as follows:

■ a. Revise the definitions of *Agency Automatic (1%) Contributions*, *Agency Matching Contributions*, and *Bonus contributions*.

■ b. Add definitions of *BRS* and *BRS participant* in alphabetical order.

■ c. Revise the definition of *Civilian employee*.

■ d. Revise the definitions of *Employer contributions* and *Employing agency*.

■ e. Add a definition of *PEBD* in alphabetical order.

■ f. Revise the definitions of *Uniformed service member* and *Uniformed services*.

The revisions and additions read as follows:

§ 1690.1 Definitions.

* * * * *

Agency Automatic (1%) Contributions means any contributions made under 5

U.S.C. 8432(c)(1) and (c)(3). It also includes service automatic (1%) contributions made under 5 U.S.C. 8440e(e)(3)(A).

Agency Matching Contributions means any contributions made under 5 U.S.C. 8432(c)(2). It also includes service matching contributions under 5 U.S.C. 8440e(e)(3)(B).

* * * * *

Bonus contributions means contributions made by a participant from any part of any special or incentive pay that the participant receives under chapter 5 of title 37.

BRS means the blended retirement system as established by the National Defense Authorization Act for FY 2016, Public Law 114–92, secs. 631–635 (2015).

BRS participant means a TSP participant covered by BRS.

* * * * *

Civilian employee or civilian participant means a TSP participant covered by the Federal Employees' Retirement System, the Civil Service Retirement System, or equivalent retirement plan.

* * * * *

Employer contributions means Agency Automatic (1%) Contributions under 5 U.S.C. 8432(c)(1), 8432(c)(3), or 5 U.S.C. 8440e(e)(3)(A) and Agency Matching Contributions under 5 U.S.C. 8432(c)(2) or 5 U.S.C. 8440e(e)(3)(B).

Employing agency means the organization (or the payroll office that services the organization) that employs an individual eligible to contribute to the TSP and that has authority to make personnel compensation decisions for the individual. It includes the employing service for members of the uniformed services.

* * * * *

PEBD means the pay entry base date (or pay entry basic date for some services), which is determined by each uniformed service and is used to calculate how much time in service a member has for the purpose of determining longevity pay rates.

* * * * *

Uniformed service member or uniformed services participant means a TSP participant who is a member of the uniformed services on active duty or a member of the Ready Reserve in any pay status.

Uniformed services means the Army, Navy, Air Force, Marine Corps, Coast Guard, Public Health Service Commissioned Corps, and the National Oceanic and Atmospheric

Administration Commissioned Officer Corps.

* * * * *

[FR Doc. 2017-27304 Filed 12-18-17; 8:45 am]

BILLING CODE 6760-01-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2017-0660; Product Identifier 2017-NE-21-AD; Amendment 39-19132; AD 2017-26-01]

RIN 2120-AA64

Airworthiness Directives; General Electric Company Turbofan Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain General Electric Company (GE) GENx-1B64/P2, -1B67/P2, -1B70/P2, -1B70/75/P2, -1B70C/P2, and -1B74/75/P2 turbofan engines. This AD was prompted by a report of the failure of the high-pressure turbine (HPT) stage 1 blade retainer and subsequent in-flight shutdown of the engine. This AD requires inspection of the HPT stage 1 blade retainer. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 23, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 23, 2018.

ADDRESSES: For service information identified in this final rule, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513-552-3272; fax: 513-552-3329; email: gae.aoc@ge.com. You may view this service information at the FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. It is also available on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-0660.

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-2017-0660; 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 Document 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:

Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-238-7120; fax: 781-238-7199; email: chris.mcguire@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 GE GENx-1B64/P2, -1B67/P2, -1B70/P2, -1B70/75/P2, -1B70C/P2, and -1B74/75/P2 turbofan engines. The NPRM published in the **Federal Register** on September 1, 2017 (82 FR 41577). The NPRM was prompted by a report of the failure of the HPT stage 1 blade retainer and subsequent in-flight shutdown of the engine. The NPRM proposed to require inspection of the HPT stage 1 blade retainer. We are issuing this AD to correct the unsafe condition on these products.

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 Revise Compliance Time

American Airlines (AA) requested that we change the compliance time in this AD to align with the compliance schedule in GE GENx-1B Service Bulletin (SB) 72-0326 R02, revised August 16, 2017. AA indicated the SB identifies two populations of HPT stage 1 blade retainers, one that requires inspection at the next shop visit and a second that requires inspection when the part is removed from the engine. The proposed AD, however, proposed inspection of all affected retainers at next shop visit. Due to this discrepancy between the proposed AD and the SB, AA requested this AD require inspections of the HPT stage 1 blade retainers at next shop visit and at part removal, as required by GENx-1B SB 72-0326 R02.

GE commented that, based on its analysis, conducting the required inspection of the HPT stage 1 blade retainer at its next piece-part exposure

is sufficient. GE requested that this final rule AD be changed to require inspection of all affected parts at piece-part exposure rather than at the next shop visit.

We partially agree. We disagree with AA that requiring inspections of HPT stage 1 blade retainers at next shop visit and at part removal, per GE GENx-1B SB 72-0326 R02, revised August 16, 2017, is necessary. We agree with GE that the risk assessment justifies waiting until exposure of the part to perform the inspection and the change clarifies the compliance action. We revised the compliance section of this AD to require that the HPT stage 1 blade retainer be inspected at its next piece-part exposure.

Request To Align Compliance by Part Population

Japan Airlines (JAL) requested that the compliance be changed to two populations of parts with two different compliance intervals. JAL indicated this change would align this AD with the two populations of affected parts identified in GE GENx-1B SB 72-0326 R02, revised August 16, 2017.

We disagree. Although the SB specifies certain part numbers be inspected sooner than at piece-part exposure, our risk assessment determined that performing the inspection for all affected parts at piece-part exposure addresses the safety concern represented by failure of the HPT stage 1 blade retainer. We did not change this AD.

Request To Incorporate Required for Compliance (RC) Label Into SB

AA requested that we incorporate the RC label into GENx-1B SB 72-0326 R02, revised August 16, 2017. AA indicated this change would clarify which sections of the SB are required to accomplish this AD. Using the RC label in the SB would also be consistent with FAA Advisory Circular (AC) 20-176A, "Service Bulletins Related to Airworthiness Directives and Indicating FAA Approval on Service Documents," dated June 16, 2014, and FAA Order 8110.117A, "Service Bulletins Related to Airworthiness Directives," dated June 18, 2014.

We disagree. FAA Order 8110.117A and AC 20-176A provide guidance, respectively, to FAA aviation safety engineers in the review of SBs and to design approval holders (DAHs) in the development and drafting of these SBs. These documents do not require use of the RC label by DAHs in drafting in SBs, and GE is not required to use this label. The paragraph from GE GENx-1B SB 72-0326 R02, revised August 16, 2017,

that is incorporated by reference by this AD, clearly identifies the steps that operators must follow to perform the inspection. We did not change this AD.

Request To Add Reference to Related SB

An individual commenter requested that GE GENx-1B SB 72-0327 R02, revised August 16, 2017, be mentioned in this AD since this SB is related to GENx-1B SB 72-0326 R02, revised August 16, 2017. The commenter indicated GENx-1B SB 72-0327 also relates to inspection of the stage one HPT blade retainer, but references an alternate part number. The commenter requested that the relationship between GENx-1B SB 72-0327 R02 and GENx-1B SB 72-0326 R02 be stated clearly.

We partially agree. Although GE GENx-1B SB 72-0327 R02, revised August 16, 2017, has a part number in common with the parts identified in GE GENx-1B SB 72-0326 R02, revised August 16, 2017, the serial numbers for the parts identified in GENx-1B SB 72-

0327 differ from those in GENx-1B SB 72-0326. The serial numbered parts identified in GENx-1B SB 72-0327 pose a lower risk to flight safety and are not affected by this AD. We did not change this AD.

Support for the AD

The Air Line Pilots Association expressed support for the NPRM as written.

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 1 CFR Part 51

We reviewed GE GENx-1B SB 72-0326 R02, revised August 16, 2017. The SB describes procedures for piece-part inspection of the HPT stage 1 blade retainer. 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 affects 11 engines installed on 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
Inspection of the HPT stage 1 blade retainer	1 work-hour × \$85 per hour = \$85	\$0	\$85	\$935

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 engines, propellers, and associated appliances to the Manager, Engine and Propeller Standards Branch, Policy and Innovation 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):

2017-26-01 General Electric Company:
Amendment 39-19132; Docket No. FAA-2017-0660; Product Identifier 2017-NE-21-AD.

(a) Effective Date

This AD is effective January 23, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to General Electric Company (GE) GENx-1B64/P2, -1B67/P2, -1B70/P2, -1B70/75/P2, -1B70C/P2, and -1B74/75/P2 turbofan engines, with a high-pressure turbine (HPT) stage 1 blade retainer, part number (P/N) 2445M91P01 or 2383M99P02, with a serial number listed in Planning Information, Paragraph 1.A., of GE GENx-1B Service Bulletin (SB) 72-0326 R02, revised August 16, 2017.

(d) Subject

Joint Aircraft System Component (JASC) Code 7250, Turbine Section.

(e) Unsafe Condition

This AD was prompted by a report of the failure of the HPT stage 1 blade retainer and subsequent in-flight shutdown of the engine. We are issuing this AD to prevent failure of the HPT stage 1 blade retainer. The unsafe condition, if not corrected, could result in failure of one or more engines, loss of thrust control, and damage to the airplane.

(f) Compliance

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

(g) Required Actions

(1) At the next piece-part exposure of the HPT stage 1 blade retainer after the effective date of this AD, perform a one-time inspection of the HPT stage 1 blade retainer in accordance with the Accomplishment Instructions, paragraph 3.A.(1), in GE GENx-1B SB 72-0326 R02, revised August 16, 2017.

(2) If any cracks are found in the HPT stage 1 blade retainer, or the retainer does not meet the dimensional criteria found in the Accomplishment Instructions, Paragraph 3.A.(1), in GENx-1B SB 72-0326 R02, revised August 16, 2017, replace the HPT stage 1 blade retainer with a part eligible for installation.

(h) Definition

For the purpose of this AD, "piece-part exposure" is defined as when the part is completely disassembled.

(i) Alternative Methods of Compliance (AMOCs)

(1) The Manager, ECO 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 ECO Branch, send it to the attention of the person identified in paragraph (j)(1) of this AD. You may email your request to: ANE-AD-AMOC@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.

(j) Related Information

For more information about this AD, contact Christopher McGuire, Aerospace Engineer, ECO Branch, FAA, 1200 District Avenue, Burlington, MA 01803; phone: 781-

238-7120; fax: 781-238-7199; email: christopher.mcguire@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) General Electric Company (GE) GENx-1B Service Bulletin 72-0326 R02, revised August 16, 2017.

(ii) Reserved.

(3) For GE service information identified in this AD, contact General Electric Company, GE-Aviation, Room 285, 1 Neumann Way, Cincinnati, OH 45215, phone: 513-552-3272; fax: 513-552-3329; email: geae.aoc@ge.com.

(4) You may view this service information at FAA, Engine and Propeller Standards Branch, 1200 District Avenue, Burlington, MA. For information on the availability of this material at the FAA, call 781-238-7125.

(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 Burlington, Massachusetts, on December 11, 2017.

Robert J. Ganley,

Manager, Engine and Propeller Standards Branch, Aircraft Certification Service.

[FR Doc. 2017-27248 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION**Federal Aviation Administration****14 CFR Part 71**

[Docket No. FAA-2017-0459; Airspace Docket No. 17-AGL-14]

Amendment of Class E Airspace; Greenwood/Wonder Lake, IL

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action modifies Class E airspace extending upward from 700 feet above the surface at Galt Field Airport, Greenwood/Wonder Lake, IL. This action is required due to the decommissioning of the Kenosha VHF omnidirectional range (VOR), which provided navigation guidance for the standard instrument approach procedures to this airport. The Kenosha VOR is being decommissioned as part of the VOR Minimum Operational Network (MON) Program. This action enhances the safety and management of

instrument flight rules (IFR) operations at the airport. Additionally, the geographic coordinates of the airport are adjusted to coincide with the FAA's aeronautical database.

DATES: Effective 0901 UTC, March 29, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT:

Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222-5711.

SUPPLEMENTARY INFORMATION:**Authority for This Rulemaking**

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

History

On June 20, 2017, the FAA published a notice of proposed rulemaking (NPRM) in the **Federal Register** (82 FR 28035) for Docket No. FAA-2017-0459 to modify Class E airspace extending upward from 700 feet above the surface at Galt Field Airport, Greenwood/Wonder Lake, IL. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Subsequent to publication, the FAA determined that the exclusionary language contained in the Class E airspace extending upward from 700 feet above the surface airspace description is no longer required and has been removed in this action.

Except for an editorial change and the change noted above, this rule is the same as published in the NPRM.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 modifies Class E airspace extending upward from 700 feet above the surface to within a 6.4-mile radius (reduced from an 8.8-mile radius) of Galt Field Airport, and updates the geographic coordinates of the airport to coincide with the FAA's aeronautical database.

The name of the city associated with the airport has been removed from the airspace description to comply with a recent change to FAA Order 7400.2L, Procedures for Handling Airspace Matters. Except for the change noted above, the action in this rule is the same as published in the NPRM.

Airspace reconfiguration is necessary due to the decommissioning of the Kenosha VOR as part of the VOR MON Program and to bring the airspace in

compliance with FAA Order 7400.2L, Procedures for Handling Airspace Matters, at this airport. Controlled airspace is necessary for safety and the management of IFR operations at the airport.

Regulatory Notices and Analyses

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

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B,

Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

AGL IL E5 Greenwood/Wonder Lake, IL [Amended]

Galt Field Airport, IL
(Lat. 42°24'10" N, long. 88°22'30" W)

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

Issued in Fort Worth, Texas, on December 8, 2017.

Walter Tweedy,

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

[FR Doc. 2017-27203 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA-2017-0565; Airspace Docket No. 17-AWP-1]

Amendment of Class D and Class E Airspace; Truckee, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class D airspace and Class E airspace designated as an extension, and modifies Class E airspace extending upward from 700 feet above the surface at Truckee-Tahoe Airport, Truckee, CA. This airspace redesign is necessary to support standard instrument approach and departure procedures under instrument flight rules (IFR) operations at the airport due to the commissioning of the Truckee-Tahoe Airport Non-Federal Contract Tower and enhances the safety and management of IFR operations at the airport. The Class E surface area airspace was inadvertently referenced as Class E extension airspace when referring to NOTAM information in the preamble, and was inadvertently omitted from the regulatory text.

DATES: Effective 0901 UTC, March 29, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

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

History

On July 28, 2017, the FAA published in the **Federal Register** (82 FR 35129) Docket FAA-2017-0565, a notice of proposed rulemaking (NPRM) to establish Class D airspace, and Class E airspace designated as an extension, amend Class E surface area airspace, and modify Class E airspace extending upward from 700 feet above the surface at Truckee-Tahoe Airport, Truckee, CA. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class D and E airspace designations are published in paragraph 5000, 6002,

6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and E airspace designations listed in this document will be published subsequently in the Order.

Changes to the NPRM

The FAA has discovered a clerical error in the text of the preamble contained in the Proposal section of the NPRM. The second paragraph incorrectly states: "The associated Class D airspace and Class E extension airspace areas would be effective during the specific dates and times established, in advance by NOTAM." This sentence is corrected to reference Class D and E surface area airspace. Class E extension airspace would remain in effect continuously. Also, the order of the geographic coordinates after the beginning lat./long. coordinates used to define Class E airspace extending upward from 700 feet above the surface is reversed to assist in cartography and publication. There is no change in the overall dimensions or location of the airspace as listed in the NPRM.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

The FAA is amending Title 14 Code of Federal Regulations (14 CFR) part 71 by establishing Class D airspace, and Class E airspace designated as an extension, and amending Class E surface area airspace and Class E airspace extending upward from 700 feet above the surface, at Truckee-Tahoe Airport, Truckee, CA, to support the commissioning of a Non-Federal Contract Tower, and to support standard instrument approach and departure procedures under IFR operations at the airport. Additionally, the following sentences are added to the Class E surface area airspace to designate effective times when the Class D is not in effect: "This Class E surface area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and

time will thereafter be continuously published in the Chart Supplement."

Class D airspace is established upward from the surface to and including 8,400 feet MSL within a 4.2-mile radius of Truckee-Tahoe Airport, and includes the Notice to Airmen (NOTAM) part-time language.

Class E surface area airspace, inadvertently omitted from the NPRM, is amended to include the NOTAM part-time language.

Class E airspace designated as an extension to a Class D or Class E surface area is established in two segments approximately four (4) miles wide, one extending to approximately 10 miles north, and one 12 miles northwest, of Truckee-Tahoe Airport. The additional language "extending upward from the surface" was added to the regulatory text to improve clarity.

Class E airspace extending upward from 700 feet above the surface is shifted slightly east to precisely align with the RNAV instrument approach procedures to runways 11 and 02. Also, a small area is expanded north of Truckee-Tahoe Airport to provide controlled airspace for IFR departures using runway 29.

Regulatory Notices and Analyses

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

Environmental Review

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

that warrant preparation of an environmental assessment.

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

AWP CA D Truckee, CA [New]

Truckee-Tahoe Airport, CA
(Lat. 39°19'12" N, long. 120°08'22" W)

That airspace extending upward from the surface to and including 8,400 feet MSL within a 4.2-mile radius of Truckee-Tahoe Airport. This Class D surface area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

AWP CA E2 Truckee, CA [Amended]

Truckee-Tahoe Airport, CA
(Lat. 39°19'12" N, long. 120°08'22" W)

That airspace extending upward from the surface within a 4.2-mile radius of Truckee-Tahoe Airport. This Class E surface area is effective during the specific dates and times established, in advance, by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

AWP CA E4 Truckee, CA [New]

Truckee-Tahoe Airport, CA
(Lat. 39°19'12" N, long. 120°08'22" W)

That airspace extending upward from the surface within a line beginning at the point

where the 279° bearing from Truckee-Tahoe Airport intersects the 4.2-mile radius of the airport to lat. 39°26'41"N, long. 120°20'43"W, to lat. 39°29'27"N, long. 120°16'17" W, to the point where the 344° bearing from the airport intersects the 4.2-mile radius of the airport, thence counterclockwise along the 4.2-mile radius of the airport to the point of beginning, and that airspace within a line beginning at the point where the 352° bearing from the airport intersects the 4.2-mile radius of the airport to lat. 39°29'18" N, long. 120°06'57" W, to lat. 39°28'11" N, long. 120°01'44" W, to the point where the 053° bearing from the airport intersects the 4.2-mile radius of the airport, thence counterclockwise along the 4.2-mile radius of the airport to the point of beginning.

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

* * * * *

AWP CA E5 Truckee, CA [Modified]

Truckee-Tahoe Airport, CA
(Lat. 39°19'12" N, long. 120°08'22" W)

That airspace extending upward from 700 feet above the surface within a line beginning at lat. 39°26'41" N, long. 120°20'43" W, to lat. 39°30'34" N, long. 120°23'37" W, to lat. 39°32'45" N, long. 120°18'59" W, to lat. 39°29'27" N, long. 120°16'17" W, thence to the point of beginning; and that airspace within a line beginning at lat. 39°29'18" N, long. 120°06'57" W, to lat. 39°37'23" N, long. 120°04'08" W, to lat. 39°36'17" N, long. 119°58'54" W, to lat. 39°28'11" N, long. 120°01'44" W, thence to the point of beginning; and that airspace within 1.8 miles each side of a line extending from the point where the Truckee-Tahoe Airport 328° bearing intersects the 4.2-mile radius of the airport to the point on the 348° bearing from the airport extending 6.3 miles northwest of the airport.

Issued in Seattle, Washington, on December 11, 2017.

Brian J. Johnson,

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

[FR Doc. 2017–27209 Filed 12–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0209; Airspace Docket No. 17–AGL–9]

Revocation of Class E Airspace; Eaton Rapids, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action removes Class E airspace extending upward from 700 feet above the surface at Skyway Estates

Airport, Eaton Rapids, MI. The cancellation of the standard instrument approach procedures at the airport has resulted in the airspace no longer being required.

DATES: Effective 0901 UTC, March 29, 2018. The Director of the Federal Register approves this incorporation by reference action under Title 1, Code of Federal Regulations, part 51, subject to the annual revision of FAA Order 7400.11 and publication of conforming amendments.

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

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

FOR FURTHER INFORMATION CONTACT: Jeffrey Claypool, Federal Aviation Administration, Operations Support Group, Central Service Center, 10101 Hillwood Parkway, Fort Worth, TX 76177; telephone (817) 222–5711.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA’s authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency’s authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it removes Class E airspace no longer required at Skyway Estates Airport, Eaton Rapids, MI.

History

On April 25, 2017, the FAA published a notice of proposed rulemaking

(NPRM) in the **Federal Register** (82 FR 19007) for Docket No. FAA-2017-0209 to remove Class E airspace extending upward from 700 feet above the surface at Skyway Estates Airport, Eaton Rapids, MI. Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Availability and Summary of Documents for Incorporation by Reference

This document amends FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Rule

This amendment to Title 14, Code of Federal Regulations (14 CFR) part 71 removes Class E airspace extending upward from 700 feet above the surface at Skyway Estates Airport, Eaton Rapids, MI.

Airspace reconfiguration is necessary due to the cancellation of the standard instrument approach procedures at the airport as the airspace is no longer being required in compliance with FAA Order JO 7400.2L, Procedures for Handling Airspace Matters.

Regulatory Notices and Analyses

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

economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Environmental Review

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

Lists of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

AGL MI E5 Eaton Rapids, MI [Removed]

Issued in Fort Worth, Texas, on December 8, 2017.

Walter Tweedy,

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

[FR Doc. 2017–27205 Filed 12–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. FDA-2017-N-6484]

Medical Devices; Obstetrical and Gynecological Devices; Classification of the Fetal Head Elevator

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the fetal head elevator into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the fetal head elevator’s classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients’ access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective December 19, 2017. The classification was applicable on July 27, 2017.

FOR FURTHER INFORMATION CONTACT: David Birsén, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G623, Silver Spring, MD 20993–0002, 240–402–6655, david.birsén@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the fetal head elevator as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients’ access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to

these devices as “postamendments devices” because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act and part 807 (21 U.S.C. 360(k) and 21 CFR part 807, respectively).

FDA may also classify a device through “De Novo” classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section

513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA shall classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients’ access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21 U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining “substantial equivalence”). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On November 20, 2015, Safe Obstetrics Systems, Ltd., submitted a

request for De Novo classification of the Fetal Pillow. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on July 27, 2017, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 884.4350. We have named the generic type of device fetal head elevator, and it is identified as a prescription device consisting of a mechanism that elevates the fetal head to facilitate delivery during a Caesarean section.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—FETAL HEAD ELEVATOR RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation.
Infection	Sterilization validation, Shelf life testing, and Labeling.
Fetal injury due to device failure	Non-clinical performance testing, Shelf life testing, and Labeling.
Maternal injury due to device failure	Non-clinical performance testing, Shelf life testing, and Labeling.
Use error	Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification

requirements under section 510(k) of the FD&C Act.

At the time of classification, fetal head elevators are for prescription use only. Prescription devices are exempt from the requirement for adequate directions for use for the layperson under section 502(f)(1) of the FD&C Act (21 U.S.C. 352(f)(1)) and 21 CFR 801.5, as long as the conditions of 21 CFR 801.109 are met (referring to 21 U.S.C. 352(f)(1)).

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information

found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document “De Novo Classification Process (Evaluation of Automatic Class III Designation)” have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 884

Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 884 is amended as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

■ 1. The authority citation for part 884 continues to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 884.4350 to subpart E to read as follows:

§ 884.4350 Fetal head elevator.

(a) *Identification.* A fetal head elevator is a prescription device consisting of a mechanism that elevates the fetal head to facilitate delivery during a Caesarean section.

(b) *Classification.* Class II (special controls). The special controls for this device are:

- (1) The patient-contacting components of the device must be demonstrated to be biocompatible.
- (2) Performance data must demonstrate the sterility of patient-contacting components of the device.
- (3) Performance data must support the shelf life of the device by demonstrating continued sterility, package integrity, and device functionality over the identified shelf life.
- (4) Non-clinical performance data must demonstrate that the device performs as intended under anticipated conditions of use. The following performance characteristics must be tested:

(i) Reliability testing of device deployment and retrieval under relevant use conditions must be conducted.

(ii) Testing of the maximum force applied to the fetal head in an anatomic model must be conducted.

(iii) Testing of uniform application of the elevator mechanism on the fetal head must be conducted.

(5) Labeling must include the following:

(i) Contraindication for use in the presence of active genital infection;

(ii) Specific instructions regarding the proper placement and use of the device; and

(iii) A shelf life.

Dated: December 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27277 Filed 12–18–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 886

[Docket No. FDA–2017–N–6597]

Medical Devices; Ophthalmic Devices; Classification of the Tear Electrostimulation Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the tear electrostimulation device into class II (special controls). The special controls that apply to the device type are identified in this order and will be part of the codified language for the tear electrostimulation device’s classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients’ access to beneficial innovative devices, in part by reducing regulatory burdens. **DATES:** This order is effective December 19, 2017. The classification was applicable on April 24, 2017.

FOR FURTHER INFORMATION CONTACT: Scott Steffen, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2574, Silver Spring, MD 20993–0002, 240–402–8795, Scott.Steffen@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the tear electrostimulation device as class II (special controls), which we have determined will provide a reasonable assurance of safety and effectiveness. In addition, we believe this action will enhance patients’ access to beneficial innovation, in part by reducing regulatory burdens by placing the device into a lower device class than the automatic class III assignment.

The automatic assignment of class III occurs by operation of law and without any action by FDA, regardless of the level of risk posed by the new device. Any device that was not in commercial distribution before May 28, 1976, is automatically classified as, and remains within, class III and requires premarket approval unless and until FDA takes an action to classify or reclassify the device (see 21 U.S.C. 360c(f)(1)). We refer to these devices as “postamendments devices” because they were not in commercial distribution prior to the date of enactment of the Medical Device Amendments of 1976, which amended the Federal Food, Drug, and Cosmetic Act (FD&C Act).

FDA may take a variety of actions in appropriate circumstances to classify or reclassify a device into class I or II. We may issue an order finding a new device to be substantially equivalent under section 513(i) of the FD&C Act (21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act and part 807 (21 U.S.C. 360(k) and 21 CFR part 807, respectively).

FDA may also classify a device through “De Novo” classification, a common name for the process authorized under section 513(f)(2) of the FD&C Act. Section 207 of the Food and Drug Administration Modernization Act of 1997 established the first procedure for De Novo classification (Pub. L. 105–115). Section 607 of the Food and Drug Administration Safety and Innovation Act modified the De Novo application process by adding a second procedure (Pub. L. 112–144). A device sponsor may utilize either procedure for De Novo classification.

Under the first procedure, the person submits a 510(k) for a device that has not previously been classified. After receiving an order from FDA classifying the device into class III under section 513(f)(1) of the FD&C Act, the person then requests a classification under section 513(f)(2).

Under the second procedure, rather than first submitting a 510(k) and then a request for classification, if the person determines that there is no legally marketed device upon which to base a determination of substantial equivalence, that person requests a classification under section 513(f)(2) of the FD&C Act.

Under either procedure for De Novo classification, FDA shall classify the device by written order within 120 days. The classification will be according to the criteria under section 513(a)(1) of the FD&C Act. Although the device was automatically placed within class III, the De Novo classification is considered to be the initial classification of the device.

We believe this De Novo classification will enhance patients' access to beneficial innovation, in part by reducing regulatory burdens. When FDA classifies a device into class I or II via the De Novo process, the device can serve as a predicate for future devices of that type, including for 510(k)s (see 21

U.S.C. 360c(f)(2)(B)(i)). As a result, other device sponsors do not have to submit a De Novo request or premarket approval application in order to market a substantially equivalent device (see 21 U.S.C. 360c(i), defining "substantial equivalence"). Instead, sponsors can use the less-burdensome 510(k) process, when necessary, to market their device.

II. De Novo Classification

On July 7, 2016, Oculeve, Inc., submitted a request for De Novo classification of the Intranasal Tear Neurostimulator. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the

safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 24, 2017, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 886.5300. We have named the generic type of device tear electrostimulation device, and it is identified as a non-implantable, electrostimulation device intended to increase tear production.

FDA has identified the following risks to health associated specifically with this type of device and the measures required to mitigate these risks in table 1.

TABLE 1—TEAR ELECTROSTIMULATION DEVICE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Tissue damage due to over-stimulation/understimulation or mechanical injury (ex: tips too long), device breakage.	Non-clinical performance testing; Software verification, validation and hazard analysis; Electrical, thermal, and mechanical safety testing; and Labeling.
Pain, headache, or discomfort	Non-clinical performance testing; Electrical, thermal, and mechanical safety testing; and Labeling.
Adverse tissue reaction	Biocompatibility, and Labeling.
Infection	Labeling.
Electrical shock or burn	Electrical, thermal, and mechanical safety testing; Software verification, validation and hazard analysis; and Labeling.
Interference with other devices	Electromagnetic compatibility (EMC) testing; Software verification, validation, and hazard analysis; and Labeling.

FDA has determined that special controls, in combination with the general controls, address these risks to health and provide reasonable assurance of safety and effectiveness. In order for a device to fall within this classification, and thus avoid automatic classification in class III, it would have to comply with the special controls named in this final order. The necessary special controls appear in the regulation codified by this order. This device is subject to premarket notification requirements under section 510(k) of the FD&C Act.

III. Analysis of Environmental Impact

The Agency has determined under 21 CFR 25.34(b) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment

nor an environmental impact statement is required.

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document "De Novo Classification Process (Evaluation of Automatic Class III Designation)" have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 807, subpart E,

regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR part 801, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 886

Medical devices, Ophthalmic goods and services.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 886 is amended as follows:

PART 886—OPHTHALMIC DEVICES

■ 1. The authority citation for part 886 is revised to read as follows:

Authority: 21 U.S.C. 351, 360, 360c, 360e, 360j, 360l, 371.

■ 2. Add § 886.5300 to subpart F to read as follows:

§ 886.5300 Tear electrostimulation device.

(a) *Identification.* A tear electrostimulation device is a non-implantable, electrostimulation device intended to increase tear production.

(b) *Classification.* Class II (special controls). The special controls for this device are:

(1) Non-clinical performance testing must assess the following electrical output specifications: waveforms, output modes, maximum output voltage, maximum output current, pulse duration, frequency, net charge per pulse, maximum phase charge at 500 ohms, maximum current density, maximum average current, and maximum average power density.

(2) Patient-contacting components of the device must be demonstrated to be biocompatible.

(3) Performance testing must demonstrate the electrical, thermal, and mechanical safety along with electromagnetic compatibility (EMC) of the device in the intended use environment.

(4) Software verification, validation, and hazard analysis must be performed.

(5) Physician and patient labeling must include:

(i) Summaries of electrical stimulation parameters;

(ii) Instructions on how to correctly use and maintain the device;

(iii) Instructions and explanations of all user-interface components;

(iv) Information related to electromagnetic compatibility classification; and

(v) Instructions on how to clean the device.

Dated: December 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27280 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG-2017-1026]

Drawbridge Operation Regulation; Newark Bay, Newark, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating

schedule that governs the Lehigh Valley Railroad Bridge across the Newark Bay, mile 4.3, at Newark, New Jersey. The deviation is necessary to test a change to the drawbridge operation schedule to determine whether a permanent change to the schedule is needed. This deviation allows the Lehigh Valley RR Bridge to operate under an alternate schedule for ninety (90) days to alleviate high volume of rail service across the Lehigh Valley RR Bridge and to better accommodate vessel traffic.

DATES: This deviation is effective from 12:01 a.m. on January 1, 2018 to 11:59 p.m. on March 31, 2018.

Comments and related material must reach by the Coast Guard on or before March 31, 2018.

ADDRESSES: You may submit comments identified by docket number USCG-2017-1026 using Federal eRulemaking Portal at <http://www.regulations.gov>.

See the "Public Participation and Request for Comments" portion of the **SUPPLEMENTARY INFORMATION** section below for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary deviation, call or email Judy K. Leung-Yee, Project Officer, First Coast Guard District; telephone 212-514-4336, email Judy.K.Leung-Yee@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Background, Purpose and Legal Basis

The Lehigh Valley Railroad Bridge across the Newark Bay, mile 4.3, at Newark, New Jersey is a lift bridge with a vertical clearance of 35 feet at mean high water and 39 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.5 and 33 CFR 117.735.

The owner of the bridge, Consolidated Rail Corporation, requested a change to the Drawbridge Operation Regulations because the volume of train traffic and maneuvering of train movements from the adjacent rail yard across the bridge cause significant delays to marine traffic.

The waterway users are seasonal recreational vessels and commercial vessels of various sizes.

The Coast Guard is publishing this temporary deviation to test the proposed regulation change to determine whether a permanent change to the schedule is necessary to better balance the needs of marine and rail traffic.

Under this deviation, in effect from 12:01 a.m. on January 1, 2018 to 11:59 p.m. on March 31, 2018, the Lehigh Valley Railroad Bridge will open on

signal if at least one hour advance notice is given.

Vessels able to pass through the bridge in the closed position may do so at anytime. There are no alternate routes. The bridge will be able to open for emergencies.

The Coast Guard contacted the waterway users regarding this proposed temporary deviation to test a proposed change to the Drawbridge Operation Regulations and no objections were received. The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners and other appropriate local media of the change in operating schedule for the bridge so that vessel operators may arrange their transits to minimize any impact caused by the temporary deviation.

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

II. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicating the specific section of this document to which each comment applies, and provide reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <http://www.regulations.gov>, contact the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. All comments received will be posted without change to <http://www.regulations.gov> and will include any person information you have provided. For more about privacy and the docket, visit <http://www.regulations.gov/privacynotice>.

Documents mentioned in this notice as being available in this docket and all public comments, will be in our online docket at <http://www.regulations.gov> and can be viewed by following that website's instructions. Additionally, if you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

Dated: December 14, 2017.

Christopher J. Bisignano,
*Supervisory Bridge Management Specialist,
First Coast Guard District.*

[FR Doc. 2017-27298 Filed 12-18-17; 8:45 am]

BILLING CODE 9110-04-P

POSTAL SERVICE

39 CFR Part 501

Revisions to the Requirements for Authority To Manufacture and Distribute Postage Evidencing Systems; Customized Postage Products

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: In January, 2017, the Postal Service proposed to amend its Postage Evidencing Systems regulations to standardize requirements for the authorization to produce Customized Postage, a Special Service approved by the Postal Regulatory Commission. Comments were received by all authorized providers of Customized Postage products and the Alliance of Nonprofit Mailers. The Postal Service considered these comments and addresses them below.

Customized Postage products are provided through authorized Postage Evidencing System manufacturer-distributors or through companies affiliated with authorized Postage Evidencing System manufacturer-distributors and approved by the Postal Service. During the development of the Customized Postage program, requirements for authorization to produce Customized Postage products were described in **Federal Register** notices and in individual approval letters issued to providers. These final rules give regulatory form to the existing requirements for authorization to produce Customized Postage products, and incorporate procedures for the protection of Postal Service business interests. Existing providers of Customized Postage products may continue provision of Customized Postage products subject to these final rules upon their effective date, which coincides with renewal of the product year, and any requirements set forth in individual authorization letters.

DATES: These amendments take effect on May 15, 2018.

FOR FURTHER INFORMATION CONTACT: Christy Noel, Legal Policy & Legislative Advice, U.S. Postal Service, (202) 268-3484.

SUPPLEMENTARY INFORMATION: The Postal Reorganization Act authorizes the Postal

Service to provide such evidence of postage payment “as may be necessary or desirable.” 39 U.S.C. 404(a)(4). The Postal Service exercises this authority through 39 CFR part 501, which protects postal revenues by regulation of manufacturer-distributors of Postage Evidencing Systems. Customized Postage products were developed through market tests allowing Authorized Postage Evidencing System providers to combine evidence of prepayment of postage with a customer-selected or customer-provided graphic image for printing and fulfillment. *See*, 70 FR 21821 (April 27, 2005); 71 FR 12718 (March 13, 2006). Subsequently, Customized Postage was approved as a Special Service by the Postal Regulatory Commission. *See*, 75 FR 11452, 11459 (March 11, 2010). The amendments to 39 CFR part 501 create standardized definitions, requirements, and procedures applicable to the authorization to provide Customized Postage products, and incorporate protections for the Postal Service’s legal, financial, and brand interests.

All comments received in response to the proposed rules published at 82 FR 1294 (January 5, 2017) requested the creation of a nonprofit category of content in addition to the strictly commercial or limited social categories of content designated as eligible for customer-provided or customer-selected images. All comments claimed that the inclusion of an eligible nonprofit content category would increase program revenues, and the Alliance of Nonprofit Mailers specifically alleged that excluding nonprofit content from the categories of eligible content would constitute unlawful discrimination against nonprofit mailers. The Postal Service disagrees on both counts. Customized Postage products are not U.S. stamps; they are a specialized form of evidence of prepayment of postage offered through statutory authority contained in 39 U.S.C. 404(a)(4). Because they share the function and appearance of U.S. stamps, however, the Postal Service must limit eligible private content to protect its own business and brand interests against dilution, false attribution, appearances of endorsement, and other potential impacts. The First Amendment requires that such content- or speaker-based restrictions be reasonable and viewpoint-neutral. *See, Matal v. Tam*, 137 S.Ct. 1744, 1763 (2017). Selective acceptance of only those nonprofit causes or organizations that do not present threats to the Postal Service’s brand would constitute impermissible viewpoint discrimination, which would

endanger the entire program. Such legal risks would offset any potential revenue increases attributable to the eligibility of nonprofit content. Excluding entire categories of content altogether to help avoid unlawful viewpoint discrimination is an eminently reasonable limitation made in accordance with First Amendment principles. This exclusion does not constitute unlawful discrimination against nonprofit mailers, who may purchase Customized Postage products subject to the same terms and conditions as other users of the mail.

Comments from existing providers argued that Customized Postage restrictions should be uniformly applied across other Postal Service programs or products that allow some degree of customization. However, tailoring content restrictions to the unique context of each of its various customizable products or programs is necessary to serve the Postal Service’s diverse interests and goals and is consistent with First Amendment forum analysis.

Comments from Authorized Postage Evidencing System providers also requested acceptance of otherwise eligible images containing incidental depictions of certain prohibited content. For alcohol, tobacco, gambling, and weapons, the Postal Service agrees that allowing incidental depictions of these prohibited categories of content contained within otherwise eligible images would be consistent with program purposes while maintaining or increasing revenues. For example, an image of toasting wedding celebrants may remain eligible despite depictions of alcohol, an image of an armed services member may remain eligible despite depictions of weaponry, and so on. However, for religious, violent, or political content, the Postal Service does not agree that incidental depictions of these prohibited categories of content contained within otherwise eligible images would be consistent with program purposes. Such an expansion would delegate unduly fine-grained distinctions to providers and increase First Amendment and brand liability.

The eligibility of alcoholic beverage logos in the commercial content category was requested. Although allowing incidental depictions of alcohol in a commercial or social context, as explained above, is acceptable under the final rules, allowing the non-incidental display of logos promoting alcoholic beverage sales creates more brand risks, and arguably opens other commercial categories that the Postal Service may be compelled to accept by First

Amendment principles, e.g., logos promoting tobacco, weapons, or gambling enterprises.

Comments from Authorized Postage Evidencing System providers sought elimination of the “not suitable for minors” restriction in the proposed regulations, arguing that the phrase is too subjective and impractical to apply. The final rules replace “not suitable for minors” with “not suitable for all-ages audiences” and clarify that the phrase applies to all eligible content. The Postal Service believes that original program purposes are better served by this phrase, which seeks to limit content to family-friendly images or text that would not cause concern among mainstream, multi-generational users of the mail. To further comport with program purposes, the Postal Service intends that the list of specific content prohibitions (alcohol, tobacco, gambling, weapons, controlled substances, politics, religion, sex, violence, etc.) be read as illustrative and not exhaustive, making ineligibility the default presumption for all content considered under the Eligibility Criteria. In other words, if proposed content is not a commercial or social image that is suitable for all-ages audiences, it is not eligible, even if not explicitly included in the list of prohibitions. To emphasize this restrictive nature, the final rules include a statement indicating that content that is not expressly allowed is presumed to be prohibited.

The Authorized Postage Evidencing System provider *Stamps.com* expressed concern that the regulations as proposed would require alteration of *Stamps.com*'s trademarks. Neither the proposed nor the final rules require alteration of provider trademarks. The requirement that providers disassociate Customized Postage products from U.S. stamps is intended to protect official USPS stamps and philatelic products and programs from consumer confusion related to the status of Customized Postage products, which are a specialized form of evidence of prepayment of postage. The final rules simply require providers not to “promote” Customized Postage products as being official U.S. postage stamps.

Authorized Postage Evidencing System providers argued that violations of Customized Postage requirements should not constitute grounds for suspension or revocation of authorization to provide Postage Evidencing Systems. The Postal Service agrees that Customized Postage is a Special Service distinct from Postage Evidencing Systems, and these final rules separate the procedures for

suspension or revocation of authorization accordingly. Furthermore, because Customized Postage products have potential to create significant risks for Postal Service philatelic programs and brand interests, the final rules allow for immediate suspension of authority to provide Customized Postage products in the event that the Postal Service determines that unacceptable business risks are posed by the provider's Customized Postage products or infrastructure.

Additionally, the final rules specify that providers must publish the USPS Eligibility Criteria for customers. Although comments did not raise this issue, the inconsistency of publicly available provider content guidelines has caused confusion over Customized Postage products. Because these amendments are intended to standardize and formalize program requirements, the final rules clarify that, in addition to adhering to USPS Eligibility Criteria, providers must publish the USPS Eligibility Criteria for customers.

Finally, existing providers requested that Customized Postage products be authorized for Forever status or rates outside of First Class postage, e.g., Marketing or Nonprofit rates. These issues fall outside the scope of the current rulemaking, and the Postal Service does not address them here.

List of Subjects in 39 CFR Part 501

Administrative practice and procedure.

For the reasons discussed above, the Postal Service amends 39 CFR part 501 as follows:

PART 501—AUTHORIZATION TO MANUFACTURE AND DISTRIBUTE POSTAGE EVIDENCING SYSTEMS

■ 1. The authority citation for 39 CFR part 501 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 410, 2601, 2605, Inspector General Act of 1978, as amended (Pub. L. 95–452, as amended); 5 U.S.C. App. 3.

§ 501.7 [Amended]

■ 2. Amend § 501.7(c) introductory text by adding, after “The provider must ensure that”, the clause “, with the exception of Customized Postage products,”.

■ 3. Add § 501.21 to read as follows:

§ 501.21 Customized Postage products.

(a) *Definitions.* (1) As used in this section, a *provider* is:

(i) A Postage Evidencing System provider as defined under § 501.1(d) that is authorized by the Postal Service

to produce Customized Postage products in accordance with this section and subject to any additional requirements set forth in individual approval letters; or

(ii) An entity that is affiliated under conditions respecting postage revenue security with a Postage Evidencing System provider and authorized by the Postal Service to produce Customized Postage products in accordance with this section and subject to any additional requirements set forth in individual approval letters.

(2) *Customized Postage products* are products combining barcode indicia of postage payment with digital, graphic, or pictorial images or text. Customers select or provide images or text that meet Eligibility Criteria established by the Postal Service, and the image or text is combined with the barcode indicia of postage payment by providers and produced under controlled conditions for mailing to customers.

(3) As used in this section, a *customer* is a person or entity seeking to purchase Customized Postage products from a provider.

(b) *Eligibility Criteria.* The Eligibility Criteria contained in this section restrict Customized Postage content by identifying allowable images, text, or categories of images or text. Any content not identified by the Eligibility Criteria is prohibited. To be eligible for use in Customized Postage products, images and/or text must meet criteria established by the Postal Service, which are:

(1) Images or text must be “commercial” or “social,” as defined below:

(i) *Commercial* means intended for no purpose other than the sale of goods or services in commerce.

(ii) *Social* means promoting or depicting people, animals, items, or events commonly associated with community relations or companionship and likely to generate invitations, announcements, notices, thank-you notes, RSVPs, or similar correspondence.

(2) Acceptable commercial or social images or text must not contain content that is unsuitable for all-ages audiences, including but not limited to:

(i) Any non-incidental depiction of alcohol, tobacco, gambling, or firearms or other weapons;

(ii) Any depiction of controlled substances, including but not limited to marijuana;

(iii) Any depiction of political, religious, violent or sexual content; or

(iv) Any depiction of subject matter prohibited for display under U.S. law.

(3) Acceptable commercial or social images or text must not contain content that the customer or provider does not have the right to use either directly or under license, including but not limited to images or text that may be the subject of third party rights such as copyright, trademarks, or rights of publicity or privacy.

(4) The Postal Service reserves the right to determine independently whether any image, text, or category of images or text meets any of the Eligibility Criteria contained in this section.

(c) *Customized Postage provider authorization* is conditioned on the following requirements:

(1) *Publication of Eligibility Criteria.* Providers must make the Eligibility Criteria set forth in paragraph (b) of this section available to customers on provider websites or in any other medium through which Customized Postage products are purchased.

(2) *Use of Eligibility Criteria in purchases.* Providers must maintain a process in providing or accepting images and/or text for Customized Postage products that uses only the Eligibility Criteria set forth in paragraph (b) of this section.

(i) Providers may not use any other eligibility criteria, represent the use of any other eligibility criteria to customers, or otherwise give the appearance that any eligibility criteria other than the Eligibility Criteria set forth in paragraph (b) of this section is used in providing or accepting images and/or text for Customized Postage products.

(ii) In the event that full and good faith administration of the process required by this paragraph (c)(2) of this section fails to determine eligibility of an individual image, text, or category of images or text, providers may seek clarification from the Postal Service.

(3) *Use of Eligibility Criteria in promotional material.* Providers must ensure that any images and/or text used in providing or promoting Customized Postage products, for individual sale or as part of a category of images and/or text provided or made available for customer selection, displayed on provider websites or in any medium, including without limitation exemplars, ordering templates, customization options, or customer correspondence:

(i) Are fully compatible with the Eligibility Criteria set forth in paragraph (b) of this section; and

(ii) Do not give the appearance that images that are not fully compatible with the Eligibility Criteria set forth in paragraph (b) of this section are

available or offered for purchase through providers or otherwise.

(4) *Disassociation from U.S. stamps.* Providers must not promote Customized Postage products as “U.S. stamps” or make any representations tending to imply that Customized Postage products are related in any way to official U.S. postage stamps or to any aspect of the Postal Service philatelic program.

(5) *Authorization fee and Eligibility Criteria audit.* Providers must pay an annual authorization fee and participate in any audit conducted by the Postal Service to ensure that the customer-selected or -provided images or text displayed on Customized Postage products or in the promotion in any medium of Customized Postage products are in compliance with the Eligibility Guidelines set forth in paragraph (b) of this section.

(6) *Individual authorization letters.* Additional conditions and requirements for provider authorization may be set forth in individual provider authorization letters.

(7) *Suspension and revocation of Authorization.* The Postal Service may suspend or revoke authorization to produce Customized Postage products if the provider engages in any unlawful scheme or enterprise; fails to comply with any provision in this part, or any provision in an individual approval letter; fails to implement instructions issued by the Postal Service within its authority over Customized Postage products; misrepresents to customers of the Postal Service any decisions, actions, or proposed actions of the Postal Service respecting its regulation of Customized Postage products; or if Customized Postage products or infrastructure of the provider is determined to constitute an unacceptable risk to Postal Service business interests, including legal, financial, or brand interests.

(8) *Correspondence.* The Postal Service office responsible for administration of this part is the Office of Brand Marketing or its successor organization. All correspondence with the Postal Service required by this part is to be made to this office in person or via mail to 475 L’Enfant Plaza SW, Room 5117, Washington, DC 20260–0004.

Ruth B. Stevenson,

Attorney, Federal Compliance.

[FR Doc. 2017–27241 Filed 12–18–17; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0332; FRL–9971–76–Region 9]

Approval of California Air Plan Revisions, Placer County and Ventura County Air Pollution Control Districts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is taking final action to approve revisions to the Placer County Air Pollution Control District (PCAPCD) and Ventura County Air Pollution Control District (VCAPCD) portions of the California State Implementation Plan (SIP). These revisions concern emissions of oxides of nitrogen (NO_x) from incinerators in the PCAPCD and previously unregulated types of fuel burning equipment in the VCAPCD. We are approving local rules that regulate these emission sources under the Clean Air Act (CAA or the Act).

DATES: These rules will be effective on January 18, 2018.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–R09–OAR–2017–0332. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>, or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

FOR FURTHER INFORMATION CONTACT: Kevin Gong, EPA Region IX, (415) 972–3073, Gong.Kevin@epa.gov.

SUPPLEMENTARY INFORMATION: Throughout this document, “we,” “us” and “our” refer to the EPA.

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- I. Proposed Action
- II. Public Comments and EPA Responses
- III. EPA Action
- IV. Incorporation by Reference
- V. Statutory and Executive Order Reviews

I. Proposed Action

On September 12, 2017 in 82 FR 42765, the EPA proposed to approve the following rules into the California SIP.

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted or amended	Submitted
PCAPCD	206	Incinerator Burning	10/13/2016	01/24/2017
VCAPCD	74.34	NO _x Reductions from Miscellaneous Sources	12/13/2016	2/24/2017

We proposed to approve these rules because we determined that they complied with the relevant CAA requirements. Our proposed action contains more information on the rules and our evaluation.

II. Public Comments and EPA Responses

The EPA’s proposed action provided a 30-day public comment period. We received four comments during this period, all of which were supportive of our proposed approval of these rules.

III. EPA Action

No comments were submitted that change our assessment of the rules as described in our proposed action. Therefore, as authorized in section 110(k)(3) of the Act, the EPA is fully approving these rules into the California SIP.

IV. Incorporation by Reference

In this rule, the EPA is finalizing regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is finalizing the incorporation by reference of the PCAPCD and VCAPCD rules described in the amendments to 40 CFR part 52 set forth below. The EPA has made, and will continue to make, these documents available through *www.regulations.gov* and at the EPA Region IX Office (please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this preamble for more information).

V. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of

Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);

- Is not an Executive Order 13771 (82 FR 9339, February 2, 2017) regulatory action because SIP approvals are exempted under Executive Order 12866;

- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);

- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4);

- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);

- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);

- Is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the Clean Air Act; and

- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

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

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: November 24, 2017.

Alexis Strauss,

Regional Administrator, Region IX.

Part 52, Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraphs (c)(41)(x)(J), (c)(497)(i)(B) and (c)(498) to read as follows:

§ 52.220 Identification of plan—in part.

* * * * *

(c) * * *
(41) * * *
(x) * * *

(J) Previously approved on November 15, 1978 in paragraph (c)(41)(x)(A) of this section and now deleted with replacement in paragraph (c)(497)(i)(B)(1) of this section, Rule 206.

* * * * *

(497) * * *
(i) * * *

(B) Placer County Air Pollution Control District.

(1) Rule 206, “Incinerator Burning,” amended on October 13, 2016.

(498) New or amended regulations were submitted on February 24, 2017 by the Governor’s designee.

(i) *Incorporation by Reference.* (A) Ventura County Air Pollution Control District.

(1) Rule 74.34, “NO_x Reductions from Miscellaneous Sources,” adopted on December 13, 2016.

[FR Doc. 2017–27216 Filed 12–18–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY**40 CFR Part 52**

[EPA–R01–OAR–2017–0151; FRL–9972–23–Region 1]

Air Plan Approval; Rhode Island; Infrastructure Requirement for the 2010 Sulfur Dioxide and 2010 Nitrogen Dioxide National Ambient Air Quality Standards

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) is approving a State Implementation Plan (SIP) revision submitted by the State of Rhode Island. This revision addresses the interstate transport requirements of the Clean Air Act (CAA), referred to as the good neighbor provision, with respect to the 2010 primary sulfur dioxide (SO₂) and 2010 primary nitrogen dioxide (NO₂) national ambient air quality standards (NAAQS). This action approves Rhode Island’s demonstration that the State is meeting its obligations regarding the transport of SO₂ and NO₂ emissions into

other states. This action is being taken under the Clean Air Act.

DATES: This rule is effective on January 18, 2018.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R01–OAR–2017–0151. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the internet and will be publicly available only in hard copy form. Publicly available docket materials are available at <http://www.regulations.gov> or at the U.S. Environmental Protection Agency, EPA New England Regional Office, Office of Ecosystem Protection, Air Quality Planning Unit, 5 Post Office Square—Suite 100, Boston, MA. EPA requests that if at all possible, you contact the contact listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office’s official hours of business are Monday through Friday, 8:30 a.m. to 4:30 p.m., excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: Donald Dahl, (617) 918–1657; or by email at dahl.donald@epa.gov.

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

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- I. Background and Purpose
- II. Response to Comments
- III. Final Action
- IV. Statutory and Executive Order Reviews

I. Background and Purpose

On August 30, 2017 (82 FR 41197), EPA published a Notice of Proposed Rulemaking (NPR) for the State of Rhode Island proposing to approve an October 15, 2015 SIP revision submitted by the State of Rhode Island. The specific requirements of this SIP element and the rationale for EPA’s proposed actions on the State’s submittal is explained in the NPR and will not be restated here.

II. Response to Comments

The EPA received two comments on the NPR. One comment stated our action is a good regulation as it makes communities conscious that our society’s actions have consequences on the environment.

A second comment agreed that Rhode Island’s plan will result in sufficient

control of NO₂ and SO₂ emissions such that the plan will meet the State’s interstate transport obligations with respect to those pollutants. The commenter also described a potential alternative approach for analyzing whether a state’s emissions contribute to nonattainment of the NAAQS in another state, but noted that the alternative approach is not extremely different from Rhode Island’s approach and that the success of Rhode Island’s approach is very obvious. The commenter suggested that a demonstration could be based on analyzing only the emissions of all states surrounding a state that is not attaining the NAAQS. However, pursuant to section 110(a)(1) of the CAA, *all* states are required to submit SIPs meeting the applicable requirements of CAA section 110(a)(2) within three years after promulgation of a new or revised NAAQS, or within such shorter period as EPA may prescribe.¹ Therefore, EPA cannot limit the demonstration required to meet CAA section 110(a)(2)(D)(i)(I) to states adjacent to another state with a nonattainment area.

III. Final Action

EPA is approving the October 15, 2015 SIP submission from Rhode Island certifying that the State’s current SIP is sufficient to meet the required infrastructure elements under CAA section 110(a)(2)(D)(i)(I) for the 2010 SO₂ and 2010 NO₂ NAAQS.

IV. Statutory and Executive Order Reviews

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

- Is not a significant regulatory action subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions

¹ This requirement applies to both primary and secondary NAAQS, but EPA’s approval in this notice applies only to the 2010 primary NAAQS for SO₂ and NO₂ because EPA did not establish in 2010 a new secondary NAAQS for SO₂ and NO₂.

of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);

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

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a

tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by February 20, 2018. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not

postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements, Sulfur oxides.

December 6, 2017.

Ken Moraff,

Acting Regional Administrator, EPA New England.

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

PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

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

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

Subpart OO—Rhode Island

- 2. In § 52.2070, the table in paragraph (e) is amended by adding the entry “Transport SIP for the 2010 NO₂ and SO₂ Standards” at the end of the table to read as follows:

§ 52.2070 Identification of plan.

* * * * *
(e) * * *

RHODE ISLAND NON REGULATORY

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approved date	Explanations
Transport SIP for the 2010 NO ₂ and SO ₂ Standards.	Statewide	10/15/2015	12/19/2017, [insert Federal Register citation].	

[FR Doc. 2017–27305 Filed 12–18–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2017–0248; FRL–9970–89]

Amine Salt of Styrene Acrylic Polymer, Ammonium Salt; Tolerance Exemption

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of amines, coco alkyl, ethoxylated, compds. with acrylic acid-Bu acrylate-methylstyrene-styrene polymer, ammonium salts (CAS Reg. No. 1186094–73–4) also known as amine salt of styrene acrylic polymer, ammonium salt when used as an inert ingredient in a pesticide chemical formulation. BASF Corp. submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA),

requesting an exemption from the requirement of a tolerance. This regulation eliminates the need to establish a maximum permissible level for residues of amines, coco alkyl, ethoxylated, compds. with acrylic acid-Bu acrylate-methylstyrene-styrene polymer, ammonium salts on food or feed commodities.

DATES: This regulation is effective December 19, 2017. Objections and requests for hearings must be received on or before February 20, 2018, and must be filed in accordance with the instructions provided in 40 CFR part

178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA-HQ-OPP-2017-0248, is available at <http://www.regulations.gov> or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460-0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566-1744, and the telephone number for the OPP Docket is (703) 305-5805. Please review the visitor instructions and additional information about the docket available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. How can I get electronic access to other related information?

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.

C. Can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation

and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA-HQ-OPP-2017-0248 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before February 20, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA-HQ-OPP-2017-0248, by one of the following methods.

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.

- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

II. Background and Statutory Findings

In the **Federal Register** of September 15, 2017 (82 FR 43352) (FRL-9965-43), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the receipt of a pesticide petition (PP IN-11044) filed by BASF Corporation, 100 Park Avenue, Florham Park, NJ 07932. The petition requested that 40 CFR 180.960 be amended by establishing an exemption from the requirement of a tolerance for residues of amines, coco alkyl, ethoxylated, compds. with acrylic acid-Bu acrylate-methylstyrene-styrene polymer, ammonium salts (CAS Reg. No. 1186094-73-40). That document

included a summary of the petition prepared by the petitioner and solicited comments on the petitioner's request. The Agency did not receive any comments.

Section 408(c)(2)(A)(i) of FFDCA allows EPA to establish an exemption from the requirement of a tolerance (the legal limit for a pesticide chemical residue in or on a food) only if EPA determines that the exemption is "safe." Section 408(c)(2)(A)(ii) of FFDCA defines "safe" to mean that "there is a reasonable certainty that no harm will result from aggregate exposure to the pesticide chemical residue, including all anticipated dietary exposures and all other exposures for which there is reliable information." This includes exposure through drinking water and use in residential settings, but does not include occupational exposure. Section 408(b)(2)(C) of FFDCA requires EPA to give special consideration to exposure of infants and children to the pesticide chemical residue in establishing an exemption from the requirement of a tolerance and to "ensure that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to the pesticide chemical residue . . ." and specifies factors EPA is to consider in establishing an exemption.

III. Risk Assessment and Statutory Findings

EPA establishes exemptions from the requirement of a tolerance only in those cases where it can be shown that the risks from aggregate exposure to pesticide chemical residues under reasonably foreseeable circumstances will pose no appreciable risks to human health. In order to determine the risks from aggregate exposure to pesticide inert ingredients, the Agency considers the toxicity of the inert in conjunction with possible exposure to residues of the inert ingredient through food, drinking water, and through other exposures that occur as a result of pesticide use in residential settings. If EPA is able to determine that a finite tolerance is not necessary to ensure that there is a reasonable certainty that no harm will result from aggregate exposure to the inert ingredient, an exemption from the requirement of a tolerance may be established.

Consistent with FFDCA section 408(b)(2)(D), EPA has reviewed the available scientific data and other relevant information in support of this action and considered its validity, completeness and reliability and the relationship of this information to human risk. EPA has also considered available information concerning the

variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. In the case of certain chemical substances that are defined as polymers, the Agency has established a set of criteria to identify categories of polymers expected to present minimal or no risk. The definition of a polymer is given in 40 CFR 723.250(b) and the exclusion criteria for identifying these low-risk polymers are described in 40 CFR 723.250(d). Amine salt of styrene acrylic polymer, ammonium salt conforms to the definition of a polymer given in 40 CFR 723.250(b) and meets the following criteria that are used to identify low-risk polymers.

1. The polymer is not a cationic polymer nor is it reasonably anticipated to become a cationic polymer in a natural aquatic environment.

2. The polymer does contain as an integral part of its composition the atomic elements carbon, hydrogen, and oxygen.

3. The polymer does not contain as an integral part of its composition, except as impurities, any element other than those listed in 40 CFR 723.250(d)(2)(ii).

4. The polymer is neither designed nor can it be reasonably anticipated to substantially degrade, decompose, or depolymerize.

5. The polymer is manufactured or imported from monomers and/or reactants that are already included on the TSCA Chemical Substance Inventory or manufactured under an applicable TSCA section 5 exemption.

6. The polymer is not a water absorbing polymer with a number average molecular weight (MW) greater than or equal to 10,000 daltons.

7. The polymers do not contain certain perfluoroalkyl moieties consisting of a CF₃- or longer chain length as specified in 40 CFR 723.250(d)(6).

Additionally, the polymer also meets as required the following exemption criteria specified in 40 CFR 723.250(e).

8. The polymer's number average MW of 2700 is greater than 1,000 and less than 10,000 daltons. The polymer contains less than 10% oligomeric material below MW 500 and less than 25% oligomeric material below MW 1,000, and the polymer does not contain any reactive functional groups.

Thus, amine salt of styrene acrylic polymer, ammonium salt meets the criteria for a polymer to be considered low risk under 40 CFR 723.250. Based on its conformance to the criteria in this unit, no mammalian toxicity is anticipated from dietary, inhalation, or dermal exposure to amine salt of styrene acrylic polymer, ammonium salt.

IV. Aggregate Exposures

For the purposes of assessing potential exposure under this exemption, EPA considered that amine salt of styrene acrylic polymer, ammonium salt could be present in all raw and processed agricultural commodities and drinking water, and that non-occupational non-dietary exposure was possible. The number average MW of amine salt of styrene acrylic polymer, ammonium salt is 2700 daltons. Generally, a polymer of this size would be poorly absorbed through the intact gastrointestinal tract or through intact human skin. Since amine salt of styrene acrylic polymer, ammonium salt conforms to the criteria that identify a low-risk polymer, there are no concerns for risks associated with any potential exposure scenarios that are reasonably foreseeable. The Agency has determined that a tolerance is not necessary to protect the public health.

V. Cumulative Effects From Substances With a Common Mechanism of Toxicity

Section 408(b)(2)(D)(v) of FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider "available information" concerning the cumulative effects of a particular pesticide's residues and "other substances that have a common mechanism of toxicity."

EPA has not found amine salt of styrene acrylic polymer, ammonium salt to share a common mechanism of toxicity with any other substances, and amine salt of styrene acrylic polymer, ammonium salt does not appear to produce a toxic metabolite produced by other substances. For the purposes of this tolerance action, therefore, EPA has assumed that amine salt of styrene acrylic polymer, ammonium salt does not have a common mechanism of toxicity with other substances. For information regarding EPA's efforts to determine which chemicals have a common mechanism of toxicity and to evaluate the cumulative effects of such chemicals, see EPA's website at <http://www.epa.gov/pesticides/cumulative>.

VI. Additional Safety Factor for the Protection of Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the data base unless EPA concludes that a different margin of safety will be safe for infants and children. Due to the expected low

toxicity of amine salt of styrene acrylic polymer, ammonium salt, EPA has not used a safety factor analysis to assess the risk. For the same reasons the additional tenfold safety factor is unnecessary.

VII. Determination of Safety

Based on the conformance to the criteria used to identify a low-risk polymer, EPA concludes that there is a reasonable certainty of no harm to the U.S. population, including infants and children, from aggregate exposure to residues of amine salt of styrene acrylic polymer, ammonium salt.

VIII. Other Considerations

A. Analytical Enforcement Methodology

An analytical method is not required for enforcement purposes since the Agency is establishing an exemption from the requirement of a tolerance without any numerical limitation.

B. International Residue Limits

In making its tolerance decisions, EPA seeks to harmonize U.S. tolerances with international standards whenever possible, consistent with U.S. food safety standards and agricultural practices. EPA considers the international maximum residue limits (MRLs) established by the Codex Alimentarius Commission (Codex), as required by FFDCA section 408(b)(4). The Codex Alimentarius is a joint United Nations Food and Agriculture Organization/World Health Organization food standards program, and it is recognized as an international food safety standards-setting organization in trade agreements to which the United States is a party. EPA may establish a tolerance that is different from a Codex MRL; however, FFDCA section 408(b)(4) requires that EPA explain the reasons for departing from the Codex level.

The Codex has not established a MRL for amine salt of styrene acrylic polymer, ammonium salt.

IX. Conclusion

Accordingly, EPA finds that exempting residues of amine salt of styrene acrylic polymer, ammonium salt from the requirement of a tolerance will be safe.

X. Statutory and Executive Order Reviews

This action establishes a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled "Regulatory

Planning and Review” (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled “Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use” (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled “Protection of Children from Environmental Health Risks and Safety Risks” (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled “Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations” (59 FR 7629, February 16, 1994).

Since tolerances and exemptions that are established on the basis of a petition under FFDCa section 408(d), such as the tolerance in this final rule, do not require the issuance of a proposed rule, the requirements of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), do not apply.

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCa section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the

relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled “Federalism” (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled “Consultation and Coordination with Indian Tribal Governments” (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

This action does not involve any technical standards that would require Agency consideration of voluntary consensus standards pursuant to section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note).

XI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides

and pests, Reporting and recordkeeping requirements.

Dated: November 30, 2017.

Michael Goodis,
Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

■ 1. The authority citation for part 180 continues to read as follows:

Authority: 21 U.S.C. 321(q), 346a and 371.

■ 2. In § 180.960, add alphabetically the polymer “Amines, coco alkyl, ethoxylated, compounds with acrylic acid-Bu acrylate-methylstyrene-styrene polymer, ammonium salts; minimum number average molecular weight (in amu), 2700” to the table to read as follows:

§ 180.960 Polymers; exemptions from the requirement of a tolerance.

Polymer	CAS No.
* * * * *	
Amines, coco alkyl, ethoxylated, compounds with acrylic acid-Bu acrylate-methylstyrene-styrene polymer, ammonium salts; minimum number average molecular weight (in amu), 2700	1186094-73-4
* * * * *	

Proposed Rules

Federal Register

Vol. 82, No. 242

Tuesday, December 19, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

RIN 3206-AN54

Federal Employees Health Benefits Program Flexibilities

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: To correct an asymmetry in the insurance market for Federal employees and annuitants, this proposed regulation provides all Federal Employees Health Benefits (FEHB) Program carriers the ability to offer the same number and types of plan options. Currently, OPM regulations defining minimum standards for health benefits plans allows certain plans to have two options and a high deductible health plan, while other plans may have three options of any type or two options and a high deductible health plan, creating an asymmetry between the potential offerings of health benefits plans. We are revising the regulations so all health benefits plans are able to offer three options or two options and a high deductible health plan. This rule will give FEHB enrollees more health plan choices allowing them to select a health plan that best meets their family's health care needs.

DATES: OPM must receive comments on or before February 20, 2018.

ADDRESSES: You may submit comments, identified by docket number and/or Regulatory Information Number (RIN) and title, by any of the following methods:

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

- *Mail:* Michael Kaszynski, Senior Policy Analyst, Planning and Policy Analysis, U.S. Office of Personnel Management, Room 4312, 1900 E Street NW, Washington, DC 20415.

All submissions received must include the agency name and docket

number or RIN for this document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing at <http://www.regulations.gov> as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Michael W. Kaszynski, Senior Policy Analyst, at Michael.Kaszynski@opm.gov or (202) 606-0004.

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The Federal Employees Health Benefits (FEHB) Program is administered by the Office of Personnel Management (OPM) in accordance with Title 5, Chapter 89 U.S.C. and our implementing regulations (Title 5, Part 890 and Title 48, Chapter 16). The statute establishes the basic rules for benefits, enrollment, and participation. OPM is authorized to contract with health insurance carriers; approve health plans for participation in the program; negotiate with carriers about benefit and premium levels; determine the times and conditions for an annual open enrollment period known as "open season" during which eligible individuals may elect coverage or change plans; make information available to employees concerning plan options; evaluate health plans on key parameters of clinical quality, customer service, resource use in comparison with national benchmarks and contract oversight requirements; apply administrative sanctions to health care providers that have committed certain violations; and administer the program's financing.

OPM is also responsible for maintaining the funds that hold contingency reserves for the plans and the fund that receives premium payments from enrollees and Federal agencies, from which premiums are disbursed to participating plans. OPM determines whether retiring employees or survivor annuitants meet the requirements to continue health insurance coverage; takes the action necessary to terminate, accept, or continue enrollment; oversees the automatic deduction of premiums from monthly annuity checks and credits the premiums, along with the applicable Government contribution, to the proper

account; processes all enrollment changes; notifies affected carriers of enrollment changes; and keeps enrolled retirees advised of rate and benefit changes within their plan.

Background

The Federal Employees Health Benefits (FEHB) Program provides health insurance to about 8.2 million Federal employees, retirees, and their dependents each year. It is the largest employer-sponsored health insurance program in the country providing more than \$53 billion in health care benefits annually. Eligible individuals include Federal employees, retirees, and their family members. As of May 2012, certain Indian tribal employers began purchasing coverage for their employees. Coverage options available to eligible individuals include individual or family coverage in an approved health benefits plan. Beginning in calendar year 2016, individuals have a third coverage option: Self plus one coverage for themselves and one eligible family member.

Generally, available health benefits plans fall into two broad categories: Fee-for-service (FFS) or health maintenance organizations (HMOs). FFS plans tend to be available nationwide, and HMOs tend to be locally available. Based on our March 2017 headcount reports, 16 percent of all contracts are enrolled in HMO plans and 84 percent are enrolled in FFS plans. Premiums are shared between the Federal Government and the employee or retiree. Benefits and cost sharing vary among FEHB plans, but all plans must cover basic services such as hospital and physician care and may require cost sharing in the form of deductibles, co-payments, or coinsurance. FEHB financing includes Government contributions to premiums, policyholder contributions to premiums, contingency reserves in the U.S. Treasury to offset unexpected increases in costs, and administrative expenses incurred by OPM.

By statute, Government and the employee or retiree share the cost of health insurance, with the Federal Government contributing 72 percent of the weighted average premium of all plans but no more than 75 percent of any given plan's premium, with the exception of employees of the United States Postal Service (USPS), whose

share of the premium is collectively bargained and certain other exempted agencies.

Title 5 U.S.C. 8903 specifies the types of health plans with which OPM may contract for FEHB. Enrollees choose a health plan from a health insurance carrier that offers one or more plans. There are currently 262 different health plan options to choose from. As a practical matter, depending on where an enrollee resides, his or her choice of plans is limited to about 15 different plans on average.

Individuals may enroll or change plans during the FEHB annual open season, or through a Qualifying Life Event (QLE), such as marriage. Plan offerings in terms of benefits and premiums may change during each open season. Details for all FEHB plans are available on OPM's website at <https://www.opm.gov/healthcare-insurance/healthcare/plan-information/plans/>.

Summary of Current Health Plan Options

Generally, health insurance carriers and their health plans fall into two broad categories: Fee-for-service (FFS) plans (plans under 5 U.S.C. 8903(1), (2) and (3)) or health maintenance organizations (HMOs) (plans under 5 U.S.C. 8903(4)). FFS plans are generally available nationwide, and HMOs tend to be locally available.

FFS plans and HMOs are structured differently. Enrollees may base their decision to join a FFS plan or an HMO based on a variety of factors, such as whether they already have a preferred medical provider and where they live. However, a key difference for enrollees is the flexibility that FFS plans usually provide around the use of out-of-network providers. FFS plans are more likely to allow access to out-of-network providers, with increased out-of-pocket costs, than HMOs.

The FEHB Program typically offers about 19 FFS plans that are available nationally across the Federal Government (although 4 are open only to certain types of Federal employees). Many FFS plans have a preferred provider organization (PPO) whereby medical providers have contracted with the health plan to offer discounted charges. Enrollees may choose providers outside of the PPO but will pay a larger share of the cost of services from these providers. Some FFS plans only offer in-network providers, except in emergencies.

Discussion of the Proposed Changes

To correct an asymmetry in the insurance market for Federal employees and annuitants, this proposed regulation

provides all Federal Employees Health Benefits (FEHB) Program carriers the ability to offer the same number and types of plan options. Currently, OPM regulations at 5 CFR 890.201 on minimum standards for health benefits plans allows 5 U.S.C. 8903(1) and (2) to have two options and a high deductible health plan, but plan types under 5 U.S.C. 8903(3) and (4) may have three options or two options and a high deductible health plan creating an asymmetry between the potential offerings of types of health benefits plans. We are revising the regulations so all health benefits plans under 5 U.S.C. 8903 have the language that includes three options or two options and a high deductible health plan. This will give enrollees additional options when considering which health plan is best suited for them, for example, using a variety of variables such as premium, co-pay, and deductible costs, provider networks, and referral and pre-authorization policies. Since all health plans must compete annually for enrollees, adding additional options could create an incentive for plans to keep premiums as low as possible to attract enrollees. This regulation fully aligns with the Administration's goal of promoting affordable health plan choices.

Expected Impact of Proposed Changes

The FEHB Program currently contracts with 83 health plan carriers which offer a total of 262 health plan options. These proposed changes are projected to create two additional plan options in the FEHB Program.

OPM expects that this regulatory change allowing an increase in the number plan options will have a positive effect on the market dynamics in the FEHB Program by potentially increasing competition between health plans. This regulatory change will allow health plans under 5 U.S.C. 8903(1) and (2) to offer lower cost, higher quality options to better serve FEHB Program enrollee interests.

It is difficult to anticipate potential changes in enrollment due to this regulatory change because our regulations have previously prohibited plans in these statutory categories from having three options. However, we anticipate that a portion of enrollees will move to lower cost, higher quality options because OPM will ensure that additional options are distinct and meet enrollee interests and enrollees will have access to adequate information to understand the available plan options.

While this rule will allow another option for certain carriers, a carrier is not mandated to offer a new option and

this regulation does not increase the number of insured individuals in the FEHB Program. If a current enrollee enrolls in one of the new plan options they will be disenrolled from their old one.

OPM does not believe that this regulation will have a large impact on the broader health insurance market since FEHB generally constitutes a smaller percentage of the overall health insurance carrier's book of business. OPM also believes that employees and annuitants make their health care decisions based on a variety of factors, including networks, premiums, etc., so changes in plan enrollments will be determined by individual choice. However, because OPM does not have extensive data to determine the impact of this regulation, we are seeking comments on the following:

1. How will the changes made by this regulation impact the broader health insurance market?
2. How will the changes made by this regulation impact the enrollment of annuitants compared to employees?
3. How will the regulation impact changes to enrollment in the FEHB Program?

Executive Order Requirements

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

Paperwork Reduction Act Requirements

Notwithstanding any other provision of 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 Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number.

This rule involves an OMB approved collection of information subject to the PRA—OMB No. 3206-0160, Health Benefits Election Form. The public reporting burden for this collection is

estimated to average 30 minutes per response, including time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. The total burden hour estimate for this form is 9,000 hours. The systems of record notice for this collection is: OPM/Central 1 Civil Service Retirement and Insurance Records, available at <https://www.opm.gov/information-management/privacy-policy/sorn/opm-sorn-central-1-civil-service-retirement-and-insurance-records.pdf>.

The FEHB Program currently has a total of 262 health plan options for employees to choose from for their health benefits coverage. Historically, about 18,000 of FEHB participants switch health care plans in any given year. This regulation has the potential to add two new enrollment codes representing new plan options and is not anticipated to significantly change the burden associated with this collection.

Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to formsmanager@opm.gov. The final rule will respond to any OMB or public comments on the information collection requirements contained in this proposal.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities.

EO 13771: Reducing Regulation and Controlling Regulatory Costs

This proposed rule is expected to be an EO 13771 deregulatory action as it addresses an asymmetry in the Federal Employees Health Benefits (FEHB) Program market by allowing all carriers to offer three plan options. Additional information can be found in the "Expected Impact of Proposed Changes" section of the rule.

List of Subjects in 5 CFR Parts 890

Administration and general provisions; Health benefits plans; Enrollment, temporary extension of coverage and conversion; Contributions and withholdings; Transfers from retired FEHB Program; Benefits in medically underserved areas; Benefits for former spouses; Limit on inpatient hospital charges, physician charges, and FEHB benefit payments; Administrative sanctions imposed against health care providers; Temporary continuation of coverage; Benefits for United States hostages in Iraq and Kuwait and United States hostages captured in Lebanon;

Department of Defense Federal Employees Health Benefits Program demonstration project; Administrative practice and procedure, employee benefit plans, Government employees; Reporting and recordkeeping requirements, Retirement.

U.S. Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

Accordingly, OPM is amending title 5, Code of Federal Regulations as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

■ 1. The authority citation for part 890 continues to read as follows:

Authority: 5 U.S.C. 8913; Sec. 890.301 also issued under sec. 311 of Pub. L. 111–03, 123 Stat. 64; Sec. 890.111 also issued under section 1622(b) of Pub. L. 104–106, 110 Stat. 521; Sec. 890.112 also issued under section 1 of Pub. L. 110–279, 122 Stat. 2604; 5 U.S.C. 8913; Sec. 890.803 also issued under 50 U.S.C. 403p, 22 U.S.C. 4069c and 4069c–1; subpart L also issued under sec. 599C of Pub. L. 101–513, 104 Stat. 2064, as amended; Sec. 890.102 also issued under sections 11202(f), 11232(e), 11246(b) and (c) of Pub. L. 105–33, 111 Stat. 251; and section 721 of Pub. L. 105–261, 112 Stat. 2061; Pub. L. 111–148, as amended by Pub. L. 111–152.

■ 2. Amend § 890.201 by revising (b)(3)(i) to read as follows:

§ 890.201 Minimum standards for health benefits plans.

* * * * *

(b) * * *

(3)(i) Have either more than three options, or more than two options and a high deductible health plan (26 U.S.C. 223(c)(2)(A)) if the plan is described under 5 U.S.C. 8903(1), (2), (3) or (4).

* * * * *

§ 890.201 [Amended]

■ 3. Amend § 890.201 by removing paragraph (b)(3)(ii).

[FR Doc. 2017–27067 Filed 12–18–17; 8:45 am]

BILLING CODE 6325–63–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1166; Product Identifier 2017–CE–042–AD]

RIN 2120–AA64

Airworthiness Directives; GA 8 Airvan (Pty) Ltd Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede Airworthiness Directive (AD) 2013–19–12 for GA 8 Airvan (Pty) Ltd Models GA8 and GA8–TC320 airplanes. This proposed AD results from mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the fuel system integral sump tank does not meet FAA regulations. We are issuing this proposed AD to require actions to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 2, 2018.

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

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

- *Fax:* (202) 493–2251.

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

- *Hand Delivery:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact GA 8 Airvan (Pty) Ltd, c/o GippsAero Pty Ltd, Attn: Technical Services, P.O. Box 881, Morwell Victoria 3840, Australia; telephone: + 61 03 5172 1200; fax: +61 03 5172 1201; email: aircraft.techpubs@mahindraaerospace.com. You may review copies of the referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

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–2017–1166; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the

ADDRESSES section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT:

Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329-4059; fax: (816) 329-4090; email: doug.rudolph@faa.gov.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2017-1166; Product Identifier 2017-CE-042-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

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

Discussion

We issued AD 2013-19-12, Amendment 39-17594 (78 FR 58872, September 25, 2013) ("AD 2013-19-12"). That AD required actions intended to address an unsafe condition on GA 8 Airvan (Pty) Ltd Models GA8 and GA8-TC320 airplanes and was based on mandatory continuing airworthiness information (MCAI) originated by an aviation authority of another country.

Since we issued AD 2013-19-12, the related service information has been amended to incorporate a modification to ventilate the area around the integral sump tank.

The Civil Aviation Safety Authority (CASA), which is the aviation authority for Australia, has issued AD No. AD/GA8/7, Amendment 1, dated November 13, 2017 (referred to after this as "the MCAI"), to correct an unsafe condition for the specified products. The MCAI states:

The GippsAero GA8 and GA8-TC 320 aircraft Mk II fuel system features an integral sump tank located in the floor structure forward of the co-pilot seat. The current configuration of the compartments adjacent to the Mk II sump tank does not meet the requirements of regulation 23.967 (b) of the Federal Aviation Regulations of the United States of America in that they are not suitably

ventilated and drained to prevent the accumulation of flammable fluids or vapours.

Amendment 1 of this [CASA] directive mandates ventilation of the area around the integral sump tank as presented in SB-GA8-2012-96 Issue 6 to meet the requirements of regulation 23.967 (b) of the Federal Aviation Regulations of the United States of America.

You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2017-1166.

Related Service Information Under 1 CFR Part 51

GippsAero has issued Service Bulletin SB-GA8-2012-96, Issue 6, dated July 21, 2016. This service information describes procedures for modifying the fuel ventilation and drainage system. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this NPRM.

FAA's Determination and Requirements of This Proposed AD

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

Costs of Compliance

We estimate that this proposed AD will affect 47 products of U.S. registry. We also estimate that it would take about 3 work-hours per product to do fuel system ventilation and drainage modification requirement of this proposed AD (this action is retained from AD 2013-19-12). The average labor rate is \$85 per work-hour.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be \$11,985, or \$255 per product.

We also estimate that it would take about 4 work-hours per product to do the supplementary fuel ventilation modification requirement of this proposed AD. The average labor rate is \$85 per work-hour. Required parts would cost about \$932 per product.

Based on these figures, we estimate the cost of this portion of this proposed AD on U.S. operators to be \$59,784, or \$1,272 per product.

In addition, we estimate that it would take about 4 work-hours per product to do the cargo pod modification requirement of this proposed AD (this action is retained from AD 2013-19-12). The average labor rate is \$85 per work-hour. Required parts would cost about \$1,000 per product, for a proposed cost of \$1,340 per product. We have no way of determining the number of products that may need this action.

According to the manufacturer, some of the costs of this proposed AD may be covered under warranty, thereby reducing the cost impact on affected individuals. We do not control warranty coverage for affected individuals. As a result, we have included all costs in our cost estimate.

Authority for This Rulemaking

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

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

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 small airplanes and domestic business jet transport airplanes to the Director of the Policy and Innovation Division.

Regulatory Findings

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

responsibilities among the various levels of government.

For the reasons discussed above, I certify this proposed regulation:

(1) Is not a “significant regulatory action” under Executive Order 12866,

(2) Is not a “significant rule” under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Amendment 39–17594 (78 FR 58872, September 25, 2013), and adding the following new AD:

GA 8 Airvan (Pty) Ltd: Docket No. FAA–2017–1166; Product Identifier 2017–CE–042–AD.

(a) Comments Due Date

We must receive comments by February 2, 2018.

(b) Affected ADs

This AD replaces AD 2013–19–12, Amendment 39–17594 (78 FR 58872, September 25, 2013) (“AD 2013–19–12”).

(c) Applicability

This AD applies to the following GA 8 Airvan (Pty) Ltd airplane models and serial numbers (S/Ns) presented in paragraphs (c)(1) and (c)(2) that are certificated in any category:

(1) *Group 1 Airplanes:*

(i) *Model GA8:* S/N GA8–02–012 and S/Ns 128 through 205; and

(ii) *Model GA8–TC320:* S/Ns GA8–TC 320–02–016, GA8–TC 320–03–025, GA8–TC 320–09–120, and S/Ns 129 through 205.

(2) *Group 2 Airplanes:*

(i) *Model GA8:* S/N GA8–02–012 and S/Ns 128 through 246; and

(ii) *Model GA8–TC320:* S/Ns GA8–TC 320–02–016, GA8–TC 320–03–025, GA8–TC 320–09–120, and S/Ns 129 through 246.

Note 1 to paragraph (c) of this AD: The last three digits (third tier designation) of the affected airplane model S/Ns are sequential regardless of the model designation (first tier designation) or the year produced (second tier designation).

(d) Subject

Air Transport Association of America (ATA) Code 21: Fuel System.

(e) Reason

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as the fuel system integral sump tank does not meet FAA regulations. We are issuing this AD to prevent the accumulation of flammable fluids or vapors, which could lead to a flammability issue.

(f) Actions and Compliance

Unless already done, do the following actions:

(1) *For all affected Group 1 airplanes:* Within the next 100 hours time-in-service (TIS) after the effective date of this AD or within the next 3 months after the effective date of this AD, whichever occurs first, modify the airplane following Part 1 of GippsAero Service Bulletin SB–GA8–2012–96, Issue 6, dated July 21, 2016. If the airplane was previously affected under AD 2013–19–12 and compliance with that AD has already been done, this AD allows credit for doing this modification following Part 1 of GippsAero Mandatory Service Bulletin SB–GA8–2012–96, Issue 4, dated August 12, 2013.

(2) *For affected Group 1 airplanes that are equipped with a cargo pod part number GA8–255004–017 or GA8–255004–019:* Before further flight after the modification required in paragraph (f)(1) of this AD, modify the cargo pod following part 2 of GippsAero Service Bulletin SB–GA8–2012–96, Issue 6, dated July 21, 2016. If the airplane was previously affected under AD 2013–19–12 and compliance with that AD has already been done, this AD allows credit for doing this modification following part 2 of GippsAero Mandatory Service Bulletin SB–GA8–2012–96, Issue 4, dated August 12, 2013.

(3) *For all affected Group 2 airplanes:* Within the next 100 hours TIS after the effective date of this AD or within 3 months after the effective date of this AD, whichever occurs first, modify the airplane following part 3 of GippsAero Service Bulletin SB–GA8–2012–96, Issue 6, dated July 21, 2016.

(g) Credit for Actions Done Following Previous Service Information

This AD allows credit for airplanes that were previously affected by AD 2013–19–12 and the actions required in paragraphs (f)(1) and (f)(2) of this AD were previously done following Part 1 and Part 2 of GippsAero Mandatory Service Bulletin SB–GA8–2012–96, Issue 4, dated August 12, 2013.

(h) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Doug Rudolph, Aerospace Engineer, FAA, Small Airplane Standards Branch, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4059; fax: (816) 329–4090; email: doug.rudolph@faa.gov. Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(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, Standards Office, FAA; or the Civil Aviation Safety Authority (CASA).

(i) Related Information

Refer to MCAI Civil Aviation Safety Authority (CASA), which is the aviation authority for Australia, has issued AD No. AD/GA8/7, Amendment 1, dated November 13, 2017; and GippsAero Mandatory Service Bulletin SB–GA8–2012–96, Issue 4, dated August 12, 2013. You may examine the MCAI on the internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA–2017–1166. For service information related to this AD, contact GA 8 Airvan (Pty) Ltd, c/o GippsAero Pty Ltd, Attn: Technical Services, P.O. Box 881, Morwell Victoria 3840, Australia; telephone: + 61 03 5172 1200; fax: +61 03 5172 1201; email: aircraft.techpubs@mahindraaerospace.com. You may review copies of the referenced service information at the FAA, Policy and Innovation Division, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148.

Issued in Kansas City, Missouri, on December 12, 2017.

Pat Mullen,

Acting Deputy Director, Policy & Innovation Division, Aircraft Certification Service.

[FR Doc. 2017–27167 Filed 12–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0855; Airspace Docket No. 17–ANM–17]

Proposed Amendment of Class D and E Airspace and Revocation of Class E Airspace; Pocatello, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to amend controlled airspace at Pocatello Regional Airport, Pocatello, ID, by amending Class D airspace and Class E airspace designated as a surface area; removing Class E airspace designated as an extension to a Class D or E surface area; and amending Class E airspace extending upward from 700 feet above the surface. Also, this action would update the airport's geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database. Additionally, reference to the Pocatello VHF Omnidirectional Range/Tactical Air Navigation (VORTAC) would be removed from the Class E airspace extending upward from 700 feet above the surface description. This proposal would enhance the safety and management of instrument flight rules (IFR) operations at the airport.

DATES: Comments must be received on or before February 2, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1(800) 647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2017-0855; Airspace Docket No. 17-ANM-17, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would amend Class D and Class E airspace at Pocatello Regional Airport, Pocatello, ID, in support of IFR operations at the airport.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (Docket No. FAA-2017-0855; Airspace Docket No. 17-ANM-17) and be submitted in triplicate to DOT Docket Operations (see **ADDRESSES** section for address and phone number).

Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2017-0855, Airspace Docket No. 17-ANM-17." The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the

internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined between 8:00 a.m. and 4:30 p.m., Monday through Friday, except federal holidays, at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW, Renton, WA 98057.

Availability and Summary of Documents Proposed for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas, air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by:

Amending Class D airspace at Pocatello Regional Airport, Pocatello, ID, by raising the vertical limit to 7,000 feet (from 6,900 feet) and increasing the airspace south of the airport to a 5.6-mile radius (from a 4.5-mile radius) to laterally protect IFR departures as they climb to 700 feet above the surface, due to rising terrain;

Amending Class E surface area airspace to be coincident with the Class D airspace area;

Removing Class E airspace designated as an extension to a Class D or Class E surface area as it contains no arrival aircraft within 1,000 feet of the surface, and is not necessary;

Amending Class E airspace extending upward from 700 feet above the surface to reduce the area southwest of the airport and slightly increase the area south of the airport. This redesign is necessary to ensure sufficient controlled airspace to contain IFR arrival aircraft within 1,500 feet above the surface and IFR departure aircraft until reaching

1,200 feet above the surface. The VORTAC navigation aid noted in the description would be removed, as it no longer defines the boundary of the airspace. In addition, this proposal would establish airspace extending upward from 1,200 feet above the surface at the airport within 15 miles northwest and 5 miles southeast of a line extending from 15 miles southwest of the airport to 43 miles northeast of the airport. This would provide controlled airspace to support aircraft operations under IFR as aircraft transition between the en route and airport environments.

Lastly, this proposal would update the airport's geographic coordinates for the associated Class D and E airspace areas to reflect the FAA's current aeronautical database, and would replace the outdated term "Airport/Facility Directory" with the term "Chart Supplement" in the Class D and Class E surface airspace legal descriptions. These modifications are necessary for the safety and management of IFR operations at the airport.

Class D and Class E airspace designations are published in paragraph 5000, 6002, 6004, and 6005, respectively, of FAA Order 7400.11B, dated August 3, 2017 and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class D and Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance

with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

- 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

- 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

Paragraph 5000 Class D Airspace.

* * * * *

ANM ID D Pocatello, ID [Amended]

Pocatello Regional Airport, ID (Lat. 42°54'35" N, long. 112°35'45" W)

That airspace extending upward from the surface to and including 7,000 feet MSL within a 4.5-mile radius of Pocatello Regional Airport from the airport 195° bearing clockwise to the airport 168° bearing, and within a 5.6-mile radius of the airport from the airport 168° bearing clockwise to the airport 195° bearing. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6002 Class E Airspace Designated as Surface Areas.

* * * * *

ANM ID E2 Pocatello, ID [Amended]

Pocatello Regional Airport, ID (Lat. 42°54'35" N, long. 112°35'45" W)

That airspace within a 4.5-mile radius of Pocatello Regional Airport from the airport 195° bearing clockwise to the airport 168° bearing, and within a 5.6-mile radius of the airport from the airport 168° bearing clockwise to the airport 195° bearing. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Chart Supplement.

Paragraph 6004 Class E Airspace Areas Designated as an Extension to a Class D or Class E Surface Area.

* * * * *

ANM ID E4 Pocatello, ID [Removed]

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

* * * * *

ANM ID E5 Pocatello, ID [Amended]

Pocatello Regional Airport, ID (Lat. 42°54'35" N, long. 112°35'45" W)

That airspace extending upward from 700 feet above the surface within 7.8 miles northwest and 5 miles southeast of the 045° bearing from Pocatello Regional Airport extending to 21 miles northeast of the airport, and within 7.8 miles northwest and 5 miles southeast of the 225° bearing from the airport extending to 10.8 miles southwest of the airport. That airspace extending upward from 1,200 feet above the surface within 15 miles northwest and 5 miles southeast of the 045° bearing from Pocatello Regional Airport extending to 43 miles northeast of the airport, and within 15 miles northwest and 5 miles southeast of the 225° bearing from the airport extending to 15 miles southwest of the airport.

Issued in Seattle, Washington, on December 11, 2017.

Brian J. Johnson,

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

[FR Doc. 2017–27208 Filed 12–18–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2017–0973; Airspace Docket No. 17–ANM–30]

Proposed Establishment of Class E Airspace; Paris, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This action proposes to establish Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID, to accommodate new area navigation (RNAV) procedures at the airport. This action would ensure the safety and management of instrument flight rules (IFR) operations within the National Airspace System.

DATES: Comments must be received on or before February 2, 2018.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, 1200

New Jersey Avenue SE, West Building Ground Floor, Room W12-140, Washington, DC 20590; telephone: 1-800-647-5527, or (202) 366-9826. You must identify FAA Docket No. FAA-2017-0973; Airspace Docket No. 17-ANM-30, at the beginning of your comments. You may also submit comments through the internet at <http://www.regulations.gov>.

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

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

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

SUPPLEMENTARY INFORMATION:

Authority for This Rulemaking

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the United States Code. Subtitle I, Section 106 describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would establish Class E airspace to support new RNAV procedures at Bear Lake County Airport, Paris, ID.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis

supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify both docket numbers and be submitted in triplicate to the address listed above. Persons wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Docket No. FAA-2017-0973; Airspace Docket No. 17-ANM-30". The postcard will be date/time stamped and returned to the commenter.

All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the internet at <http://www.regulations.gov>. Recently published rulemaking documents can also be accessed through the FAA's web page at http://www.faa.gov/air_traffic/publications/airspace_amendments/.

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW, Renton, WA 98057.

Availability and Summary of Documents for Incorporation by Reference

This document proposes to amend FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017. FAA Order 7400.11B is publicly available as listed in the **ADDRESSES** section of this document. FAA Order 7400.11B lists Class A, B, C, D, and E airspace areas,

air traffic service routes, and reporting points.

The Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface at Bear Lake County Airport, Paris, ID, within a 6.6-mile radius of the airport, and within a rectangular segment east of the airport extending approximately 15.3 miles wide (from east to west) and 28.1 miles tall (from north to south), and a trapezoidal area west of the airport extending approximately 10.5 miles wide (from east to west) and 33.8 miles tall (from north to south).

Class E airspace designations are published in paragraph 6005 of FAA Order 7400.11B, dated August 3, 2017, and effective September 15, 2017, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in the Order.

Regulatory Notices and Analyses

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

Environmental Review

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1F, "Environmental Impacts: Policies and Procedures" prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal

Aviation Administration proposes to amend 14 CFR part 71 as follows:

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

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of FAA Order 7400.11B, Airspace Designations and Reporting Points, dated August 3, 2017, and effective September 15, 2017, is amended as follows:

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

* * * * *

ANM ID E5 Paris, ID [New]

Bear Lake County Airport, ID
(Lat. 42°14'59" N, long. 111°20'30" W)

That airspace extending upward from 700 feet above the surface of Bear Lake County Airport within the area bounded by lat. 42°29'26" N, long. 111°36'13" W; to lat. 42°29'32" N, long. 111°28'55" W; to lat. 42°21'52" N, long. 111°28'07" W; to the point where the airport 325° bearing intersects the airport 6.6-mile radius; thence clockwise along the 6.6-mile radius of the airport to the airport 017° bearing, to lat. 42°34'39" N, long. 111°19'45" W; to lat. 42°35'06" N, long. 110°59'38" W; to lat. 42°08'06" N, long. 110°54'19" W; to lat. 42°05'45" N, long. 111°15'34" W; to the point where the airport 150° bearing intersects the 6.6-mile radius of the airport, thence clockwise along the 6.6-mile radius of the airport to the airport 226° bearing, to lat. 41°55'22" N, long. 111°25'20" W; to lat. 41°55'58" N, long. 111°44'44" W; thence to the point of beginning.

Issued in Seattle, Washington, on December 11, 2017.

Brian J. Johnson,

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

[FR Doc. 2017-27206 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-13-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 35

[Docket No. RM18-1-000]

Grid Resiliency Pricing Rule

AGENCY: Federal Energy Regulatory Commission, Department of Energy.

ACTION: Notification of extension of time to take final action on the proposed rule.

SUMMARY: On October 10, 2017, the Department of Energy (the Department or DOE) published a proposed Grid Resiliency Pricing Rule for final action by the Federal Energy Regulatory Commission (Commission or FERC). Secretary of Energy Rick Perry (the Secretary) directed FERC either to publish an immediately-effective interim rule or to take final action on the proposed rule within 60 days of publication, thereby establishing a deadline of December 11, 2017. By letter dated December 7, 2017, the Commission requested an extension of the proposed rule's deadline. By letter dated December 8, 2017, the Secretary granted the Commission's request. The Secretary's letter is set forth in full below.

DATES: The Commission is granted an extension for final action on the proposed rule published in the **Federal Register** on October 10, 2017 (82 FR 46940) by Wednesday, January 10, 2018.

FOR FURTHER INFORMATION CONTACT:

Ronald (R.J.) Colwell, U.S. Department of Energy, Office of the Assistant General Counsel for Electricity and Fossil Energy (GC-76), Forrestal Building, Room 6D-033, 1000 Independence Avenue SW, Washington, DC 20585; (202) 586-9507; email ronald.colwell@hq.doe.gov.

SUPPLEMENTARY INFORMATION: On October 10, 2017, pursuant to authority in section 403 of the Department of Energy Organization Act, 42 U.S.C. 7173, the Department published a proposed Grid Resiliency Pricing Rule for final action by the Commission. 82 FR 46940. The Secretary proposed that the Commission exercise its authority under the Federal Power Act (FPA) to establish just and reasonable rates for wholesale electricity sales. Under the proposal, the Commission would impose rules on Commission-approved independent system operators (ISOs) and regional transmission organizations (RTOs) to ensure that certain reliability and resilience attributes of electric generation resources are fully valued. The Secretary directed the Commission to take final action on this proposal within 60 days of publication of the proposed rule in the **Federal Register** or, in the alternative, to issue the rule as an interim final rule immediately, with provision for later modifications after consideration of public comments. By letter dated December 7, 2017, the Commission requested an extension of time to take final action on the proposed rule (the letter is available at [https://](https://www.ferc.gov/DOE-Letter.pdf)

www.ferc.gov/DOE-Letter.pdf). By letter dated December 8, 2017, the Secretary granted FERC's request, setting a new deadline of Wednesday, January 10, 2018, for action by the Commission. In the letter, the Secretary stated that the Commission is nevertheless authorized to act at any time prior to this deadline and urged the Commission to act expeditiously. The Secretary's letter is set forth, in full, below.

Issued in Washington, DC, on December 13, 2017.

Bernard L. McNamee,

Deputy General Counsel for Energy Policy, Office of the General Counsel, U.S. Department of Energy.

December 8, 2017

The Honorable Kevin J. McIntyre, Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Re: *The Secretary of Energy's Granting of the Request for an Extension of Time for the Commission to Take Final Action on the Proposed Grid Reliability and Resiliency Pricing Rule, FERC Docket No. RM18-1-000*

Dear Chairman McIntyre:

On December 7, I received your request for an extension of time ("Extension Request") for the Federal Energy Regulatory Commission ("Commission") to take final action on the proposed Grid Resiliency Pricing Rule in the Notice of Proposed Rulemaking ("Notice" or "Proposal") published in the **Federal Register** on October 10, and referenced in the above-captioned FERC docket.

In the Notice and in my accompanying letter of September 28, I made clear that there is a problem today and that urgent action is required to reform the Commission's market rules. I stated that, in light of serious threats to the nation's electricity grid, it is the Commission's immediate responsibility to take action to ensure that generation resources with on-site fuel supplies and the ability to provide essential energy and ancillary reliability services including voltage support, frequency services, operating reserves, and reactive power are fully valued and, in particular, to exercise its authority to develop new market rules that will achieve this urgent objective. In the letter I further stated that failure to act expeditiously would be unjust, unreasonable, and contrary to the public interest. The voluminous comments filed in the record of this proceeding provide substantial evidence of, and otherwise confirm, the threat to the nation's electricity grid and the urgent need for Commission action to reform market rules to preserve fuel-secure generation resources.

Because of the urgency of this matter, the 60-day deadline imposed in the Notice is reasonable within the meaning of Section 403 of the Department of Energy Organization Act and is otherwise compliant with applicable law. The better course would be for the Commission to adopt the Proposal within this reasonable deadline. If the Commission fails to adopt the Proposal within the original

deadline for the reasons stated in the Extension Request, the security of our nation's electric grid will continue to be at risk.

However, I understand that Section 403 assigns the Commission the responsibility to take final action on the Proposal within the reasonable time period set forth by me and it is solely within my authority under Section 403 to grant an extension of time for final action. On the assumption that the Commission cannot act on the proposal within the 60-day deadline, I hereby grant the request for an extension of time for the Commission to deliberate and take final action on the Grid Resiliency Pricing Rule for an additional 30 days.¹ The new deadline is Wednesday, January 10, 2018. The Commission is nevertheless authorized to act at any time prior to this deadline and I urge the Commission to act expeditiously. During this additional period, the Department will continue to examine all options within my authority under the *Department of Energy Organization Act*, the *Federal Power Act*, and any other authorities to take remedial action as necessary to ensure the security of the nation's electric grid.

I continue to believe that urgent action must be taken to ensure the resilience and security of the electric grid, which is so vitally important to the economic and national security of the United States. I look forward to the Commission taking final action in this matter for the benefit of the American people.

Sincerely,
Rick Perry

[FR Doc. 2017-27187 Filed 12-18-17; 8:45 am]

BILLING CODE 6450-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[REG-119514-15]

RIN 1545-BM80

Exclusion of Foreign Currency Gain or Loss Related to Business Needs From Foreign Personal Holding Company Income; Mark-to-Market Method of Accounting for Section 988 Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations that provide guidance on the treatment of foreign currency gain or loss of a controlled foreign corporation (CFC) under the business needs exclusion from foreign

personal holding company income (FPHCI). The proposed regulations also provide an election for a taxpayer to use a mark-to-market method of accounting for foreign currency gain or loss attributable to section 988 transactions. In addition, the proposed regulations permit the controlling United States shareholders of a CFC to automatically revoke certain elections concerning the treatment of foreign currency gain or loss. The proposed regulations affect taxpayers and United States shareholders of CFCs that engage in transactions giving rise to foreign currency gain or loss under section 988 of the Internal Revenue Code (Code).

DATES: Written or electronic comments and requests for a public hearing must be received by March 19, 2018.

ADDRESSES: Send submissions to CC:PA:LPD:PR (REG-119514-15), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered Monday through Friday between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG-119514-15), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC, or sent electronically via the Federal eRulemaking Portal at <http://www.regulations.gov> (IRS REG-119514-15).

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Jeffery G. Mitchell, (202) 317-6934; concerning submissions of comments or requests for a public hearing, Regina Johnson, (202) 317-6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collections of information contained in this notice of proposed rulemaking have been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collections of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, SE:W:CAR:MP:T:T:SP, Washington, DC 20224. Comments on the collection of information should be received by February 20, 2018.

Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the duties of the IRS,

including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information;

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information.

The collection of information in these proposed regulations is in proposed §§ 1.954-2(g)(3)(iii) and (4)(iii) and 1.988-7. The information is required to be provided by taxpayers and United States shareholders of CFCs that make an election or revoke an election with respect to the treatment of foreign currency gains and losses. The information provided will be used by the IRS for tax compliance purposes.

Estimated total annual reporting burden: 5,000 hours.

Estimated average annual burden hours per respondent: One hour.

Estimated number of respondents: 5,000.

Estimated annual frequency of responses: One.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Background

This document contains proposed amendments to 26 CFR part 1 under sections 446, 954(c)(1)(D), and 988 of the Code. Section 446 requires taxpayers to compute taxable income using accounting methods that clearly reflect income. Section 954(c)(1)(D) provides that FPHCI includes the excess of foreign currency gains over foreign currency losses (as defined in section 988(b)) attributable to section 988 transactions, other than transactions directly related to the business needs of the CFC. Section 988 provides rules for determining the source and character of

¹ This extension is granted pursuant to my authority under section 403 of the Department of Energy Organization Act, among other powers and authorities granted to me by law.

gain or loss from certain foreign currency transactions.

A. Business Needs Exclusion

1. In General

Section 954 defines foreign base company income (FBCI), which generally is income earned by a CFC that is taken into account in computing the amount that a United States shareholder of the CFC must include in income under section 951(a)(1)(A). Under section 954(a)(1), FBCI includes FPHCI, which is defined in section 954(c). The excess of foreign currency gains over foreign currency losses from section 988 transactions is generally included in FPHCI pursuant to section 954(c)(1)(D).

Section 988 transactions generally include the following: The accrual of any item of income or expense that is to be paid or received in a nonfunctional currency after the date of accrual; lending or borrowing in a nonfunctional currency; entering into or acquiring a forward, future, option, or similar contract denominated in a nonfunctional currency; and the disposition of nonfunctional currency. See section 988(c). Thus, accruals in connection with ordinary business transactions, such as purchases and sales of inventory or the provision of services, are section 988 transactions if the receivable or payable is denominated in, or determined by reference to, a currency other than the taxpayer's functional currency, as determined under § 1.985-1.

Notwithstanding the general rule that includes the excess of foreign currency gains over foreign currency losses from section 988 transactions in FPHCI, section 954(c)(1)(D) excludes from FPHCI any foreign currency gain or loss attributable to a transaction directly related to the business needs of the CFC (business needs exclusion). To qualify for the business needs exclusion, a foreign currency gain or loss must, in addition to satisfying other requirements, arise from a transaction entered into, or property used, in the normal course of the CFC's business that does not itself (and could not reasonably be expected to) give rise to subpart F income (as defined in section 952) other than foreign currency gain or loss. See § 1.954-2(g)(2)(ii)(B)(1).

Foreign currency gain or loss attributable to a bona fide hedging transaction (as defined in § 1.954-2(a)(4)(ii)) with respect to a transaction or property that qualifies for the business needs exclusion also qualifies for the business needs exclusion, provided that any gain or loss with

respect to such transaction or property that is attributable to changes in exchange rates is clearly determinable from the records of the CFC as being derived from such property or transaction. See § 1.954-2(g)(2)(ii)(B)(2). Generally, bona fide hedging transactions are transactions that meet the requirements for a hedging transaction under § 1.1221-2(a) through (d), except that a bona fide hedging transaction also includes a transaction entered into in the normal course of business primarily to manage risk with respect to section 1231 property or a section 988 transaction. Under § 1.1221-2(b), a hedging transaction is defined as a transaction that a taxpayer enters into in the normal course of its trade or business primarily to manage the risk of price changes or currency fluctuations with respect to ordinary property that is held or to be held by the taxpayer, or to manage the risk of interest rate or price changes or currency fluctuations with respect to borrowings made or to be made, or ordinary obligations incurred or to be incurred, by the taxpayer. Transactions that manage risks related to assets that would produce capital gain or loss on disposition (capital assets), or assets owned or liabilities owed by a related party, do not qualify as hedging transactions under § 1.1221-2(b). To qualify as a bona fide hedging transaction, the transaction must be clearly identified as a hedging transaction before the end of the day on which the CFC acquired, originated, or entered into the transaction. See §§ 1.1221-2(f) and 1.954-2(a)(4)(ii)(A) and (B).

Section 1.954-2(g)(2)(ii)(C) provides special rules for applying the business needs exclusion to CFCs that are regular dealers as defined in § 1.954-2(a)(4)(iv). Transactions in dealer property (as defined in § 1.954-2(a)(4)(v)) that are entered into by a CFC that is a regular dealer in such property in its capacity as a dealer are treated as directly related to the business needs of the CFC. See § 1.954-2(g)(2)(ii)(C)(1). In addition, an interest-bearing liability denominated in a nonfunctional currency and incurred by a regular dealer is treated as dealer property if it reduces the CFC's currency risk with respect to dealer property and is identified on the CFC's records as a liability treated as dealer property. See § 1.954-2(g)(2)(ii)(C)(2). A regular dealer is a CFC that regularly and actively offers to, and in fact does, purchase property from and sell property to unrelated customers in the ordinary course of business, or that regularly and actively offers to, and in fact does, enter into, assume, offset, assign or otherwise

terminate positions in property with unrelated customers in the ordinary course of business. See § 1.954-2(a)(4)(iv).

2. Use of Net Foreign Currency Losses

Under section 954(c)(1)(D), although a foreign currency loss that does not qualify for the business needs exclusion reduces the amount of foreign currency gain that is included in FPHCI, an excess of foreign currency losses over foreign currency gains from section 988 transactions generally does not reduce FPHCI. Such a net foreign currency loss does, however, reduce earnings and profits for purposes of the current earnings and profits limitation on subpart F income in section 952(c)(1). Additionally, as described in Part D of this Background section, when an election under § 1.954-2(g)(3) or (4) is in effect, a foreign currency loss can reduce FPHCI or, in the case of an election under § 1.954-2(g)(3), another category of subpart F income.

3. Inapplicability of Business Needs Exclusion to Transactions and Property That Give Rise to Both Subpart F Income and Non-Subpart F Income

In order for the business needs exclusion to apply to exclude foreign currency gain and loss from the computation of FPHCI, the foreign currency gain or loss must arise from a transaction or property that does not itself (and could not reasonably be expected to) give rise to any subpart F income other than foreign currency gain or loss. For example, foreign currency gains and losses related to the purchase and sale of inventory are excluded from the computation of FPHCI if none of the income from the purchase and sale is subpart F income under section 952. However, if the transaction or property gives rise to, or could reasonably be expected to give rise to, any amount of subpart F income (other than foreign currency gain or loss), none of the foreign currency gain or loss attributable to the transaction or property would qualify for the business needs exclusion. Thus, there is a cliff effect: If even a de minimis amount of income or gain from the transaction or property is subpart F income, the entire amount of the foreign currency gain or loss from the transaction or property, or from a bona fide hedging transaction with respect to the transaction or property, is included in the FPHCI computation.

4. Transactions That Manage the Risk of Currency Fluctuation in a Qualified Business Unit

A CFC may conduct business through a qualified business unit (as defined in

§ 1.989(a)–1 (QBU) that is not treated as a separate entity for federal income tax purposes, either because it is a branch or division of the CFC or because it is a business entity that is disregarded as separate from its owner. Although the QBU is not treated as a separate entity, it may have a functional currency under § 1.985–1 that is different from that of the CFC owner, with consequences for the determination of foreign currency gain and loss under sections 987 and 988. The QBU's transactions in its own functional currency are not section 988 transactions of the CFC, and accordingly the CFC does not realize foreign currency gain or loss on such transactions. The CFC generally must, however, take into account under section 987 foreign currency gain or loss with respect to the QBU upon remittances from the QBU.

For business and financial accounting reasons, a CFC may enter into transactions to manage the exchange rate risk associated with its net investment in its QBU. Under generally accepted accounting principles in the United States (U.S. GAAP), a majority owner of a business entity (parent corporation) must consolidate the accounts of the majority-owned entity, including a foreign entity, with its own accounts for purposes of financial reporting. Under U.S. GAAP, the income, assets, liabilities, and other financial results of foreign operations that are conducted in a functional currency that differs from the consolidated parent's functional currency must be translated into the functional currency of the consolidated parent. Foreign currency gains or losses arising from the translation are recorded in a "cumulative translation adjustment" account and reported as a component of shareholders' equity on the balance sheet. See generally Accounting Standards Codification (ASC) 830–30–45. Foreign currency gain or loss from transactions that effectively hedge the risk of currency fluctuations in the net equity investment in foreign operations also are recorded in the cumulative translation adjustment account. See ASC 815–35–35. A cumulative translation adjustment is not taken into account in computing the income of the consolidated group until the relevant operations are disposed of or liquidated.

The transactions that a CFC uses to manage its exchange rate risk with respect to its net investment in a QBU are typically section 988 transactions. Thus, foreign currency gains or losses attributable to those transactions are taken into account in computing FPHCI, unless the transactions qualify as bona

fide hedging transactions that satisfy the requirements of the business needs exclusion. See § 1.954–2(g)(2)(ii)(B)(2). Neither the Code nor the section 954 regulations provide specific guidance on whether a transaction entered into to manage exchange rate risk arising from a CFC's net investment in a QBU can qualify as a bona fide hedging transaction eligible for the business needs exclusion. This issue can be consequential because foreign currency gain, but not loss, from a transaction erroneously identified as a bona fide hedging transaction is included in the computation of FPHCI, unless the CFC qualifies for the inadvertent identification exception. See § 1.954–2(a)(4)(ii)(C) and (g)(2)(ii)(B)(2). Additionally, even if a transaction entered into to manage exchange rate risk arising from a CFC's net investment in a QBU is eligible for treatment as a bona fide hedging transaction, the transaction would not qualify for the business needs exclusion unless the hedged property did not, and could not reasonably be expected to, give rise to any subpart F income.

Also for business and financial accounting reasons, a CFC may enter into transactions to manage the exchange rate risk with respect to its net investment in a subsidiary CFC. A transaction that manages the risk of price or currency fluctuation with respect to a CFC's net investment in a subsidiary CFC is not considered a hedging transaction for federal income tax purposes. In *Hoover Co. v. Commissioner*, 72 T.C. 706 (1979), the Tax Court held that transactions entered into to manage the risk of a decline in value of a taxpayer's net investment in a foreign subsidiary that might occur if the value of the subsidiary's functional currency declined relative to the U.S. dollar were not hedging transactions for federal income tax purposes. See also § 1.1221–2(b) (providing that a hedging transaction must manage risk with respect to "ordinary property . . . that is held or to be held by the taxpayer"). Thus, foreign currency gains and losses on transactions that manage the risk of currency fluctuation on a CFC's net investment in a subsidiary CFC are taken into account in computing FPHCI.

B. Timing of Foreign Currency Gains and Losses

1. Hedge Timing Rules of § 1.446–4

Section 1.446–4 generally requires gain or loss from a hedging transaction, as defined in § 1.1221–2(b), to be taken into account at the same time as the gain or loss from the item being hedged. As noted in Part A.1 of this Background

section, bona fide hedging transactions under § 1.954–2(a)(4)(ii) include both hedging transactions as defined in § 1.1221–2(b) and transactions that manage the risk of price or currency fluctuation with respect to section 1231 property and section 988 transactions. Thus, § 1.446–4 does not explicitly apply to all bona fide hedging transactions, which has led to some uncertainty about whether gain or loss from a bona fide hedging transaction that is not described in § 1.1221–2(b) is properly taken into account in the same taxable year as gain or loss on the hedged item. The Department of the Treasury (Treasury Department) and the IRS understand that some taxpayers have applied the hedge timing rules of § 1.446–4 to all bona fide hedging transactions, irrespective of whether those transactions are hedging transactions as defined in § 1.1221–2(b).

2. Treasury Center CFCs

It is common for a U.S.-parented multinational group to own one or more CFCs that serve as financing entities for other group members. Such CFCs (treasury center CFCs) may borrow in various currencies from third party lenders or from other members of the group and lend the proceeds to other members of the group. Treasury center CFCs also may be used to centralize the management of currency and other risks of other CFCs within the multinational group. Treasury center CFCs typically qualify as securities dealers under section 475, but if a treasury center CFC transacts primarily or exclusively with related persons, as is often the case, it would not qualify as a regular dealer under § 1.954–2(a)(4)(iv) and thus would not be eligible for the special rules applying the business needs exclusion to certain transactions of regular dealers under § 1.954–2(g)(2)(ii)(C).

When a treasury center CFC borrows nonfunctional currency from related or unrelated parties and makes loans denominated in that nonfunctional currency to a related CFC, the foreign currency gain or loss attributable to the principal amount borrowed by the treasury center CFC will economically offset all or a portion of the foreign currency loss or gain, respectively, attributable to the lending activity. Similarly, the foreign currency gain or loss attributable to the treasury center CFC's accrual of interest income and expense with respect to its lending and borrowing activities, respectively, will offset each other, in whole or in part. Thus, by borrowing and lending in the same nonfunctional currency, a treasury

center CFC is said to be “naturally hedged.”

Although foreign currency gain and loss attributable to lending and borrowing transactions that are denominated in the same nonfunctional currency will typically partially or fully economically offset, the applicable tax accounting methods may cause the treasury center CFC to recognize a gain and an offsetting loss in different taxable years. If a treasury center CFC qualifies as a dealer under section 475, for example because it regularly purchases debt from related CFCs in the ordinary course of a trade or business, the treasury center CFC generally must use a mark-to-market method of accounting for its securities. See section 475 and § 1.475(c)-1(a)(3)(i). However, § 1.475(c)-2(a)(2) provides that a dealer's own issued debt liabilities are not securities for purposes of section 475. Thus, a treasury center CFC that funds its nonfunctional currency lending activities in whole or in part by issuing matching nonfunctional currency debt must mark to market its loan receivables and generally will include any foreign currency gain or loss recognized as a result of the mark to market in the computation of FPHCI each year, but, pursuant to § 1.475(c)-2(a)(2), offsetting foreign currency loss or gain, respectively, on its borrowing transactions generally is not taken into account until principal and interest is paid. Moreover, the rule in § 1.1221-2(d)(5) prohibits taxpayers from treating the purchase or sale of a debt instrument as a hedging transaction, which will generally prevent a treasury center CFC from relying on the § 1.446-4 hedge timing rules to match foreign currency gains and losses on borrowing transactions and loan receivables. The resulting mismatch in the timing of offsetting foreign currency gains and losses may have significant adverse consequences on the computation of the treasury center CFC's subpart F income because, as discussed in Part A.2 of this Background section, a foreign currency loss generally will not reduce the CFC's subpart F income except to the extent there are other foreign currency gains in the year the loss is recognized. Treasury and the IRS understand that some taxpayers have taken the position that the offsetting foreign currency gains and losses on the naturally hedged nonfunctional currency loans and borrowings may be taken into account in the same taxable years.

C. Foreign Currency Gain or Loss on Interest-Bearing Liabilities and Related Hedging Transactions

As explained in Part A.3 of this Background section, the business needs exclusion does not apply to foreign currency gain or loss with respect to a transaction or property if any subpart F income arises, or could reasonably be expected to arise, from the transaction or property. § 1.954-2(g)(2)(ii)(B)(2). However, § 1.954-2(g)(2)(iii) provides a special rule for foreign currency gain or loss arising from an interest-bearing liability. Under § 1.954-2(g)(2)(iii), such foreign currency gain or loss generally is characterized as subpart F income and non-subpart F income in the same manner that interest expense associated with the liability would be allocated and apportioned between subpart F income and non-subpart F income under §§ 1.861-9T and 1.861-12T. Section 1.954-2(g) does not provide a corresponding rule for a bona fide hedging transaction with respect to an interest-bearing liability. However, § 1.861-9T(b)(2) and (b)(6) provide rules that allocate foreign currency gain or loss on certain hedging transactions in the same manner as interest expense. A foreign currency gain or loss arising from a transaction that hedges an interest-bearing liability and that is not governed by § 1.861-9T is subject to the general rule of § 1.954-2(g)(2)(ii)(B)(2) and its “cliff effect.” Consequently, although the foreign currency gain or loss on the hedge of an interest-bearing liability economically offsets the foreign currency loss or gain on that liability, the interaction of the regulations under sections 861 and 954 could result in different allocations of foreign currency gains and losses between subpart F income and non-subpart F income.

D. Elections To Treat Foreign Currency Gain or Loss as a Specific Category of Subpart F Income or FBCI or FPHCI

Section 1.954-2 provides two elections with respect to foreign currency gains or losses. Under the first election, the controlling United States shareholders of a CFC may elect to include foreign currency gain or loss that relates to a specific category of subpart F income or, in the case of FBCI, a specific subcategory of FBCI described in § 1.954-1(c)(1)(iii)(A)(1) or (2), in that category of subpart F income or FBCI, rather than in FPHCI. See § 1.954-2(g)(3). Thus, for example, under this election, foreign currency gain or loss on a transaction that hedges currency risk with respect to transactions that result in foreign base company sales income would be included in the

foreign base company sales income category for purposes of determining subpart F income. This election associates foreign currency gain or loss that otherwise would be included in the computation of FPHCI with the categories of subpart F income and foreign base company income to which it relates and allows net foreign currency losses with respect to a category to reduce the income in that category. For this treatment to apply, however, the relationship between the foreign currency gain or loss and the category of income must be clearly determinable from the CFC's records. See § 1.954-2(g)(3)(i)(A).

Under the second election, the controlling United States shareholders of a CFC may elect to include in the computation of FPHCI all foreign currency gain or loss attributable to any section 988 transaction (except a transaction in which gain or loss is treated as capital gain or loss under section 988(a)(1)(B)) and to certain section 1256 contracts. See § 1.954-2(g)(4). When this election is in effect, net foreign currency loss reduces gross income in other categories of FPHCI. Controlling United States shareholders typically make the § 1.954-2(g)(4) election if a CFC has relatively little net foreign currency gain or loss. In those circumstances, the administrative burden of tracing foreign currency gain and loss to specific transactions or property, as is required under the business needs exclusion and the § 1.954-2(g)(3) election, may outweigh the benefit of those provisions. As the CFC's foreign currency gain or loss becomes more significant, the net benefit of the business needs exclusion or the § 1.954-2(g)(3) election may increase and the relative benefit of the § 1.954-2(g)(4) election may decrease.

Explanation of Provisions

A. Business Needs Exclusion

1. Transactions and Property That Give Rise to Both Subpart F Income and Non-Subpart F Income

The Treasury Department and the IRS believe that foreign currency gain or loss arising from a transaction or property, or from a bona fide hedging transaction with respect to such a transaction or property, should be eligible for the business needs exclusion to the extent the transaction or property generates non-subpart F income. Accordingly, proposed § 1.954-2(g)(2)(ii)(C)(1) provides that foreign currency gain or loss attributable to a transaction or property that gives rise to both subpart F income and non-subpart F income, and that otherwise satisfies the

requirements of the business needs exclusion, is allocated between subpart F income and non-subpart F income in the same proportion as the income from the underlying transaction or property. As a result, the amount of foreign currency gain or loss allocable to non-subpart F income qualifies for the business needs exclusion, and the amount allocable to subpart F income is taken into account in computing FPHCI. Under proposed § 1.954-2(g)(2)(ii)(C)(1), the entire foreign currency gain or loss arising from property that does not give rise to income (as defined in § 1.954-2(e)(3)), or from a bona fide hedging transaction with respect to such property, is attributable to subpart F income because any gain upon a disposition of such property would be subpart F income.

2. Hedges of Net Investment in a QBU

The Treasury Department and the IRS believe that a transaction that manages exchange rate risk with respect to a CFC's net investment in a QBU that is not treated as a separate entity for federal income tax purposes should qualify for the business needs exclusion to the extent the underlying property of the QBU does not give rise to subpart F income. Accordingly, proposed § 1.954-2(g)(2)(ii)(C)(2) provides that the qualifying portion of any foreign currency gain or loss that arises from a "financial statement hedging transaction" with respect to a QBU and that is allocable to non-subpart F income is directly related to the business needs of a CFC. A financial statement hedging transaction is defined as a transaction that is entered into by a CFC for the purpose of managing exchange rate risk with respect to part or all of that CFC's net investment in a QBU that is included in the consolidated financial statements of a United States shareholder of the CFC or a corporation that directly or indirectly owns such United States shareholder. The qualifying portion is defined as the amount of foreign currency gain or loss arising from a financial statement hedging transaction that is properly accounted for under U.S. GAAP as a cumulative foreign currency translation adjustment to shareholders' equity. The qualifying portion of any foreign currency gain or loss arising from a financial statement hedging transaction must be allocated between subpart F income and non-subpart F income using the principles of § 1.987-6(b). The amount of the qualifying portion allocated to non-subpart F income qualifies for the business needs exclusion.

The proposed amendment to § 1.446-4(a), discussed in Part B.1 of this Explanation of Provisions section, provides that a bona fide hedging transaction (as defined in § 1.954-2(a)(4)(ii)) is subject to the hedge timing rules of § 1.446-4. Additionally, as noted earlier, proposed § 1.954-2(g)(2)(ii)(C)(2) provides that part or all of the qualifying portion of any foreign currency gain or loss arising from a financial statement hedging transaction is eligible for the business needs exclusion. However, financial statement hedging transactions are not included in the definition of bona fide hedging transaction under § 1.954-2(a)(4)(ii), as proposed to be amended pursuant to these proposed regulations. Thus, foreign currency gain or loss arising from a financial statement hedging transaction is not subject to the hedge timing rules of § 1.446-4 and is taken into account in accordance with the taxpayer's method of accounting. Generally, a taxpayer's financial statement hedging transaction is a section 988 transaction with respect to the taxpayer. Accordingly, to the extent that the taxpayer elects to use a mark-to-market method of accounting for section 988 gain or loss under proposed § 1.988-7, and also makes the annual deemed termination election described in § 1.987-8T(d), the taxpayer generally would recognize annually foreign currency gain or loss from both the financial statement hedging transaction and the QBU with respect to which exchange rate risk is managed. The Treasury Department and the IRS request comments regarding whether the hedge timing rules of § 1.446-4 should apply to a financial statement hedging transaction (as defined in proposed § 1.954-2(g)(2)(ii)(C)(2)) with respect to section 987 QBUs with respect to which no annual deemed termination election is in effect, and, if so, how the appropriate matching should be achieved.

The Treasury Department and the IRS also request comments regarding whether the business needs exclusion should apply to a transaction that is entered into for the purpose of managing the risk of foreign currency fluctuation with respect to a CFC's net investment in a subsidiary CFC. Comments are requested regarding how the gain or loss on such a transaction could or should be allocated between subpart F and non-subpart F income and whether and how the gain or loss could or should be matched with the foreign currency gain or loss on the "hedged" item.

The Treasury Department and the IRS are aware that a CFC may enter into a

transaction that manages exchange rate risk arising from a disregarded loan to a QBU. The Treasury Department and the IRS understand that, for U.S. GAAP purposes, exchange gain or loss with respect to a transaction that manages exchange rate risk with respect to the disregarded loan generally would not be reflected as a cumulative foreign currency translation adjustment. For federal income tax purposes, the loan would be disregarded, and exchange gain or loss on the hedging transaction potentially could be subpart F income. The Treasury Department and the IRS request comments regarding whether, taking into account the amendments in the proposed regulations, additional amendments to the business needs exclusion are appropriate to account for foreign currency gain or loss arising from a transaction that is entered into for the purpose of managing the risk of foreign currency fluctuation with respect to disregarded transactions, including disregarded loans, between a CFC and its QBU. Specifically, comments are requested regarding how the foreign currency gain or loss on such a hedging transaction could or should be allocated between subpart F and non-subpart F income and when such foreign currency gain or loss should be recognized.

B. Timing of Foreign Currency Gains and Losses

1. Extension of § 1.446-4 Hedge Timing Rules to Bona Fide Hedging Transactions

The proposed amendment to § 1.446-4(a) extends the hedge timing rules of § 1.446-4 to all bona fide hedging transactions as defined in § 1.954-2(a)(4)(ii). Although this amendment will be particularly useful in connection with foreign currency gains and losses from bona fide hedging transactions of treasury center CFCs, the amendment will eliminate timing mismatches for gains and losses arising from all bona fide hedging transactions and from the hedged property or transaction.

In addition, proposed § 1.954-2(a)(4)(ii) revises the definition of a bona fide hedging transaction to permit the acquisition of a debt instrument by a CFC to be treated as a bona fide hedging transaction with respect to an interest-bearing liability of the CFC, provided that the acquisition of the debt instrument has the effect of managing the CFC's exchange rate risk with respect to the liability within the meaning of § 1.1221-2(c)(4) and (d), determined without regard to § 1.1221-2(d)(5), and otherwise meets the requirements of a bona fide hedging

transaction. If a CFC, including a treasury center CFC, identifies a debt instrument that manages exchange rate risk as a hedge of an interest-bearing liability, the foreign currency gain or loss arising from that debt instrument will be taken into account under § 1.446-4 at the same time as the foreign currency gain or loss arising from the hedged interest-bearing liability.

Treating a debt instrument as a hedge of an interest-bearing liability, rather than treating the interest-bearing liability as a hedge of the debt instrument, is consistent with the principles underlying § 1.861-9T(b)(2), which allocates and apports foreign currency gain or losses on a transaction that hedges an interest-bearing liability in the same manner as interest expense with respect to the liability is allocated and apportioned. See part C of this Explanation of Provisions section for further discussion of the impact of this rule on the allocation of foreign currency gain or loss on a debt instrument between subpart F income and non-subpart F income.

2. Elective Mark-to-Market Method of Accounting for Foreign Currency Gain and Loss

Proposed § 1.988-7 permits a taxpayer, including a CFC, to elect to use a mark-to-market method of accounting for section 988 gain or loss with respect to section 988 transactions, including becoming an obligor under an interest-bearing liability. This elective mark-to-market method of accounting takes into account only changes in the value of the section 988 transaction attributable to exchange rate fluctuations and does not take into account changes in value due to other factors, such as changes in market interest rates or the creditworthiness of the borrower. The proposed regulations require appropriate adjustments to be made to prevent section 988 gain or loss taken into account under the mark-to-market method of accounting from being taken into account again under section 988 or another provision of the Code.

This election is available to any taxpayer but is expected to be particularly relevant in the case of a treasury center CFC. A treasury center CFC that uses a mark-to-market method for securities under section 475 and that makes the election under proposed § 1.988-7 will be able to match the timing of foreign currency gain or loss with respect to an interest-bearing liability (such as a loan from a related or unrelated party) with economically offsetting foreign currency loss or gain arising from its nonfunctional currency-denominated assets (such as a

receivable from a related party). Whether the corresponding foreign currency gains and losses qualify for the business needs exclusion is determined under the rules of § 1.954-2(g)(2), as proposed to be amended pursuant to these proposed regulations. Thus, if the foreign currency gains or losses do not fully offset each other, the difference may increase or decrease the CFC's FPHCI. However, the election under proposed § 1.988-7 does not apply to the following: (1) Any securities that are marked to market under any other provision; (2) any securities that, pursuant to an election or an identification made by the taxpayer, are excepted from mark-to-market treatment under any other provision; (3) any transactions of a QBU that is subject to section 987; or (4) any section 988 transactions denominated in, or determined by reference to, a hyperinflationary currency.

The election applies for the year in which the election is made and all subsequent taxable years unless it is revoked by the Commissioner or the taxpayer or, in the case of a CFC, the controlling domestic shareholders of the CFC. Proposed § 1.988-7(d) permits a taxpayer or CFC to revoke the election to use a mark-to-market method of accounting for foreign currency gains or losses on section 988 transactions at any time. A subsequent election cannot be made until the sixth taxable year following the year of revocation and cannot be revoked until the sixth taxable year following the year of such subsequent election.

C. Hedges of Exchange Rate Risk Arising From an Interest-Bearing Liability

The Treasury Department and the IRS believe that it is appropriate to require foreign currency gain or loss from transactions that have the effect of managing exchange rate risk arising from an interest-bearing liability to be allocated between subpart F income and non-subpart F income in the same manner as the foreign currency gain or loss on the hedged liability. Accordingly, the proposed amendments to § 1.954-2(g)(2)(iii) require foreign currency gains and losses arising from a transaction or property (including debt instruments) that manages exchange rate risk with respect to an interest-bearing liability to be allocated and apportioned between subpart F income and non-subpart F income in the same manner that foreign currency gain or loss from the interest-bearing liability would be allocated and apportioned. As noted in Part B.1 of this Explanation of Provisions, the proposed amendment to § 1.954-2(a)(4)(ii) revises the definition

of a bona fide hedging transaction to permit the acquisition of a debt instrument by a CFC to be treated as a bona fide hedging transaction with respect to an interest-bearing liability of the CFC under certain circumstances. As a result of that proposed amendment and the amendment described in this Part C, if a CFC identifies a debt instrument that manages exchange rate risk as a hedge of an interest-bearing liability, the foreign currency gain or loss arising from that debt instrument will be allocated between subpart F income and non-subpart F income in the same manner as the foreign currency gain or loss arising from the hedged interest-bearing liability. Thus, the proposed amendments to the regulations permit a CFC that timely and properly identifies a debt instrument as a hedge of an interest-bearing liability to alleviate the character mismatch that may occur under the existing regulations, as described in Part C of the Background section of this preamble. The proposed amendments to § 1.954-2(g)(2)(iii) also clarify that the special rules in that paragraph apply to foreign currency gain or loss arising from an interest-bearing liability, or from a bona fide hedging transaction with respect to the liability, in lieu of the general rule of the business needs exclusion in § 1.954-2(g)(2)(ii).

D. Revocation of Election To Treat Foreign Currency Gain or Loss as a Specific Category of Subpart F Income or as FPHCI

Proposed § 1.954-2(g)(3)(iii) permits a CFC to revoke its election under § 1.954-2(g)(3) (to characterize foreign currency gain or loss that arises from a specific category of subpart F income as gain or loss in that category) at any time without securing the prior consent of the Commissioner. Similarly, proposed § 1.954-2(g)(4)(iii) permits a CFC to revoke its election under § 1.954-2(g)(4) (to treat all foreign currency gain or loss as FPHCI) at any time without securing the prior consent of the Commissioner. The Treasury Department and the IRS remain concerned about CFCs frequently changing these elections without a substantial business reason but also believe that the ability of a taxpayer to automatically revoke these elections would promote sound tax administration. Therefore, the proposed regulations provide that, if an election has been revoked under proposed § 1.954-2(g)(3)(iii) or proposed § 1.954-2(g)(4)(iii), a subsequent election cannot be made until the sixth taxable year following the year of revocation and any subsequent election cannot be revoked

until the sixth year following the year of such subsequent election.

E. Applicability Dates

The proposed amendments generally are proposed to apply to taxable years ending on or after the date the proposed regulations are published as final regulations in the **Federal Register**. However, the proposed amendments to §§ 1.446–4(a), 1.954–2(a)(4)(ii)(A), 1.954–2(g)(2)(ii)(C)(1), and 1.954–2(g)(2)(iii) are proposed to apply to bona fide hedging transactions entered into on or after the date the proposed regulations are published as final regulations in the **Federal Register**. A taxpayer may rely on any of the proposed amendments, other than the amendments to §§ 1.446–4(a), 1.954–2(a)(4)(ii)(A), 1.954–2(g)(2)(ii)(C)(1), and 1.954–2(g)(2)(iii), insofar as each applies to a bona fide hedging transaction, for taxable years ending on or after December 19, 2017, provided the taxpayer consistently applies the proposed amendment for all such taxable years that end before the first taxable year ending on or after the date the proposed regulations are published as final regulations in the **Federal Register**. A taxpayer may rely on any of the proposed amendments to §§ 1.446–4(a), 1.954–2(a)(4)(ii)(A), 1.954–2(g)(2)(ii)(C)(1), and 1.954–2(g)(2)(iii) with respect to a bona fide hedging transaction entered into on or after December 19, 2017 and prior to the applicability date, provided the taxpayer consistently applies the proposed amendment to all bona fide hedging transactions entered into on or after December 19, 2017 and prior to the date that these regulations are published as final regulations in the **Federal Register**.

Special Analyses

Certain IRS regulations, including these, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. It is hereby certified that the collection of information requirement will not have a significant economic impact on a substantial number of small entities. This certification is based on the fact that these regulations primarily will affect domestic corporations that have foreign operations, which tend to be larger businesses, and that the average burden is minimal. Accordingly, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Pursuant to section 7805(f), this notice of proposed rulemaking has been submitted to the Chief Counsel for

Advocacy of the Small Business Administration for comment on its impact on small business.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any comments that are submitted timely to the IRS as prescribed in this preamble under **ADDRESSES**. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Jeffery G. Mitchell of the Office of Associate Chief Counsel (International). However, other personnel from the IRS and the Treasury Department participated in their development.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 1 is proposed to be amended as follows:

PART 1—INCOME TAXES

■ **Paragraph 1.** The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *
Section 1.954–2 also issued under 26 U.S.C. 954(b) and (c). * * *

Section 1.988–7 also issued under 26 U.S.C. 446, 988(d), and 989(c). * * *

■ **Par. 2.** Section 1.446–4 is amended by:

- 1. Revising the first sentence of paragraph (a).
- 2. Revising the heading of paragraph (g) and adding a sentence at the end of paragraph (g).
- 3. Removing paragraph (h).

The revisions and addition read as follows:

§ 1.446–4 Hedging transactions.

(a) *In general.* Except as provided in this paragraph (a), a hedging transaction as defined in § 1.1221–2(b) (whether or not the character of gain or loss from the transaction is determined under § 1.1221–2) and a bona fide hedging

transaction as defined in § 1.954–2(a)(4)(ii) must be accounted for under the rules of this section. * * *

* * * * *

(g) *Applicability date.* * * * This section applies to a bona fide hedging transaction (as defined in § 1.954–2(a)(4)(ii)) entered into on or after the date that these regulations are published as final regulations in the **Federal Register**.

■ **Par. 3.** Section 1.954–0(b) is amended by:

■ 1. Redesignating the entry for § 1.954–2(g)(2)(ii)(D) as the entry for § 1.954–2(g)(2)(ii)(E).

■ 2. Redesignating the entries for § 1.954–2(g)(2)(ii)(C), (g)(2)(ii)(C)(1), (g)(2)(ii)(C)(2), (g)(2)(ii)(C)(2)(i), (g)(2)(ii)(C)(2)(ii), and (g)(2)(ii)(C)(2)(iii) as the entries for § 1.954–2(g)(2)(ii)(D), (g)(2)(ii)(D)(1), (g)(2)(ii)(D)(2), (g)(2)(ii)(D)(2)(i), (g)(2)(ii)(D)(2)(ii), and (g)(2)(ii)(D)(2)(iii), respectively.

■ 3. Adding new entries for § 1.954–2(g)(2)(ii)(C), (g)(2)(ii)(C)(1), and (g)(2)(ii)(C)(2).

■ 4. Revising the entry for § 1.954–2(g)(2)(iii).

The additions and revision read as follows:

§ 1.954–0 Introduction.

* * * * *

(b) * * *

§ 1.954–2 Foreign personal holding company income.

* * * * *

(g) * * *

(2) * * *

(ii) * * *

(C) Foreign currency gains and losses arising from a transaction or property that gives rise to both non-subpart F income and subpart F income or from a bona fide hedging transaction with respect to such a transaction or property.

(1) *In general.*

(2) Financial statement hedging transaction with respect to the net investment in a qualified business unit.

* * * * *

(iii) Special rule for foreign currency gain or loss from an interest-bearing liability and bona fide hedges of an interest-bearing liability.

* * * * *

■ **Par. 4.** Section 1.954–2 is amended by:

■ 1. Adding a sentence after the first sentence in paragraph (a)(4)(ii)(A).

■ 2. Redesignating paragraph (g)(2)(ii)(D) as paragraph (g)(2)(ii)(E).

■ 3. Redesignating paragraph (g)(2)(ii)(C) as paragraph (g)(2)(ii)(D).

■ 4. In newly redesignated paragraph (g)(2)(ii)(D)(2)(i), removing “paragraph

- (g)(2)(ii)(C)” and adding “paragraph (g)(2)(ii)(D)” in its place and removing “paragraph (g)(2)(ii)(C)(1)” and adding “paragraph (g)(2)(ii)(D)(1)” in its place.
- 5. In newly redesignated paragraph (g)(2)(ii)(D)(2)(ii), removing “paragraph (g)(2)(ii)(C)(2)(i)” and adding “paragraph (g)(2)(ii)(D)(2)(i)” each place it appears.
- 6. In newly redesignated paragraph (g)(2)(ii)(D)(2)(iii), removing “paragraph (g)(2)(ii)(C)(2)” and adding “paragraph (g)(2)(ii)(D)(2)” in its place.
- 7. Adding new paragraph (g)(2)(ii)(C).
- 8. Revising paragraph (g)(2)(iii).
- 9. Revising paragraph (g)(3)(iii).
- 10. Revising paragraph (g)(4)(iii).
- 11. Adding two sentences after the third sentence in paragraph (i)(2).

The additions and revisions read as follows:

§ 1.954-2 Foreign personal holding company income.

- (a) * * *
- (4) * * *
- (ii) * * *
- (A) * * *

Additionally, the acquisition of a debt instrument by a controlled foreign corporation may be treated as a bona fide hedging transaction with respect to an interest-bearing liability of the controlled foreign corporation, provided that the acquisition of the debt instrument has the effect of managing the controlled foreign corporation’s exchange rate risk with respect to the liability within the meaning of § 1.1221-2(c)(4) and (d), determined without regard to § 1.1221-2(d)(5), and otherwise meets the requirements of paragraph (a)(4)(ii) of this section. * * *

* * * * *

- (g) * * *
- (2) * * *
- (ii) * * *

(C) *Foreign currency gains and losses arising from a transaction or property that gives rise to both non-subpart F income and subpart F income or from a bona fide hedging transaction with respect to such a transaction or property—(1) In general.* If a foreign currency gain or loss would be directly related to the business needs of the controlled foreign corporation pursuant to paragraph (g)(2)(ii)(B)(1) or (2) of this section except that it arises from a transaction or property that gives rise, or is reasonably expected to give rise, to both non-subpart F income and subpart F income (other than foreign currency gain or loss), or from a bona fide hedging transaction with respect to such a transaction or property, the amount of foreign currency gain or loss that is allocable to non-subpart F income under this paragraph (g)(2)(ii)(C)(1) is directly

related to the business needs of the controlled foreign corporation. The amount of foreign currency gain or loss arising from a transaction or property described in this paragraph (g)(2)(ii)(C)(1), or from a bona fide hedging transaction with respect to such a transaction or property, that is allocable to non-subpart F income equals the product of the total amount of foreign currency gain or loss arising from the transaction or property and the ratio of non-subpart F income (other than foreign currency gain or loss) that the transaction or property gives rise to, or is reasonably expected to give rise to, to the total income that the transaction or property gives rise to, or is reasonably expected to give rise to. However, none of the foreign currency gain or loss arising from property that does not give rise to income (as defined in paragraph (e)(3) of this section), or from a bona fide hedging transaction with respect to such property, is allocable to non-subpart F income.

(2) *Financial statement hedging transaction with respect to a qualified business unit.* If foreign currency gain or loss arises from a financial statement hedging transaction (as defined in this paragraph (g)(2)(ii)(C)(2)) with respect to a qualified business unit (as defined in § 1.989(a)-1) (QBU) of a controlled foreign corporation that is not treated as an entity separate from the controlled foreign corporation for federal income tax purposes, either because it is a branch or division of the controlled foreign corporation or because it is a business entity that is disregarded as separate from its owner under § 301.7701-3 of this chapter, the amount of the qualifying portion (as determined under this paragraph (g)(2)(ii)(C)(2)) of foreign currency gain or loss that is allocable to non-subpart F income under this paragraph (g)(2)(ii)(C)(2) is directly related to the business needs of the controlled foreign corporation. Generally, the controlled foreign corporation must allocate the qualifying portion of foreign currency gain or loss arising from the financial statement hedging transaction between subpart F income and non-subpart F income in the same proportion as it would characterize gain or loss determined under section 987 as subpart F income and non-subpart F income under the principles of § 1.987-6(b). A *financial statement hedging transaction* is a transaction that is entered into by a CFC for the purpose of managing exchange rate risk with respect to part or all of that CFC’s net investment in a QBU that is included in the consolidated financial statements of a United States

shareholder of the CFC (or a corporation that directly or indirectly owns such United States shareholder). The qualifying portion of foreign currency gain or loss is the amount of foreign currency gain or loss arising from a financial statement hedging transaction that is properly accounted for under U.S. generally accepted accounting principles as a cumulative foreign currency translation adjustment to shareholders’ equity.

* * * * *

(iii) *Special rule for foreign currency gain or loss from an interest-bearing liability and bona fide hedges of an interest-bearing liability.* Except as provided in paragraph (g)(2)(ii)(D)(2) or (g)(5)(iv) of this section, foreign currency gain or loss arising from an interest-bearing liability is characterized as subpart F income and non-subpart F income in the same manner that interest expense associated with the liability would be allocated and apportioned between subpart F income and non-subpart F income under §§ 1.861-9T and 1.861-12T. Likewise, foreign currency gain or loss arising from a bona fide hedging transaction entered into by the controlled foreign corporation that has the effect of managing exchange rate risk with respect to an interest-bearing liability that is not subject to paragraph (g)(2)(ii)(D)(2) (certain interest-bearing liabilities treated as dealer property) or (g)(5)(iv) (gain or loss allocated under § 1.861-9) of this section is characterized as subpart F income and non-subpart F income in the same manner that interest expense associated with the interest-bearing liability would be allocated and apportioned between subpart F income and non-subpart F income under §§ 1.861-9T and 1.861-12T. Paragraph (g)(2)(ii) of this section does not apply to any foreign currency gain or loss described in this paragraph (g)(2)(iii).

(3) * * *

(iii) *Revocation of election.* This election is effective for the taxable year of the controlled foreign corporation for which it is made and all subsequent taxable years of such corporation unless revoked by the Commissioner or the controlling United States shareholders (as defined in § 1.964-1(c)(5)) of the controlled foreign corporation. The controlling United States shareholders of a controlled foreign corporation may revoke such corporation’s election at any time. If an election has been revoked under this paragraph (g)(3)(iii), a new election under paragraph (g)(3) of this section cannot be made until the sixth taxable year following the year in which the previous election was

revoked, and such subsequent election cannot be revoked until the sixth taxable year following the year in which the subsequent election was made. The controlling United States shareholders revoke an election on behalf of a controlled foreign corporation by filing a statement that clearly indicates such election has been revoked with their original or amended income tax returns for the taxable year of such United States shareholders ending with or within the taxable year of the controlled foreign corporation for which the election is revoked.

* * * * *

(4) * * *

(iii) *Revocation of election.* This election is effective for the taxable year of the controlled foreign corporation for which it is made and all subsequent taxable years of such corporation unless revoked by the Commissioner or the controlling United States shareholders (as defined in § 1.964-1(c)(5)) of the controlled foreign corporation. The controlling United States shareholders of a controlled foreign corporation may revoke such corporation's election at any time. If an election has been revoked under this paragraph (g)(4)(iii), a new election under paragraph (g)(4) of this section cannot be made until the sixth taxable year following the year in which the previous election was revoked, and such subsequent election cannot be revoked until the sixth taxable year following the year in which the subsequent election was made. The controlling United States shareholders revoke an election on behalf of a controlled foreign corporation by filing a statement that clearly indicates such election has been revoked with their original or amended income tax returns for the taxable year of such United States shareholders ending with or within the taxable year of the controlled foreign corporation for which the election is revoked.

* * * * *

(i) * * *

(2) *Other paragraphs.* * * * The second sentence of paragraph (a)(4)(ii)(A), paragraph (g)(2)(ii)(C)(1), and the second sentence of paragraph (g)(2)(iii) apply to a bona fide hedging transaction entered into on or after the date the proposed regulations are published as final regulations in the **Federal Register**. Paragraphs (g)(2)(ii)(C) (other paragraph (g)(2)(ii)(C)(1), insofar as it applies to a bona fide hedging transaction), (g)(3)(iii), and (g)(4)(iii) of this section apply to taxable years of controlled foreign corporations ending on or after the date that these

regulations are published as final regulations in the **Federal Register**.

■ **Par. 5.** Section 1.988-7 is added to read as follows:

§ 1.988-7 Election to mark-to-market foreign currency gain or loss on section 988 transactions.

(a) *In general.* Except as provided in paragraph (b) of this section, a taxpayer may elect under this section to apply the foreign currency mark-to-market method of accounting described in this section with respect to all section 988 transactions (including the acquisition and holding of nonfunctional currency described in section 988(c)(1)(C)(ii)). Under the foreign currency mark-to-market method of accounting, the timing of section 988 gain or loss on section 988 transactions is determined under the principles of section 1256. Only section 988 gain or loss is taken into account under the foreign currency mark-to-market method of accounting. Consistent with section 1256(a)(2), appropriate adjustments must be made to prevent the section 988 gain or loss from being taken into account again under section 988 or another provision of the Code or regulations. A section 988 transaction subject to this election is not subject to the "netting rule" of section 988(b) and § 1.988-2(b)(8), under which exchange gain or loss is limited to overall gain or loss realized in a transaction, in taxable years prior to the taxable year in which section 988 gain or loss would be recognized with respect to such section 988 transaction but for this election.

(b) *Exceptions.* The election described in paragraph (a) of this section does not apply to:

(1) Any security, commodity, or section 1256 contract that is marked to market under any other provision, including section 475 or section 1256;

(2) Any security, commodity, or section 1256 contract that, pursuant to an election or an identification made by the taxpayer, is excepted from mark-to-market treatment under another provision, including section 475 or section 1256;

(3) Any transaction of a qualified business unit (as defined in section 1.989(a)-1(b)) that is subject to section 987; or

(4) Any section 988 transaction denominated in, or determined by reference to, a hyperinflationary currency. See § 1.988-2(b)(15), (d)(5), and (e)(7) for rules relating to such transactions.

(c) *Time and manner of election.* A taxpayer makes the election under paragraph (a) of this section by filing a statement that clearly indicates that

such election has been made with the taxpayer's timely-filed original federal income tax return for the taxable year for which the election is made. In the case of a controlled foreign corporation, the controlling United States shareholders (as defined in § 1.964-1(c)(5)) make the election under paragraph (a) of this section on behalf of the controlled foreign corporation by filing a statement that clearly indicates that such election has been made with their timely-filed, original federal income tax returns for the taxable year of such United States shareholders ending with or within the taxable year of the controlled foreign corporation for which the election is made.

(d) *Revocation and subsequent election.* A taxpayer may revoke its election under paragraph (a) of this section at any time. If an election has been revoked under this paragraph (d), a new election under paragraph (a) of this section cannot be made until the sixth taxable year following the year in which the previous election was revoked, and such subsequent election cannot be revoked until the sixth taxable year following the year in which the subsequent election was made. A taxpayer revokes the election by filing a statement that clearly indicates that such election has been revoked with its original or amended federal income tax return for the taxable year for which the election is revoked. In the case of a controlled foreign corporation, the controlling United States shareholders revoke the election on behalf of the controlled foreign corporation by filing a statement that clearly indicates that such election has been revoked with their original or amended federal income tax returns for the taxable year of such United States shareholders ending with or within the taxable year of the controlled foreign corporation for which the election is revoked.

(e) *Applicability dates.* This section applies to taxable years of taxpayers (including controlled foreign corporations) ending on or after the date these regulations are published as final regulations in the **Federal Register**.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2017-27320 Filed 12-18-17; 8:45 am]

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DEPARTMENT OF THE TREASURY**Internal Revenue Service****26 CFR Part 301**

[REG–120232–17; REG–120233–17]

RIN 1545–BO03; RIN 1545–BO04

Centralized Partnership Audit Regime: Rules for Election Under Sections 6226 and 6227, Including Rules for Tiered Partnership Structures, and Administrative and Procedural Provisions**AGENCY:** Internal Revenue Service (IRS), Treasury.**ACTION:** Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations implementing section 1101 of the Bipartisan Budget Act of 2015 (BBA), which was enacted into law on November 2, 2015. Section 1101 of the BBA repeals the current rules governing partnership audits and replaces them with a new centralized partnership audit regime that, in general, assesses and collects tax at the partnership level. These proposed regulations provide rules addressing how pass-through partners take into account adjustments under the alternative to payment of the imputed underpayment described in section 6226 and under rules similar to section 6226 when a partnership files an administrative adjustment request under section 6227. To make corresponding changes, these proposed regulations amend portions of the previously proposed regulations under sections 6226 and 6227. Additionally, these proposed regulations provide rules regarding assessment and collection, penalties and interest, and period of limitations under the new centralized partnership audit regime. The proposed regulations also address the rules for seeking judicial review of partnership adjustments.

DATES: Written or electronic comments and requests for a public hearing must be received by March 19, 2018.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–120232–17; REG–120233–17), room 5207, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand delivered Monday through Friday between the hours of 8:00 a.m. and 4:00 p.m. to CC:PA:LPD:PR (REG–120232–17; REG–120233–17), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue NW, Washington, DC 20224, or sent electronically via the Federal eRulemaking Portal at

www.regulations.gov (IRS REG–120232–17; REG–120233–17).

FOR FURTHER INFORMATION CONTACT:

Concerning the proposed regulations under sections 6225, 6231, and 6234 of the Internal Revenue Code, Joy E. Gerdy-Zogby of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6834; concerning the proposed regulations under sections 6227, 6232, and 6233, Steven L. Karon of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6834; concerning the proposed regulations under sections 6226 and 6235, Jennifer M. Black of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6834; concerning the submission of comments and a request for a public hearing, Regina Johnson, (202) 317–6901 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:**Background**

This document contains proposed amendments to the Procedure and Administration Regulations (26 CFR part 301) under Subpart—Tax Treatment of Partnership Items regarding how pass-through partners (as defined in proposed § 301.6241–1(a)(5)) take into account adjustments under the alternative to payment of the imputed underpayment described in section 6226 under the new centralized partnership audit regime and under rules similar to section 6226 when a partnership files an administrative adjustment request (AAR) under section 6227. This document also contains proposed regulations regarding assessment and collection, penalties and interest, periods of limitations, and judicial review under the new centralized partnership audit regime. The new regime was enacted into law by section 1101 of the BBA, Public Law 114–74, as amended by the Protecting Americans from Tax Hikes Act of 2015, Public Law 114–113, div. Q. The provisions of section 1101 of the BBA are generally effective for partnership taxable years beginning after December 31, 2017. See the temporary regulations (TD 9780, 81 FR 51795) and the notice of proposed rulemaking (REG–105005–16, 81 FR 51835) published in the **Federal Register** on August 5, 2016, regarding the election into the centralized partnership audit regime for taxable years beginning after November 2, 2015 and before January 1, 2018.

On June 14, 2017, a notice of proposed rulemaking (REG–136118–15) was published in the **Federal Register** (82 FR 27334) (June 14 NPRM)

implementing the new centralized partnership audit regime. The June 14 NPRM contained rules regarding the scope and election out of the new regime, consistent treatment by partners, the partnership representative, partnership adjustments made by the IRS and determination of the amount of the partnership's liability (referred to as the imputed underpayment), AARs, and the election for partners to take the partnership adjustments into account (sections 6221 through 6227 and section 6241 of the Internal Revenue Code (Code)). The rules regarding how pass-through partners take into account adjustments under the alternative to payment of the imputed underpayment described in section 6226 and under rules similar to section 6226 under section 6227 were reserved in the June 14 NPRM. This document contains those proposed rules and also re-proposes certain rules under section 6226, including the imposition and computation of penalties that relate to partnership adjustments. This document also contains proposed regulations that supplement the June 14 NPRM by implementing the administrative and procedural provisions of the new centralized partnership audit regime (sections 6231 through 6235). For proposed rules regarding international provisions under the centralized partnership audit regime, see (REG–119337–17) published in the **Federal Register** on November 30, 2017 (82 FR 56765) (November 30 NPRM).

1. Pass-Through Partners and the Section 6226 Push Out Election

Under section 6225, a partnership subject to the centralized partnership audit regime is generally required to pay an imputed underpayment with respect to adjustments to the partnership's items of income, gain, loss, deduction, or credit, and any partner's distributive share thereof. However, a partnership may elect under section 6226 to have its partners for the year under audit (the reviewed year partners) take the adjustments into account.

Proposed § 301.6226–1 (June 14 NPRM) provides rules relating to the election under section 6226 by a partnership to have its partners take into account the partnership adjustments in lieu of paying the imputed underpayment determined under section 6225 (the push out election). Proposed §§ 301.6226–2 and 301.6226–3 (June 14 NPRM) provide rules for statements the partnership must send to its partners for the reviewed year (as defined in proposed § 301.6241–1(a)(8) (June 14 NPRM)) and the computation and payment of the partners' liabilities

as a result of taking into account the adjustments. Under proposed § 301.6226-1(b)(2) (June 14 NPRM), if a partnership makes the election under section 6226 to push out the adjustments, the partnership is not required to pay the imputed underpayment but is instead required to furnish statements to “each partner of the partnership for the reviewed year.” Those reviewed year partners are then required to take the adjustments into account as provided under section 6226(b).

The June 14 NPRM provides guidance on how a direct partner that is not a pass-through partner (generally defined under proposed § 301.6241-1(a)(5) (June 14 NPRM) as a partnership, an S corporation, certain trusts, and a decedent's estate) takes the adjustments into account under section 6226(b).

The June 14 NPRM reserved, however, on the issue of how the adjustments are taken into account in the case of tiered partnership structures by partners that are pass-through partners. The preamble to the June 14 NPRM noted that the Treasury Department and the IRS were considering an approach under section 6226 for tiered partnerships to “push” the adjustments beyond the first tier partners that would be the subject of other proposed regulations to be published in the near future. These are those proposed regulations.

In the June 14 NPRM, the Treasury Department and the IRS sought comments on how the IRS might administer the requirements of section 6226 in tiered structures, including comments on reducing noncompliance and collection risk in tiered structures, while at the same time reducing costs of effective tax administration. The Treasury Department and the IRS received numerous comments addressing the push out election for tiered structures which uniformly requested that pass-through partners be allowed to push out the adjustments under section 6226 beyond the first tier and through to the ultimate taxpaying partners or owners.

Partnerships, as such, are not subject to tax under chapter 1 of the Code with respect to items of income, gain, loss, deduction, and credit. Rather, these items of the partnership are allocated to its partners who then take them into account based on the partners' tax characteristics, including entity classification. The June 14 NPRM describes generally how adjustments to items of income, gain, loss, deduction, or credit made with respect to a partnership subject to the TEFRA partnership procedures flow through to

the partnership's direct and indirect partners for assessment and collection of the resulting tax. Under certain circumstances, the assessment and collection of such tax required the IRS to follow deficiency procedures after the partnership-level proceeding. The enactment of the centralized partnership audit regime changed this paradigm by introducing the imputed underpayment, an entity-level liability, that is calculated based on the adjustments to a partnership's items of income, gain, loss, deduction, or credit, and that is assessed and collected at the partnership level, rather than being assessed and collected from the ultimate partners.

Section 6226 provides an alternative to the entity-level imputed underpayment, allowing a partnership to elect under section 6226(a) to push the adjustments out to its partners. In lieu of the partnership paying the imputed underpayment, section 6226(a) provides that when a push out election is made the reviewed year partners “shall take such adjustments into account” as provided in section 6226(b). The language of section 6226(b), however, does not distinguish between partners that are subject to chapter 1 income taxes (for example, individuals and C corporations) and pass-through partners (for example, partnerships and S corporations), which are generally not subject to such taxes. Accordingly, the precise question of how a pass-through partner takes into account the adjustments when a partnership elects to push out the adjustments to its partners is not addressed by section 6226(b).

As discussed in the preamble to the June 14 NPRM, section 6226(b) could be interpreted to treat direct pass-through partners like individuals, allowing the IRS to collect the resulting tax from those direct pass-through partners without allowing them to push out the adjustments past the first tier. See June 14 NPRM, 82 FR at 27364 (citing Joint Comm. on Taxation, JCS-1-16, *General Explanations of Tax Legislation Enacted in 2015*, 70 (2016) (JCS-1-16)).

Alternatively, section 6226(b) could be interpreted to allow a pass-through partner to take adjustments into account by passing the adjustments along to its reviewed year partners through the tiers until reaching an ultimate tax-paying owner. See June 14 NPRM, 82 FR at 27364-65. Technical corrections to the centralized partnership audit regime introduced in the last Congress, but not enacted, would have allowed pass-through partners to take adjustments into account under section 6226(b) by either paying an entity-level imputed

underpayment or passing the adjustments along to their reviewed year partners. See June 14 NPRM, 82 FR at 27365 (citing the Tax Technical Corrections Act of 2016, H.R. 6439, 114th Cong. (2016)).

After considering all of the comments, the Treasury Department and the IRS have determined that adjustments pushed out to partners pursuant to an election under section 6226 should be permitted to be pushed out through the tiers to the ultimate tax-paying owners. Accordingly, these proposed regulations provide rules for pushing the adjustments through tiers of partners that are pass-through partners. Under proposed § 301.6241-1(a)(5) (June 14 NPRM), a “pass-through partner” means a partnership (regardless of whether the partnership made a valid election under section 6221(b) to elect out of the centralized partnership audit regime), an S corporation, certain trusts, and a decedent's estate.

As discussed more fully in the Explanation of Provisions section of this preamble, the proposed regulations provide rules for pushing the adjustments beyond the first tier. Under these rules, each pass-through partner in an ownership chain is given a choice to either push the adjustments to its partners, shareholders, or beneficiaries or pay tax with respect to the adjustments. This optionality is consistent with the framework of the centralized partnership audit regime where the partnership under audit, or the partnership initiating its own adjustments in an AAR, has the choice of either paying a tax amount with respect to the adjustments or pushing the adjustments out to its partners. It also provides maximum flexibility for each pass-through partner in the chain to determine the best course for that partner based on its own facts and circumstances.

The proposed regulations also provide a compliance mechanism to ensure that the section 6226 election does not negatively impact tax administration. As discussed in the June 14 NPRM, the centralized partnership audit regime is designed to improve the IRS's ability not only to audit partnerships, including large, tiered partnerships, but also to efficiently collect the tax due as a result of the audit. The centralized partnership audit regime has two main collection mechanisms. First, section 6225 creates a default entity-level imputed underpayment that the partnership must pay. Second, as an alternative to payment of the imputed underpayment by the partnership under section 6225, section 6226 allows the partnership to move the collection point

from the partnership to its partners for the reviewed year. If a partnership complies with section 6226, the imputed underpayment determined under section 6225 is extinguished. Section 6226(a). Section 6226 does not, however, extinguish the tax obligation with respect to the adjustments underlying the imputed underpayment. Instead, the partnership's partners for the reviewed year must also satisfy the requirements of section 6226 with respect to the adjustments. Once the partnership allocates the adjustments to each reviewed year partner and sends the required statements under section 6226(a), the partners are required to take the adjustments into account and, in the case of partners that are not pass-through partners, pay the resulting tax through self-reporting. Section 6226(b). Thus, section 6226 moves assessment and collection from the partnership subject to the administrative proceeding to its partners.

Because section 6226 is a collection provision, the IRS must be able to collect any tax due as a result of the adjustments made at the partnership level, even if those adjustments are pushed out through multiple tiers of pass-through partners. Therefore, under a regime where the partnership is allowed to push adjustments through the tiers, there must be a feature that ensures compliance by each pass-through partner in the chain of ownership. Without such a feature, non-compliant entities in the tiers, and the current partners who control those entities, could frustrate collection of the tax due as a result of the partnership audit, and the section 6226 election would become a means for avoidance of tax due with respect to adjustments determined in the audit, undermining the centralized partnership audit regime enacted under the BBA.

Therefore, these proposed regulations provide a mechanism to address pass-through partners in the tiers that fail to comply with the requirement to either push the adjustments out to their owners or pay the tax resulting from the adjustments allocable to that partner. That mechanism is to collect the tax due from the non-compliant pass-through partner. This balances the ability for the tiered structure to push out the partnership adjustments to the partnership's ultimate reviewed year partners while ensuring collection under section 6226.

In cases where the pass-through partner chooses (or, in the case of non-compliance, is required) to pay, the proposed regulations rely on existing rules to determine how an entity that generally does not pay chapter 1 tax

would determine the amount due if that entity were to take the adjustments into account. Under these proposed rules, the pass-through partner calculates an amount in the same manner as the imputed underpayment under section 6225 is computed with respect to the partnership under audit, with some refinements, as described in more detail in the Explanation of Provisions section of this preamble, to reflect the fact that the adjustments are taken into account pursuant to a section 6226 election.

2. Pass-Through Partners and Administrative Adjustment Requests

The June 14 NPRM also reserved on how pass-through partners in a partnership that files an AAR take the adjustments into account under "rules similar to the rules of section 6226." As discussed more fully in the Explanation of Provisions section of this preamble, these proposed regulations provide for rules similar to the regulations under section 6226, with some minor changes to reflect the fact that an AAR permits taxpayers to receive refunds of any tax overpaid and to reflect that an AAR occurs outside of an examination.

3. Penalties in the Case of a Section 6226 Push Out Election

In the June 14 NPRM, the proposed regulations provide that defenses to any penalties, additions to tax, or additional amounts must be raised by the partnership during the partnership-level proceeding under the centralized partnership audit regime, regardless of whether the defense relates to facts and circumstances of the partnership or any other person, including a partner in the partnership. Additionally, those proposed regulations provide that penalties are calculated at the partnership level, even if the partnership makes an election under section 6226. As described more fully in the Explanation of Provisions section of this preamble, those rules are not consistent with the penalty rules proposed in these proposed regulations and, therefore, the rules proposed in the June 14 NPRM are being revised accordingly.

4. Section 6226 Push Out Election and the Safe Harbor Amount

In the June 14 NPRM, the proposed regulations under section 6226 provide a safe harbor amount and interest safe harbor amount that partners can pay in lieu of computing the tax and interest the partner owes as a result of taking the adjustments into account in the year under audit and determining the effect of this computation on tax attributes in subsequent years. These safe harbor

amounts were intended to reduce the burden of the complex calculation of the tax and interest due for the reviewed year and the intervening years. These rules were crafted in light of the proposed regulations under section 6226 in the June 14 NPRM, which did not yet provide rules for pushing the adjustments out through multiple tiers of pass-through partners. During the process of developing the rules to permit push out through multiple tiers of pass-through partners, it became apparent that the safe harbor rules no longer reduced burden. In fact, incorporating the safe harbor rules into the rules for pushing through the tiers became more complex and cumbersome than if the safe harbor amounts did not exist. In particular, the safe harbor amounts increased the reporting burden on a pass-through partner that elected to push the adjustments to its partners without a meaningful reduction in burden on the recipient partners. Accordingly, for these reasons, the proposed regulations regarding the safe harbor amount and the interest safe harbor amount have been amended to remove these provisions.

5. Administrative and Procedural Provisions Under the Centralized Partnership Audit Regime

Section 6231(a) provides that the Secretary shall mail to the partnership and the partnership representative (1) notice of any administrative proceeding (NAP) initiated at the partnership level with respect to an adjustment of any item of income, gain, loss, deduction, or credit of a partnership for a partnership taxable year, or any partner's distributive share thereof; (2) notice of any proposed partnership adjustment (NOPPA) resulting from such proceeding; and (3) notice of any final partnership adjustment (FPA) resulting from such proceeding. These three notices also apply to any proceeding with respect to an AAR filed by a partnership. Section 6231(a) further provides that any FPA shall be mailed no earlier than 270 days after the date on which the notice of the proposed partnership adjustment is mailed and such notices are sufficient if mailed to the last known address of the partnership representative or the partnership, even if the partnership has terminated its existence.

Section 6225(a)(1) provides that in the case of any adjustment by the Secretary in the amount of any item of income, gain, loss, deduction, or credit of a partnership, or any partner's distributive share thereof, the partnership shall pay any imputed underpayment with respect to such

adjustment in the adjustment year (as defined in proposed § 301.6241-1(a)(1) (June 14 NPRM)) as provided in section 6232.

Section 6232(a) provides that any imputed underpayment shall be assessed and collected in the same manner as if it were a tax imposed for the adjustment year by subtitle A of the Code, except that in the case of an AAR to which section 6227(b)(1) applies, the underpayment shall be paid when the AAR is filed.

Section 6232(b) provides that except as otherwise provided in chapter 63 of the Code, no assessment of a deficiency may be made (and no levy or proceeding in any court for the collection of any amount resulting from such adjustment may be made, begun, or prosecuted) before (1) the close of the 90th day after the day on which an FPA was mailed and (2) if a petition for readjustment is filed under section 6234 with respect to such notice, the decision of the court has become final. A partnership may, at any time (whether or not any notice of partnership adjustment has been issued), by a signed notice in writing filed with the Secretary waive this restriction on the making of any partnership adjustment. Section 6232(d)(2).

Section 6232(c) provides that notwithstanding section 7421(a) (regarding prohibition on suits to restrain assessment or collection), any action that violates section 6232(b) may be enjoined in the proper court, including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action under subsection 6232(c) unless a timely petition for readjustment has been filed under section 6234. If a timely petition has been filed, the Tax Court has jurisdiction only with respect to the adjustments that are the subject of such petition.

Section 6232(d) provides exceptions to the restrictions on making partnership adjustments. Section 6232(d)(1)(A) provides the general rule that if a partnership is notified that, on account of a mathematical or clerical error appearing on the partnership return, an adjustment to an item is required, rules similar to the rules of paragraphs (1) and (2) of section 6213(b) (relating to assessments on account of mathematical or clerical errors and abatement of such assessments) shall apply to such adjustments. Section 6232(d)(1)(B) provides a special rule that if a partnership is a partner in another partnership, any adjustment on account of such partnership's failure to comply with the requirements of section 6222(a) (requiring that a partner, on its return, treat items attributable to a

partnership in a manner that is consistent with the treatment of such item on the partnership return) with respect to its interest in such other partnership shall be treated as an adjustment referred to in section 6232(d)(1)(A) except that paragraph (2) of section 6213(b) (providing the ability to request an abatement of an assessment on account of a mathematical or clerical error) shall not apply to such adjustment.

Section 6232(e) provides that if no proceeding under section 6234 is begun with respect to any FPA during the 90-day period described in section 6232(b), the amount for which the partnership is liable under section 6225 shall not exceed the amount determined in accordance with such FPA.

Section 6233 provides rules related to interest and penalties with respect to imputed underpayments. Except to the extent provided in section 6226(c) (providing rules for penalties and interest where the partnership elects under section 6226 the alternative to payment of the imputed underpayment), the interest computed with respect to any partnership adjustment for a reviewed year is the interest that would be determined under chapter 67 of the Code for the period beginning on the day after the return due date for the reviewed year and ending on the return due date for the adjustment year or, if earlier, the date payment of the imputed underpayment is made. Proper adjustments in the amount of interest determined shall be made for adjustments required for partnership taxable years after the reviewed year and before the adjustment year by reason of such partnership adjustment. Section 6233(a)(1) and (2).

Except to the extent provided in section 6226(c), the partnership shall be liable for any penalty, addition to tax, or additional amount imposed with respect to any partnership adjustment for a reviewed year. Any such penalty, addition to tax, or additional amount will be determined at the partnership level as if the partnership had been an individual subject to tax under chapter 1 of subtitle A of the Code for the reviewed year and the imputed underpayment were an actual underpayment (or understatement) for such year. Section 6233(a)(1) and (3).

Section 6233(a)(2) provides that interest with respect to a partnership adjustment for a reviewed year shall also take into account adjustments required by reason of such partnership adjustment for partnership taxable years after the reviewed year and before the adjustment year. The meaning of this provision is not clear because unless

multiple years are audited, there may be no adjustments required for taxable years other than the reviewed year. Because of this, the proposed regulations do not address this language from the statute. The IRS and the Treasury Department request comments about when and how this language in section 6233(a)(2) may have effect.

In the case of any failure to pay an imputed underpayment on the date prescribed therefor, the partnership shall be liable for interest determined by treating the imputed underpayment as an underpayment of tax imposed in the adjustment year. Section 6233(b)(1) and (2). In the case of any failure to pay an imputed underpayment on the date prescribed therefor, the partnership shall be liable for penalties, additions to tax, or additional amounts determined by applying section 6651(a)(2) to such failure to pay and by treating the imputed underpayment as an underpayment of tax for purposes of part II of subchapter A of chapter 68 of the Code (relating to accuracy-related and fraud penalties). Section 6233(b)(1) and (3).

Section 6234(a) provides that within 90 days after the date on which an FPA is mailed under section 6231 with respect to any partnership taxable year, the partnership may file a petition for readjustment for such taxable year with the Tax Court, the district court of the United States for the district in which the partnership's principal place of business is located, or the Court of Federal Claims. A petition for readjustment under section 6234 may be filed in a district court of the United States or the Court of Federal Claims only if the partnership filing the petition deposits with the Secretary, on or before the date the petition is filed, the amount of the imputed underpayment (as of the date of the filing of the petition) if the partnership adjustment was made as provided by the FPA. Section 6234(b)(1). The court may by order provide that the jurisdictional requirements of section 6234(b)(1) have been satisfied where there has been a good faith attempt to satisfy such requirement and any shortfall of the amount required to be deposited is timely corrected. Any such amount deposited shall not, while deposited, be treated as a payment of tax for purposes of the Code (other than chapter 67 of the Code regarding interest). Section 6234(b)(2).

Under section 6234(c), a court with which a petition has been filed in accordance with section 6234 has jurisdiction to determine all items of income, gain, loss, deduction, or credit of the partnership for the partnership

taxable year to which the notice of final partnership adjustment relates as well as the proper allocation of such items among the partners and the applicability of any penalty, addition to tax, or additional amount for which the partnership may be liable under subchapter C of chapter 63 of the Code. Any determination by a court under section 6234 will have the force and effect of a decision of the Tax Court or a final judgment or decree of the district court or the Court of Federal Claims, as the case may be, and shall be reviewable as such. The date of any such determination shall be treated as being the date of the court's order entering the decision. Section 6234(d). Section 6234(e) provides that if an action brought under section 6234 is dismissed other than by reason of a rescission under section 6231(c), the decision of the court dismissing the action shall be considered as its decision that the FPA is correct, and an appropriate order shall be entered in the records of the court.

Section 6235 provides the period of limitations on making adjustments under the centralized partnership audit regime. Under section 6235(a), the general rule is that no adjustment for any partnership taxable year may be made after the later of three dates. The first date is the date that is three years after the latest of (a) the date on which the partnership return for such taxable year was filed, (b) the return due date for the taxable year, or (c) the date on which the partnership filed an AAR under section 6227 with respect to such year. The second date is, in the case of any modification of the imputed underpayment under section 6225(c), the date that is 270 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)) after the date on which everything required to be submitted for purposes of modification is so submitted. The third date is, in the case of any NOPPA issued under section 6231(a)(2), the date that is 330 days (plus the number of days of any extension consented to by the Secretary under section 6225(c)(7)) after the date of such notice. Pursuant to section 6235(b), the period described in section 6235(a) (including an extension period under section 6235(b)) may be extended by agreement entered into by the Secretary and the partnership before the expiration of such period.

Section 6235(c) provides special rules in the case of fraud and other situations. In the case of a false or fraudulent partnership return with intent to evade tax or in the case of a failure by a partnership to file a return for a taxable

year, an adjustment may be made at any time. Section 6235(c)(1) and (3). If any partnership omits from gross income an amount properly includable in gross income and such amount is described in section 6501(e)(1)(A) (describing situations where more than 25 percent of gross income has been omitted and situations where more than \$5,000 of gross income attributable to one or more assets to which information is required to be reported under section 6038D has been omitted), the period under section 6235(a) is applied by substituting "six" years for "three" years. Section 6235(c)(2). For purposes of section 6235, a return executed by the Secretary under section 6020(b) (concerning returns executed by the Secretary where a person fails to file a return required by the Code or regulations) on behalf of a partnership shall not be treated as a return of the partnership. Section 6235(c)(4).

If an FPA with respect to any taxable year is mailed under section 6231, the period of limitations on making adjustments under section 6235(a) shall be suspended for the 90-day period during which an action may be brought under section 6234 (and, if a petition is filed under section 6234 with respect to such FPA, until the decision of the court becomes final) and for one year thereafter. Section 6235(d).

Explanation of Provisions

1. *Pass-Through Partners and the Section 6226 Push Out Election*

Proposed § 301.6226-3(e)(1) provides that if a pass-through partner is furnished a statement described in proposed § 301.6226-2 (June 14 NPRM) (including a statement described in proposed § 301.6226-3(e)(3)(i)), the pass-through partner must take into account the adjustments reflected on that statement by either furnishing statements to its partners that held an interest in the pass-through partner at any time during the taxable year to which the adjustments relate or by paying an amount calculated like an imputed underpayment on the adjustments reflected in the statement plus any applicable penalties and interest. As provided in proposed § 301.6226-3(e)(3)(i) and (iv), any statements furnished under these provisions are treated as statements described in proposed § 301.6226-2 (June 14 NPRM), and any pass-through partner receiving a statement under proposed § 301.6226-3(e)(3)(i) must also take the adjustments reflected on the statement into account by furnishing statements to its partners or paying an amount calculated like an imputed

underpayment. Thus, there is an iterative application of the rules under proposed § 301.6226-3(e) for tiered partnership structures allowing the adjustments to be passed along through the tiers to the ultimate non-pass-through partners who then must take the adjustments into account under proposed § 301.6226-3(a) and (b) (June 14 NPRM).

Under proposed § 301.6226-3(e)(2), if a pass-through partner fails to timely take into account the adjustments in accordance with proposed § 301.6226-3(e)(3) or (e)(4), the pass-through partner must take into account the adjustments by paying an amount calculated like an imputed underpayment plus any applicable penalties and interest, in accordance with the rules provided under proposed § 301.6226-3(e)(4). As discussed in the Background section of this preamble, this rule is necessary to prevent tiered structures from electing to push out the adjustments to inappropriately shift the burden of collecting the tax due back to the IRS and to avoid paying the tax owed after completion of a partnership audit. Such behavior would frustrate the orderly administration of the election under section 6226 and the collection efforts of the IRS. Without imposing an entity-level liability against those pass-through entities that fail to pay or push out, there would be a disincentive to take any action upon receipt of a push out statement causing the push out election to become a potential vehicle for non-compliance and abuse. Such a result undermines the efficiencies and increased collections intended by enactment of the centralized partnership audit regime.

The additional burden placed on the IRS of locating the partners of pass-through partners, determining the proper allocation of adjustments, and assessing the resulting tax, if any, would frustrate tax administration in the same manner as the TEFRA partnership procedures, which were administratively untenable. The rule that requires a pass-through partner to pay an amount calculated like an imputed underpayment if it fails to take the adjustments into account significantly alleviates administrative burden, comports with an iterative application of section 6226, and furthers the purpose of the statute by eliminating the ability for a partner to increase costs and inefficiencies of tax administration by failing to comply with the statute.

Proposed § 301.6226-3(e)(3) provides the rules for a pass-through partner to take into account the adjustments in the statements furnished to it under proposed § 301.6226-2 (June 14 NPRM)

by furnishing statements to its own partners. Under proposed § 301.6226–3(e)(3)(i), a pass-through partner takes the adjustments into account by furnishing statements to each person who was a partner in the pass-through partner at any time during the taxable year of the pass-through partner to which the adjustments in the statement relate (the “affected partner”). The statements furnished to the affected partners must include all of the information prescribed by proposed § 301.6226–3(e)(3)(iii), and the pass-through partner must file the statements with the IRS, along with a transmittal that includes a summary of the statements and any other information required by forms, instructions, and other guidance. Additionally, the rules applicable to statements furnished under proposed § 301.6226–2 (June 14 NPRM) are generally applicable to statements furnished under proposed § 301.6226–3(e)(3)(i). For example, the rules regarding the address used for the statements mailed to affected partners (proposed § 301.6226–2(b)(2) (June 14 NPRM)) and the correction of statements (proposed § 301.6226–2(d) (June 14 NPRM)) apply to statements furnished under proposed § 301.6226–3(e)(3)(i). However, there are different rules regarding the time for filing and furnishing the statements under proposed § 301.6226–3(e)(3)(i), the content of those statements, and how partners of the pass-through partner take the adjustments into account because the partner of the pass-through partner is not receiving the statement directly from the source partnership.

Under proposed § 301.6226–3(e)(3)(ii), statements must be furnished no later than the extended due date for the return for the adjustment year of the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM). For purposes of determining the due date for the statements, the extended due date for the return for the adjustment year of the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM) is the extended due date under section 6081, regardless of whether the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM) is required to file a return for the adjustment year and regardless of whether an extension was actually requested. For example, if the adjustment year of the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM) ended on December 31, 2020, the pass-through partner would be required to furnish statements to its affected partners no

later than September 15, 2021, the due date, including extensions, of a partnership return for a taxable year ending December 31, 2020. If a pass-through partner fails to issue statements by the due date under proposed § 301.6226–3(e)(3)(ii), the pass-through partner has failed to take into account the adjustments as described in proposed § 301.6226–3(e)(3).

The statements furnished to the affected partners must contain all of the information described in proposed § 301.6226–3(e)(3)(iii) and any other information required by the forms, instructions, or other guidance prescribed by the IRS. This information is necessary for an affected partner to take into account the adjustments reflected in the statement furnished to the partner under these provisions in the correct year, to identify the source of the adjustments, and for any affected partner that is also a pass-through partner to be able to take into account the adjustments under these provisions by the applicable due dates.

Proposed § 301.6226–3(e)(3)(iv) provides that the statements furnished to the affected partners in accordance with proposed § 301.6226–3(e)(3) are treated as if they were statements furnished under proposed § 301.6226–2 (June 14 NPRM). Accordingly, an affected partner must take into account the adjustments as if the affected partner were a reviewed year partner. Under certain circumstances, the statements furnished to the affected partners may not be furnished until after the unextended due date of the affected partners’ returns for the reporting year. To account for this situation, proposed § 301.6226–3(e)(3)(iv) provides that the IRS will not impose any additions to tax under section 6651 related to any additional reporting year tax if the affected partner reports and pays any additional reporting year tax within 30 days of the due date for furnishing the statements to the affected partners under proposed § 301.6226–3(e)(3)(ii).

Finally, proposed § 301.6226–3(e)(3)(v) provides special rules for adjustments subject to withholding under chapters 3 and 4 of the Code. Consistent with the regulations proposed in the November 30 NPRM (regarding certain international tax rules under the centralized partnership audit regime), under proposed § 301.6226–3(e)(3)(v), if a pass-through partner takes the adjustments into account by furnishing statements under proposed § 301.6226–3(e)(3), the pass-through partner must comply with proposed § 301.6226–2(h)(3) (November 30 NPRM) (providing rules for the payment of tax under chapters 3 and 4 when

adjustments are pushed out), and an affected partner must comply with proposed § 301.6226–3(f) (November 30 NPRM) (providing rules for partners subject to withholding under chapters 3 and 4) as if the pass-through partner were the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM) and the affected partner were the reviewed year partner.

Proposed § 301.6226–3(e)(4) provides rules for pass-through partners that take into account the adjustments reflected in a statement furnished under proposed § 301.6226–2 (June 14 NPRM) by making a payment. Under proposed § 301.6226–3(e)(4), a pass-through partner takes the adjustments into account by paying an amount computed like an imputed underpayment under section 6225 and any penalties and interest and by providing to the IRS the information required by forms, instructions, or other guidance.

Under proposed § 301.6226–3(e)(4)(ii), all amounts required to be paid by a pass-through partner must be paid no later than the extended due date for the return for the adjustment year of the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM). The due date for paying the amounts required under proposed § 301.6226–3(e)(4)(i) is the same as the due date for furnishing statements to partners under proposed 301.6226–3(e)(3)(iii). If a pass-through partner fails to pay and submit the required information by the due date, the pass-through partner has failed to take into account the adjustments as described in proposed § 301.6226–3(e)(4).

Proposed § 301.6226–3(e)(4)(iii) provides that the amount required to be paid by the pass-through partner is calculated in the same manner as an imputed underpayment under section 6225 and proposed § 301.6225–1 (June 14 NPRM) as if the adjustments reflected on the statement furnished to the pass-through partner were partnership adjustments for the first affected year. The pass-through partner must calculate a payment amount for the first affected year as well as a payment amount for any intervening year by treating the pass-through partner’s share of partnership tax attributes for each intervening year as partnership adjustments for that intervening year. In addition, the pass-through partner can take into account modifications approved by the IRS during the audit of the partnership that made the election under proposed § 301.6226–1 (June 14 NPRM) and reflected on the statement when determining the payment amount. This will result in a payment amount that

more closely approximates the tax that would have been due by the partners of the pass-through partner had the adjustments been reported correctly on the reviewed year return. For instance, if the IRS approved a modification for an indirect partner (as defined in proposed § 301.6241-1(a)(4) (June NPRM)) that is a tax-exempt entity, the payment amount computed like an imputed underpayment would be calculated by excluding the adjustments attributable to that tax-exempt indirect partner.

Proposed § 301.6226-2(e) (June 14 NPRM) provides that the only modifications that must be included on statements are modifications based on an amended return filed or a closing agreement entered into by the reviewed year partner. Proposed § 301.6226-2(e)(5) (June 14 NPRM) is amended. Newly proposed § 301.6226-2(e)(5) expands this rule to require that all modifications approved with respect to the reviewed year partner (including any indirect partner that holds its interest in the partnership making the push out election through that reviewed year partner) be included on the statement. This proposed rule was changed to facilitate the calculation of the payment amount under the rules for push out to pass-through partners under proposed § 301.6226-3(e)(4)(iii). To further effectuate this change, proposed § 301.6226-2(f)(2) (June 14 NPRM) is also amended in this notice of proposed rulemaking.

A pass-through partner that takes the adjustments into account in accordance with proposed § 301.6226-3(e)(4) must also calculate and pay any applicable penalties, additions to tax, and additional amounts. The statement furnished to the pass-through partner must provide information about any penalties applicable to the adjustments allocated to that partner. The pass-through partner calculates the penalties, additions to tax, or additional amounts as if the payment amount required under proposed § 301.6226-3(e)(4)(i)(A) were an imputed underpayment due in the first affected year or any intervening year, as applicable. The pass-through partner must also pay any interest in accordance with proposed § 301.6226-3(d) (June 14 NPRM) as if the amount required under proposed § 301.6226-3(e)(4)(i)(A) were due in the first affected year or any intervening year, as applicable.

In calculating the payment amount as if it were an imputed underpayment, there could be adjustments that would not result in an imputed underpayment (as defined in proposed § 301.6225-1(c)(2) (June 14 NPRM)). In these cases,

the pass-through partner takes into account the adjustments that do not result in an imputed underpayment in a manner similar to the rule in proposed § 301.6225-3 (June 14 NPRM), but in the taxable year of the partnership that includes the date the partnership makes a payment under proposed § 301.6226-3(e)(4)(i), or if the partnership has no liability when taking the adjustments into account under proposed § 301.6226-3(e)(4), in the taxable year that includes the date the partnership is furnished the statement.

Proposed § 301.6226-3(e)(4)(vi) provides rules for coordination with chapters 3 and 4 of the Code. If a pass-through partner pays an amount as described in proposed § 301.6226-3(e)(4)(i), proposed § 301.6225-1(a)(4) (November 30 NPRM) applies to the pass-through partner as if the pass-through partner were the partnership that made the election under proposed § 301.6226-1 (June 14 NPRM). Accordingly, payment of the amount by the pass-through partner means the pass-through partner is treated as having paid the amount required to be withheld with respect to those adjustments under chapters 3 and 4 for purposes of applying §§ 1.1463-1 and 1.1474-4.

Proposed § 301.6226-3(e)(5) clarifies that for purposes of the rules applicable to pass-through partners, S corporations, certain trusts, and estates are treated as a partnership, and their shareholders and beneficiaries are treated as partners. Imposing an amount calculated like an imputed underpayment on all non-compliant pass-through partners is consistent with the iterative application of section 6226 and ensures that the collection burden of a section 6226 election is not inappropriately shifted to the IRS. Accordingly, the rules of proposed § 301.6226-3(e) generally apply equally to all pass-through partners, whether they are partnerships, S corporations, certain type of trusts, or estates.

The term “pass-through partner” as defined in proposed § 301.6241-1(a)(5) (June 14 NPRM), includes entities that are subject to chapter 1 tax under certain circumstances. For example, certain S corporations are liable for the built-in gains tax under section 1374. Trusts and estates may also be required to take certain items into account at the entity level and pay tax under certain circumstances, but in other circumstances trusts and estates do not take items into account at the entity level. Instead, the items flow through to their beneficiaries. To account for this, proposed § 301.6226-3(e)(6) provides a specific rule to address how these types of entities take into account the

adjustments. Under proposed § 301.6226-3(e)(6), a pass-through partner must calculate any additional reporting year tax under proposed § 301.6226-3(b) (June 14 NPRM) in the same manner as any other non-pass-through partner. Additionally, if the pass-through partner would be required under chapter 1 to pay tax on only a portion of the adjustments (or a portion of a single adjustment) and flow some or all of the remaining adjustments to its owners or beneficiaries, the proposed regulations accommodate this situation by requiring the pass-through partner to furnish statements to its partners reflecting the adjustments that are properly taken into account by the pass-through partner's owners. For instance, if a trust is a pass-through partner and could be subject to tax under chapter 1 with respect to a partnership adjustment, the trust must calculate and pay its additional reporting year tax as if it were a non-pass through partner. In addition, if it would also be required under ordinary trust reporting rules to report adjustments to its beneficiaries as a result of taking the adjustments into account, the trust must report those adjustments to its beneficiaries who also must take the adjustments into account under proposed § 301.6226-3 (June 14 NPRM). Finally, proposed § 301.6226-3(e)(6) clarifies that if a pass-through partner that is subject to tax under chapter 1 fails to comply with the provisions of proposed § 301.6226-3(e)(6), the rules of proposed § 301.6226-3(e)(2) apply, and the pass-through partner will be required to take into account the adjustments under proposed § 301.6226-3(e)(4).

Proposed § 301.6226-3(j) clarifies that in the case of a disregarded entity or a trust that is a wholly-owned trust (if the trust reports the owner's information to payors under § 1.671-4(b)(2)(i)(A)), the owner of the disregarded entity or the trust must take into account the partnership adjustments. For instance, in the case of a disregarded entity wholly-owned by a C corporation, the C corporation must take into account the adjustments reflected on a statement furnished to the disregarded entity under proposed § 301.6226-2 (June 14 NPRM). Accordingly, a partner that is a disregarded entity or wholly-owned trust is disregarded for purposes of taking the adjustments into account under proposed § 301.6226-3(j).

In addition to proposing § 301.6226-3(e), this notice of proposed rulemaking also adds examples in proposed § 301.6226-3(g) to illustrate the concepts of proposed § 301.6226-3(e).

2. Adjustments Requested in an Administrative Adjustment Request Taken Into Account by a Pass-Through Partner

These proposed regulations also provide rules for pass-through partners to take into account adjustments requested in an AAR if the partnership elects to have its partners take into account the adjustments (or if the partnership is required to have its partners take into account the adjustments). The proposed regulations generally follow the rules in proposed § 301.6226–3(e), with modifications to accommodate the rules applicable to AARs.

3. Penalties, Additions to Tax, and Additional Amounts in the Case of Section 6226 Push Out Election

Proposed § 301.6226–3(i) provides the rules for the calculation of penalties, additions to tax, and additional amounts by the partner when a partnership has made an election under section 6226. The applicability of any penalties, additions to tax, and additional amounts with respect to a partnership adjustment are determined at the partnership level in accordance with section 6221(a). Under proposed § 301.6226–3(i)(2), when each partner takes the adjustments into account under section 6226 and proposed § 301.6226–3 (June 14 NPRM), the partner must compute any penalties, additions to tax, or additional amounts applying any applicable rules or thresholds based on the particular facts and circumstances of that partner as if each correction amount were an underpayment or understatement for the first affected year (or intervening year, if applicable). Changes were made to other provisions in the June 14 NPRM to conform to the addition of proposed § 301.6226–3(i).

Proposed § 301.6226–3(i)(3) provides that a partner may assert a defense against a penalty based on a defense that is personal to the partner (partner-level defense), such as reasonable cause or good faith, by first paying the tax and penalty due and then filing a claim for refund that asserts the partner's specific penalty defense.

Proposed § 301.6226–2(e)(7) (June 14 NPRM) is amended in this notice of proposed rulemaking. Under proposed § 301.6226–2(e)(7) (as modified in these proposed regulations), instead of providing the reviewed year partner's share of any penalties, additions to tax, or additional amounts on the statement furnished to the reviewed year partner under proposed § 301.6226–2 (June 14 NPRM), the partnership provides the applicability of any penalty, additions

to tax, or additional amounts and the adjustments to which those penalties, additions to tax, or additional amounts relate. Under this proposed rule, the partnership furnishes the reviewed year partner the reviewed year partner's share of the adjustments to which the penalties, additions to tax, and additional amounts relate and other information such as the applicable rate of any penalty and the Code section under which the penalty, addition to tax, or additional amount was imposed.

Proposed § 301.6226–3(b)(4) (June 14 NPRM) is amended by removing the last sentence from the June 14 NPRM, which read "A deficiency dividend deduction under this paragraph (b)(4) and section 860(a) has no effect on a QIE's liability for any penalties reflected in a statement described in § 301.6226–2(a)." This change reflects that, under proposed § 301.6226–3(i), a partner who is furnished a statement under proposed § 301.6226–2 (June 14 NPRM) is not furnished its share of the penalty amount determined at the partnership level but instead must calculate the penalty utilizing the normal penalty rules applicable under the Code.

Proposed § 301.6226–3(a) (June 14 NPRM) is amended below. The amended § 301.6226–3(a) changes the requirement that reviewed year partners pay the reviewed year partner's share of any penalties, additions to tax, or additional amounts, to a requirement that the reviewed year partner must calculate and pay any penalties, additions to tax, or additional amounts as determined under proposed § 301.6226–3(i). In addition, proposed § 301.6226–3(d)(3) (June 14 NPRM) regarding interest on penalties is amended below. Amended § 301.6226–3(d)(3) conforms to the addition of proposed § 301.6226–3(i) by providing that the reviewed year partner calculates and pays interest on any penalties, additions to tax, or additional amounts calculated by the partner instead of on the share of penalties, additions to tax, or additional amounts reflected in the statement furnished to the partner.

Finally, Example 1 in proposed § 301.6226–3(g) (June 14 NPRM) and Example 6 in proposed § 301.6226–3(g) (November 30 NPRM) are amended below with changes that conform to proposed § 301.6226–3(i).

4. Changes to the June 14 NPRM to Reflect the Removal of the Safe Harbor

As described in the Background section of this preamble, these proposed regulations amended proposed § 301.6226–2(g) (June 14 NPRM) and proposed § 301.6226–3(c) and (d)(2) (June 14 NPRM) which concern the

calculation of, and the election to pay, the safe harbor amount and interest safe harbor amount. In addition, these proposed regulations make conforming changes to the proposed rules in the June 14 NPRM to reflect the removal of the safe harbor amount and interest safe harbor amount. Proposed §§ 301.6226–1(d), 301.6226–3(a), and 301.6227–3(b)(1) (June 14 NPRM) are amended below. Finally, Examples 1, 2, 3, 4, and 5 in proposed § 301.6226–3(g) (June 14 NPRM) and Example 6 in proposed § 301.6226–3(g) (November 30 NPRM) are amended to reflect the removal of the safe harbor and interest safe harbor. See Examples 1, 2, 3, 4, 5 and 6 of proposed § 301.6226–3(g).

5. Notices of Proceedings and Adjustments

Proposed § 301.6231–1 provides rules with respect to the NAP described in section 6231(a)(1), the NOPPA described in section 6231(a)(2), and the FPA described in section 6231(a)(3). Under proposed § 301.6231–1(c), such notices are sufficient if mailed to the last known address of the partnership and the partnership representative. An FPA may not be mailed earlier than 270 days after the date on which the NOPPA was mailed. Proposed § 301.6231–1(b)(2) permits a partnership to waive this restriction to allow the IRS to mail the FPA before the expiration of the 270-day period.

Nothing in the centralized partnership audit regime limits the period for IRS to propose adjustments, and section 6231 does not restrict when a NOPPA may be mailed by the IRS. However, a reasonable time limit within which partnership adjustments must be proposed under the centralized partnership audit regime will provide certainty to partnerships and the IRS. Partnerships will know when a taxable year is no longer subject to audit, and the IRS will be better able to allocate resources for examinations under the centralized partnership audit regime. Accordingly, proposed § 301.6231–1(b)(1) imposes a time limit on when adjustments may be proposed for a particular taxable year by providing that a NOPPA may not be mailed after the expiration of the period described in section 6235(a)(1), including any extensions of that period and after applying any of the special rules in section 6235(c) (providing additional time for situations where no return is filed, fraud, etc.). Once a NOPPA is mailed, the time period for mailing the FPA in order to make a final partnership adjustment is generally governed by section 6235(a)(2) or (3).

Proposed § 301.6231–1(f) and (g) provide rules for withdrawal of a NAP or a NOPPA and rescission of an FPA. Section 6231(c) provides that rescission of “any notice of a partnership adjustment” requires consent of the partnership. Because the NAP merely notifies the partnership of the initiation of an examination and the NOPPA only proposes an adjustment, neither of these notices is a notice of a partnership adjustment for purposes of the consent requirement in section 6231(c). Accordingly, proposed § 301.6231–1(g) requires consent of the partnership before rescission of an FPA, but proposed § 301.6231–1(f) does not require consent of the partnership before withdrawing a NAP or a NOPPA.

In the November 30 NPRM, the Treasury Department and the IRS discussed the coordination of the special rules in section 905(c) (relating to certain adjustments to foreign tax credits) with the centralized partnership audit regime. The Treasury Department and the IRS specifically requested comments regarding whether the AAR process can be utilized for purposes of satisfying the notification requirements of section 905(c) with respect to foreign tax redeterminations relating to a foreign tax reported by a partnership as a creditable foreign tax expenditure. If the AAR process can be used, section 905(c) would possibly represent an exception to the normal timing rules discussed in the Explanation of Provisions section of this preamble, just as it represents a departure from the ordinary timing rules in circumstances outside the scope of the centralized partnership audit regime. If the AAR process can be adopted for section 905(c) purposes, these proposed regulations may be modified in separate guidance to account for that process.

6. Assessment, Collection, and Payment of Imputed Underpayments

Proposed § 301.6232–1(a) restates the rule in section 6232(a) that any imputed underpayment determined under the centralized partnership audit regime must be assessed and collected as if the imputed underpayment were a tax imposed by subtitle A of the Code for the adjustment year. However, proposed § 301.6232–1(a) also clarifies that because the centralized partnership audit regime under subchapter C of chapter 63 applies, the deficiency procedures under subchapter B of chapter 63 do not apply to an assessment of an imputed underpayment. Section 6232(b) and proposed § 301.6232–1(c) explicitly provide the limitations on assessments under the centralized partnership audit

regime. Generally, an imputed underpayment determined by the IRS may be assessed only after the IRS sends an FPA, and the partnership has a chance to seek judicial review.

Proposed § 301.6232–1(d)(1) describes exceptions to the restrictions on assessment, including the rules for assessment of amounts attributable to partnership adjustments on account of mathematical or clerical errors or where a partnership-partner (as defined in proposed § 301.6241–1(a)(7) (June 14 NPRM)) is treated as if it had a mathematical or clerical error on its return because it failed to treat items consistently with the partnership’s treatment of the items pursuant to section 6222(a). Any resulting assessment of an imputed underpayment attributable to that adjustment is not subject to the limitations under section 6232(b) and proposed § 301.6232–1(c), and therefore may be assessed without the issuance of an FPA.

Under proposed § 301.6232–1(d)(1)(ii)(A), the partnership generally has 60 days to request abatement of the assessment attributable to the mathematical or clerical error, and the IRS must abate the assessment. Consistent with section 6232(d), under proposed § 301.6232–1(d)(1)(ii)(B), this rule does not apply if the assessment is attributable to an adjustment of an inconsistent item on a partnership-partner’s return. However, the IRS intends to develop pre-assessment processes to provide the partnership-partner with an opportunity to correct the inconsistency by filing an AAR under section 6227 or, in situations where the partnership-partner has made an election under section 6221(b), an amended partnership return. Therefore, proposed § 301.6232–1(d)(1)(ii)(B) provides that prior to assessment a partnership-partner that has failed to comply with section 6222(a) may correct the inconsistency by filing an AAR under section 6227 or an amended partnership return, as appropriate. Additionally, proposed § 301.6232–1(d)(1)(ii)(B) authorizes a partnership-partner that has elected out of the centralized partnership audit regime under section 6221(b) to furnish amended statements to its partners. This rule provides the consent required by section 6031(b), which prohibits a partnership from amending information required to be furnished by the partnership to its partners after the due date of the return, except as provided by the IRS.

Proposed § 301.6232–1(d)(1)(iii) addresses the situation in which a partnership-partner that elected out of

the centralized partnership audit regime pursuant to section 6221(b) for the reviewed year has failed to comply with section 6222(a). Under proposed § 301.6232–1(d)(1)(iii), any tax resulting from an adjustment due to such partnership-partner’s failure to comply with section 6222(a) may be assessed against the partners (or indirect partners) of the partnership-partner. The tax may be assessed in the same manner as if the tax were on account of a mathematical or clerical error appearing on the partner’s or indirect partner’s return. In accordance with section 6232(d)(1)(B), the procedures under section 6213(b)(2) for requesting abatement of such an assessment will not apply.

7. Interest and Penalties Related to Imputed Underpayments

A. Interest and Penalties Determined From the Reviewed Year

Proposed § 301.6233(a)–1(a) provides that except to the extent provided in section 6226(c) and the regulations thereunder, in the case of a partnership adjustment for a reviewed year of the partnership, a partnership is liable for interest as computed under proposed § 301.6233(a)–1(b) and for any penalty, addition to tax, or additional amount as determined in proposed § 301.6233(a)–1(c).

Proposed § 301.6233(a)–1(b) provides that interest with respect to an imputed underpayment is the interest that would be imposed under chapter 67 of the Code if the imputed underpayment were treated as an underpayment of tax for the reviewed year. Proposed § 301.6233(a)–1(b) further provides that interest on such imputed underpayment begins on the day after the due date of the partnership return for the reviewed year and ends on the earlier of the date prescribed for payment (as described in proposed § 301.6232–1(b)), the return due date of the partnership return for the adjustment year, or the date the imputed underpayment is fully paid by the partnership.

Proposed § 301.6233(a)–1(c)(1) provides that the penalties, additions to tax, or additional amounts determined with respect to a partnership adjustment are those penalties, additions to tax, or additional amounts that would be imposed under part II of subchapter A of chapter 68 of the Code by treating the imputed underpayment as an underpayment (or understatement) of tax for the reviewed year and by treating the partnership as if it had been an individual subject to tax imposed by chapter 1 of subtitle A of the Code for the reviewed year.

Proposed § 301.6233(a)–1(c)(2) coordinates the rules for determining penalties related to imputed underpayments with the accuracy-related and fraud penalties under sections 6662, 6662A, and 6663. Proposed § 301.6233(a)–1(c)(2)(ii) provides rules to determine the portion of an imputed underpayment subject to penalties when there is at least one adjustment with respect to which no penalty has been imposed and at least one with respect to which a penalty has been imposed, or where there are at least two adjustments with respect to which penalties have been imposed and the penalties have been imposed at different rates. The rules under proposed § 301.6233(a)–1(c)(2)(ii) extend the existing ordering rules under § 1.6664–3 to partnerships subject to the centralized partnership audit regime.

Proposed § 301.6233(a)–1(c)(2)(ii)(B) provides that when computing the portion of the imputed underpayment subject to penalties under sections 6662, 6662A, and 6663, partnership adjustments that did not result in the imputed underpayment are not taken into account. To determine the portion of the imputed underpayment subject to a penalty, partnership adjustments are first grouped together according to whether the adjustments are subject to penalty and if so, by rate of penalty. Negative adjustments as defined in proposed § 301.6233(a)–1(c)(2)(ii)(C) are included in these groupings according to the allocation rule in proposed § 301.6233(a)–1(c)(2)(ii)(D) and are netted against the positive adjustments within each grouping to the extent provided in proposed § 301.6233(a)–1(c)(2)(ii)(E). After grouping the partnership adjustments, each non-credit adjustment within a grouping is multiplied by the rate that applied to such adjustment when determining the imputed underpayment. After the appropriate rate is applied to each adjustment, the results within a grouping are totaled. The total within each grouping is then adjusted to account for any credit adjustments. The result is the portion of the imputed underpayment that is subject to the penalty rate corresponding to the grouping.

Proposed § 301.6233(a)–1(c)(2)(ii)(F) through (iv) provide clarifying rules for applying the penalties for fraud under section 6663, reportable transaction understatements under section 6662A, and substantial understatements of tax under section 6662(d) to imputed underpayments determined under the centralized partnership audit regime.

Proposed § 301.6233(a)–1(c)(2)(v) provides rules for application of the

reasonable cause and good faith exception to the penalties under sections 6662, 6662A, and 6663. See sections 6664(c) and (d). Proposed § 301.6233(a)–1(c)(2)(v) provides that for these purposes the partnership is treated as the taxpayer and, therefore, the facts and circumstances taken into account in determining whether the partnership has established reasonable cause and good faith are those facts and circumstances applicable to the partnership. This may include facts and circumstances with respect to partners or other individuals acting on behalf of the partnership. In addition, proposed § 301.6233(a)–1(c)(2)(v) provides that any partner-level defense, for example a reasonable cause defense that is based on the personal circumstances of the partner, will not be considered in a partnership-level proceeding except in accordance with the amended return and closing agreement modification procedures set forth in the regulations under section 6225(c) and proposed § 301.6225–2 (June 14 NPRM).

B. Interest and Penalties From the Adjustment Year

Proposed § 301.6233(b)–1(a) provides rules that apply when a partnership fails to pay an imputed underpayment by the date prescribed for such payment. In the case of such a failure, proposed § 301.6233(b)–1(a) provides that the partnership is liable for interest, as well as any penalties, additions to tax, and additional amounts as determined under proposed § 301.6233(b)–1(b) and (c). Proposed § 301.6233(b)–1(b) clarifies that these rules apply to the portion of an imputed underpayment resulting from partnership adjustments determined by the IRS under section 6225(a)(1) that is unpaid after the date prescribed for payment under proposed § 301.6232–1(b) (the date stated in a notice and demand) and to the portion of an imputed underpayment resulting from adjustments requested by the partnership in an AAR under section 6227 that is unpaid after the date the AAR is filed.

8. Judicial Review of Partnership Adjustments

Proposed § 301.6234–1 provides rules relating to judicial review of partnership adjustments. Proposed § 301.6234–1(b) and (c) describe the jurisdictional deposit requirement for partnerships that wish to bring an action in a United States district court or the Court of Federal Claims and explain how the jurisdictional deposit is treated for purposes of the Code. Under proposed § 301.6234–1(c), although the deposit is not generally treated as a payment of

tax, the deposit will stop additional interest from accruing under section 6233(a) on the imputed underpayment. In addition, interest will be allowed and paid in accordance with section 6611. The Treasury Department and the IRS request comments on when interest under section 6611 should begin to run in this context.

In response to Notice 2016–23, 2016–13 I.R.B. 490 (March 28, 2016), which requested comments on the new centralized audit regime, one commenter requested that the IRS clarify that only a dismissal on the merits and with prejudice be considered a dismissal within the meaning of section 6234(e). This comment was not adopted. Section 6234 explicitly provides that any decision of the court dismissing the action “shall be considered as [the court’s] decision that the [FPA] is correct.” The only exception provided in section 6234 is in the case of a dismissal by reason of the rescission of an FPA under section 6231(c). *See also* JCS–1–16, at 75 (stating that “a decision to dismiss the proceeding (other than a dismissal because the [FPA] was rescinded under section 6231(c)), is a judgment on the merits upholding the final partnership adjustments”). Accordingly, proposed § 301.6234–1(e) reflects the language in section 6234(e) without the limitation suggested in the comment.

9. Period of Limitations on Making Adjustments

Proposed § 301.6235–1 reflects the rules in section 6235 regarding the period within which the IRS must mail an FPA to make a partnership adjustment for a partnership taxable year. Under these rules, an FPA generally must be mailed before the later of: (1) Three years from the later of the date the partnership return is filed or due, or the date an AAR with respect to the year is filed (see proposed § 301.6235–1(a)(1)); (2) 270 days after the date everything required for a modification is submitted plus any extension of time granted by the IRS with respect to a request for modification under section 6225(c)(7) (see proposed § 301.6235–1(b)); or (3) 330 days after the date of the NOPPA plus any extension of time granted by the IRS with respect to a request for modification under section 6225(c)(7) (see proposed § 301.6235–1(c)). The 3-year period described under proposed § 301.6235–1(a)(1) (plus any extensions of the period under proposed § 301.6235–1(d) and taking into account any special rules under section 6235(c)) is also the time period within which the

IRS must mail a NOPPA. See proposed § 301.6231-1(b)(1).

The proposed regulations do not currently incorporate any rules outside of subchapter C of chapter 63 of the Code that might extend this period. As discussed in the Explanation of Provisions section of this preamble and in the November 30 NPRM, if the AAR process can be used to coordinate sections 905(c) and the adjustment rules under the centralized partnership audit regime, the proposed regulations may need to be modified to account for redeterminations under section 905(c). The Treasury Department and the IRS request comments on whether additional guidance would be helpful with respect to any other specific provision, outside of subchapter C of chapter 63 of the Code, which might extend the adjustment period under the centralized partnership audit regime.

Once a NOPPA is mailed, proposed § 301.6235-1(c) provides that the IRS will have at least 330 days from the date of the NOPPA to make a partnership adjustment regardless of whether the partnership requests modification of the imputed underpayment.

If the partnership requests modification of an imputed underpayment, proposed § 301.6235-1(b) provides that the IRS will have at least 270 days from the date on which everything required to be submitted pursuant to section 6225(c) is so submitted to the IRS to make a partnership adjustment. Proposed § 301.6235-1(b)(2) provides that, for purposes of section 6235(a)(2), the date on which everything required to be submitted pursuant to section 6225(c) is so submitted to the IRS is the earlier of: (1) The date on which the time for submitting the modification request and information (as described in proposed § 301.6225-2(c)(3)(i) (June 14 NPRM)) ends (including extensions); or (2) the date on which the partnership and the IRS agree to waive the 270-day period under proposed § 301.6231-1(b)(2)(ii) (June 14 NPRM) before an FPA can be mailed. Therefore, once a NOPPA has been mailed, the IRS will have 330 days from the date the NOPPA is mailed to make a partnership adjustment and in general may have up to 540 days (270 days in the modification period and 270 days from the end of the modification period) from the date the NOPPA is mailed if there are no extensions or waivers executed by the taxpayer.

Proposed § 301.6235-1(d) provides that any of the periods described in proposed § 301.6235-1(a), (b), and (c) may be extended by an agreement, in writing, entered into by the partnership and the IRS before the expiration of

such period. A partnership and the IRS may also agree to extend a period of time that has already been extended under proposed § 301.6235-1(d).

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented and reaffirmed by Executive Order 13563. Therefore, a regulatory impact assessment is not required. Because the proposed regulations would not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply.

Pursuant to section 7805(f) of the Code, this notice of proposed rulemaking has been submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at www.irs.gov.

Comments and Requests for Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments that are submitted timely to the IRS as prescribed in this preamble under the **ADDRESSES** heading. The Treasury Department and the IRS request comments on all aspects of the proposed rules. All comments will be available at www.regulations.gov or upon request. A public hearing will be scheduled if requested in writing by any person that timely submits written comments. If a public hearing is scheduled, then notice of the date, time, and place for the public hearing will be published in the **Federal Register**.

Drafting Information

The principal authors of these proposed regulations are Jennifer M. Black, Joy E. Gerdy-Zogby, Brittany Harrison, and Steven L. Karon of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 continues to be read in part as follows:

Authority: 26 U.S.C. 7805 * * *

§ 301.6221(a)-1 [Amended]

■ **Par. 2.** Section 301.6221(a)-1, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by removing and reserving paragraph (c).

■ **Par. 3.** Section 301.6225-2, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by adding paragraph (d)(2)(viii) to read as follows:

§ 301.6225-2 Modification of imputed underpayment.

* * * * *

(d) * * *

(2) * * *

(viii) **Penalties.** The applicability of any penalties, additions to tax, or additional amounts that relate to a partnership adjustment is determined at the partnership level in accordance with section 6221(a). However, the amount of penalties, additions to tax, and additional amounts a reviewed year partner (or indirect partner) must pay under paragraph (d)(2)(ii) of this section for the first affected year (as defined in § 301.6226-3(b)(2)) and for any modification year (as described in paragraph (d)(2)(iv) of this section) is based on the underpayment or understatement of tax, if any, that results from taking into account the adjustments in the first affected year or the modification year, as applicable. For instance, if after taking into account the adjustments, the partner would not have an underpayment, or has an understatement that falls below the applicable threshold for the imposition of a penalty, in the first affected year or any modification year, no penalty would be due from that partner for such year. A partner's claim that there is reasonable cause under section 6664(c) (or other partner-level defense as described in § 301.6226-3(i)(3)) for an underpayment or understatement described in this paragraph (d)(2)(viii) may be submitted with an amended

return filed under paragraph (d)(2) of this section, but only if the partner pays all tax, penalties, and interest due in accordance with paragraph (d)(2)(ii) of this section.

* * * * *

■ **Par. 4.** Section 301.6226–1, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by revising paragraph (d) to read as follows:

§ 301.6226–1 Election for an alternative to the payment of the imputed underpayment.

* * * * *

(d) *Binding nature of statements.* The election under this section, which includes filing and furnishing statements described in § 301.6226–2, are actions of the partnership under section 6223 and the regulations thereunder and, unless determined otherwise by the IRS, the partner's share of the adjustments and the applicability of any penalties, additions to tax, and additional amounts as set forth in the statement are binding on the partner pursuant to section 6223. Accordingly, a partner may not treat items reflected on a statement described in § 301.6226–2 on the partner's return inconsistently with how those items are treated on the statement that is filed with the IRS. See § 301.6222–1(c)(2) (regarding items the treatment of which a partner is bound to under section 6223).

* * * * *

■ **Par. 5.** Section 301.6226–2, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by:

- a. Revising paragraphs (e)(5) and (7).
- b. Removing and reserving paragraph (e)(8).
- c. Revising paragraph (f)(2).
- d. Removing paragraph (f)(3).
- e. Removing and reserving paragraph (g).

The revisions read as follows:

§ 301.6226–2 Statements furnished to partners and filed with the IRS.

* * * * *

(e) * * *

(5) Modifications approved by the IRS with respect to the reviewed year partner (or with respect to any indirect partner (as defined in § 301.6241–1(a)(4)) that holds its interest in the partnership through its interest in the reviewed year partner);

* * * * *

(7) The applicability of any penalty, addition to tax, or additional amount determined at the partnership level that relates to any adjustments allocable to the reviewed year partner and the adjustments to which the penalty, addition to tax, or additional amount relates, the section of the Internal

Revenue Code under which each penalty, addition to tax, or additional amount is imposed, and the applicable rate of each penalty, addition to tax, or additional amount determined at the partnership level;

* * * * *

(f) * * *

(2) *Treatment of modifications disregarded.* Any modifications approved by the IRS with respect to the reviewed year partner (or with respect to any indirect partner (as defined in § 301.6241–1(a)(4)) that holds its interest in the partnership through its interest in the reviewed year partner) under § 301.6225–2 are disregarded for purposes of determining each partner's share of the adjustments under paragraph (f)(1) of this section.

* * * * *

■ **Par. 6.** Section 301.6226–3, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by:

- a. Revising paragraphs (a) and (b)(4).
- b. Removing and reserving paragraphs (c) and (d)(2).
- c. Revising paragraphs (d)(3), (e), and (g).
- d. Adding paragraphs (i) and (j).

The revisions and additions read as follows:

§ 301.6226–3 Adjustments Taken Into Account by Partners.

(a) *Tax imposed by chapter 1 increased by additional reporting year tax.* The tax imposed by chapter 1 of subtitle A of the Internal Revenue Code (chapter 1 tax) for each reviewed year partner (as defined in § 301.6241–1(a)(9)) for the taxable year that includes the date a statement was furnished in accordance with § 301.6226–2 (the reporting year) is increased by the additional reporting year tax. The additional reporting year tax is the aggregate of the adjustment amounts (determined in accordance with paragraph (b) of this section). In addition to being liable for the additional reporting year tax, a reviewed year partner must also calculate and pay for the reporting year any penalties, additions to tax, and additional amounts (as determined under paragraph (i) of this section). Finally, a reviewed year partner must also calculate and pay for the reporting year any interest (as determined under paragraph (d) of this section).

(b) * * *

(4) *Coordination of sections 860 and 6226.* If a qualified investment entity (QIE) within the meaning of section 860(b) receives a statement described in § 301.6226–2(a) and correctly makes a determination within the meaning of section 860(e)(4) that one or more of the

adjustments reflected in the statement is an adjustment within the meaning of section 860(d) with respect to that QIE for a taxable year, the QIE may distribute deficiency dividends within the meaning of section 860(f) for that taxable year and avail itself of the deficiency dividend procedures set forth in section 860. If the QIE utilizes the deficiency dividend procedures with respect to adjustments in a statement described in § 301.6226–2(a), the QIE may claim a deduction for deficiency dividends against the adjustments furnished to the QIE in the statement in calculating any correction amounts under paragraphs (b)(2) and (3) of this section, and interest on such correction amounts under paragraph (d) of this section, to the extent that the QIE makes deficiency dividend distributions under section 860(f) and complies with all requirements of section 860 and the regulations thereunder.

* * * * *

(d) * * *

(3) *Interest on penalties.* Interest on any penalties, additions to tax, or additional amounts determined under paragraph (i) of this section is calculated at the rate set forth in paragraph (d)(4) of this section from the due date (without extension) of the reviewed year partner's return for the first affected year (as defined in paragraph (b)(2) of this section) until the amount is paid.

* * * * *

(e) *Pass-through partners—(1) In general.* Except as provided in paragraph (e)(6) of this section, if a pass-through partner (as defined in § 301.6241–1(a)(5)) is furnished a statement described in § 301.6226–2 (including a statement described in paragraph (e)(3)(i) of this section) with respect to adjustments of a partnership that made an election under § 301.6226–1, the pass-through partner must take into account the adjustments reflected on that statement in accordance with either paragraph (e)(3) or (4) of this section.

(2) *Failure to take into account adjustments.* If any pass-through partner fails to take into account the adjustments reflected on a statement described in § 301.6226–2 in accordance with paragraph (e)(3), (4), or (6) of this section, the pass-through partner must pay an amount that is calculated like an imputed underpayment, as well as any penalties, additions to tax, additional amounts, and interest with respect to such adjustments as described under paragraph (e)(4) of this section.

(3) *Furnishing statements to partners—(i) In general.* A pass-through partner described in paragraph (e)(1) of

this section takes into account the adjustments under paragraph (e)(3) of this section by furnishing a statement that includes the items required by paragraph (e)(3)(iii) of this section to the partners that held an interest in the pass-through partner at any time during the taxable year of the pass-through partner to which the adjustments in the statement furnished to the pass-through partner relate (affected partner). The statements described in this paragraph (e)(3)(i) must be filed with the IRS, along with a transmittal that includes a summary of all statements filed under this paragraph (e)(3)(i), and such other information as required in forms, instructions, and other guidance, by the due date prescribed in paragraph (e)(3)(ii) of this section. Except as otherwise provided in paragraphs (e)(3)(ii), (iii), and (v) of this section, the rules applicable to statements described in § 301.6226–2 are applicable to statements described in this paragraph (e)(3)(i).

(ii) *Time for filing and furnishing the statements.* The pass-through partner must file with the IRS and furnish to its affected partners the statements described in paragraph (e)(3)(i) of this section no later than the extended due date for the return for the adjustment year (as defined in § 301.6241–1(a)(1)) of the partnership that made the election under § 301.6226–1. For purposes of the preceding sentence, the extended due date is the extended due date under section 6081 regardless of whether the partnership that made the election under § 301.6226–1 is required to file a return for the adjustment year or timely files a request for an extension under section 6081 and the regulations thereunder.

(iii) *Contents of statements.* Each statement described in paragraph (e)(3)(i) of this section must include the following information—

(A) The name and correct taxpayer identification number (TIN) of the partnership that made the election under § 301.6226–1 with respect to the adjustments reflected on the statements described in paragraph (e)(3)(i) of this section;

(B) The adjustment year of the partnership described in paragraph (e)(3)(iii)(A) of this section;

(C) The extended due date for the return for the adjustment year of the partnership described in paragraph (e)(3)(iii)(A) of this section (as described in paragraph (e)(3)(ii) of this section);

(D) The date on which the partnership described in paragraph (e)(3)(iii)(A) of this section furnished its statements required under § 301.6226–2(b);

(E) The name and correct TIN of the partnership that furnished the statement to the pass-through partner if different from the partnership described in paragraph (e)(3)(iii)(A) of this section;

(F) The name and correct TIN of the pass-through partner;

(G) The pass-through partner's taxable year to which the adjustments reflected on the statements described in paragraph (e)(3)(i) of this section relates;

(H) The name and correct TIN of the affected partner to whom the statement is being furnished;

(I) The current or last address of the affected partner that is known to the pass-through partner;

(J) The affected partner's share of items as originally reported to such partner under section 6031(b) and, if applicable, section 6227, for the taxable year to which the adjustments reflected on the statement furnished to the pass-through partner relate;

(K) The affected partner's share of partnership adjustments determined under § 301.6226–2(f)(1) as if the affected partner were the reviewed year partner and the partnership were the pass-through partner;

(L) Modifications approved by the IRS with respect to the affected partner or an indirect partner (as defined in § 301.6241–1(a)(4)) that holds its interest in the partnership that made the election under § 301.6226–1 through the affected partner;

(M) The affected partner's share of any amounts attributable to adjustments to tax attributes (as defined in § 301.6241–1(a)(10)) for any intervening year (as defined in paragraph (b)(3) of this section) resulting from the adjustments in the reviewed year with respect to the partnership described in paragraph (e)(3)(iii)(A) of this section;

(N) The applicability of any penalties, additions to tax, or additional amounts that relate to any adjustments allocable to the affected partner (as determined under § 301.6226–2(f)(3)) and the adjustments allocated to the affected partner to which such penalties, additions to tax, or additional amounts relate, the section of the Internal Revenue Code under which each penalty, addition to tax, or additional amount is imposed, and the applicable rate of each penalty, addition to tax, or additional amount; and

(O) Any other information required by forms, instructions, and other guidance prescribed by the IRS.

(iv) *Affected partner must take into account the adjustments.* A statement furnished to an affected partner in accordance with paragraph (e)(3) of this section is treated as if it were a statement described in § 301.6226–2. An

affected partner that is a pass-through partner must take into account its share of the adjustments reflected on such a statement in accordance with paragraph (e) of this section. An affected partner that is not a pass-through partner must take into account its share of the adjustments reflected on such a statement in accordance with this section by treating references to “reviewed year partner” as “affected partner”. For purposes of this paragraph (e)(3)(iv), an affected partner that is not a pass-through partner takes into account the adjustments in accordance with this section by determining its reporting year based on the date upon which the partnership that made the election under § 301.6226–1 furnished its statements to its reviewed year partners (as described in paragraph (a) of this section). No addition to tax under section 6651 related to any additional reporting year tax will be imposed if an affected partner that is not a pass-through partner reports and pays the additional reporting year tax within 30 days of the extended due date for the return for the adjustment year of the partnership that made the election under § 301.6226–1 (as described in paragraph (e)(3)(ii) of this section).

(v) *Adjustments subject to chapters 3 and 4 of the Internal Revenue Code.* If a pass-through partner furnishes statements to its affected partners in accordance with paragraph (e)(3) of this section, the pass-through partner must comply with the requirements of § 301.6226–2(h)(3), and an affected partner must comply with the requirements of paragraph (f) of this section. For purposes of applying both § 301.6226–2(h)(3) and paragraph (f) of this section, as appropriate, references to the “partnership” should be replaced with references to the “pass-through partner”; references to the “reviewed year partner” should be replaced with references to the “affected partner”; references to the statement required under paragraph (a) of this section and its due date should be replaced with references to the statement required under paragraph (e)(3)(i) of this section and its due date described in paragraph (e)(3)(ii) of this section; and references to the “reporting year” should be read in accordance with paragraph (e)(3)(iv) of this section.

(4) *Pass-through partner makes a payment—(i) In general.* A pass-through partner that is furnished a statement described in § 301.6226–2 takes into account the adjustments reflected on that statement under paragraph (e)(4) of this section when the pass-through partner—

(A) Pays an amount computed under paragraph (e)(4)(iii) of this section;

(B) Pays any penalties, additions to tax, and additional amounts and interest computed under paragraph (e)(4)(iv) of this section; and

(C) Provides the IRS with information related to such payment as required by forms, instructions, and other guidance.

(ii) *Time of payment.* A pass-through partner must report and pay the amounts described in paragraphs (e)(4)(i)(A) and (B) of this section in accordance with forms, instructions, and other guidance no later than the extended due date for the return for the adjustment year of the partnership that made the election under § 301.6226–1. For purposes of the preceding sentence, the extended due date is the extended due date under section 6081 regardless of whether the partnership that made the election under § 301.6226–1 is required to file a return for the adjustment year or timely filed a request for an extension under section 6081 and the regulations thereunder.

(iii) *Computation of payment amount.* The payment required under paragraph (e)(4)(i)(A) of this section is computed in the same manner as an imputed underpayment is calculated under section 6225 and § 301.6225–1 by treating the adjustments reflected on the statement furnished to the pass-through partner under § 301.6226–2 as partnership adjustments (as defined in § 301.6241–1(a)(6)) for the first affected year. Separate calculations must also be made for each intervening year by treating the pass-through partner's share of partnership tax attributes for each intervening year as partnership adjustments for that intervening year. The sum of the amounts calculated for the first affected year and each intervening year under this paragraph (e)(4)(iii) is the payment required under paragraph (e)(4)(i)(A) of this section. Any modification approved by the IRS under § 301.6225–2 with respect to the pass-through partner (including any modifications with respect to an indirect partner that holds its interest in the partnership that made the election under § 301.6226–1 through its interest in the pass-through partner) reflected on the statement furnished to the pass-through partner under § 301.6226–2 (or paragraph (e)(3) of this section) is taken into account in calculating the amounts under this paragraph (e)(4)(iii).

(iv) *Penalties and interest—(A) Penalties.* A pass-through partner must compute and pay any applicable penalties, additions to tax, and additional amounts on the amounts calculated under paragraph (e)(4)(iii) of this section as if such amounts were

actual imputed underpayments for the pass-through partner's first affected year or any intervening year, as applicable. See § 301.6233–1(c).

(B) *Interest.* A pass-through partner must pay interest on the amounts calculated under paragraph (e)(4)(iii) of this section in accordance with paragraph (d) of this section as if such amounts were amounts due for the first affected year or any intervening year, as applicable.

(v) *Adjustments that do not result in an imputed underpayment.* Adjustments taken into account under paragraph (e)(4) of this section that would not result in an imputed underpayment (as defined in § 301.6225–1(c)(2)) if the amounts calculated under paragraph (e)(4)(iii) of this section were actual imputed underpayments are taken into account by the pass-through partner in accordance with § 301.6225–3 in the taxable year of the pass-through partner that includes the date the payment required under paragraph (e)(4)(i)(A) of this section is made or, if no payment is required under paragraph (e)(4)(i)(A) of this section, the date the statement described in § 301.6226–2 (or paragraph (e)(3)(i) of this section) is furnished to the pass-through partner.

(vi) *Coordination with chapters 3 and 4 of the Code.* If a pass-through partner pays an amount computed under paragraph (e)(4)(iii) of this section, § 301.6225–1(a)(4) applies to the pass-through partner by substituting “pass-through partner” for “partnership” where § 301.6225–1(a)(4) refers to the partnership that made the election under § 301.6226–1.

(5) *Treatment of pass-through partners that are not partnerships—(i) S corporations.* For purposes of paragraph (e) of this section, an S corporation is treated as a partnership and its shareholders are treated as partners.

(ii) *Trusts and estates.* Except as provided in paragraph (j) of this section, for purposes of paragraph (e) of this section, a trust and its beneficiaries, and an estate and its beneficiaries are treated in the same manner as a partnership and its partners.

(6) *Pass-through partners subject to chapter 1 tax.* A pass-through partner that is subject to tax under chapter 1 of the Code for the first affected year or any intervening year on the adjustments (or a portion of the adjustments) reflected on the statement furnished to such partner under § 301.6226–2 (or paragraph (e)(3) of this section) takes the adjustments into account under this paragraph (e)(6) when the pass-through partner calculates and pays the additional reporting year tax as

determined under paragraph (b) of this section and furnishes statements to its partners in accordance with paragraph (e)(3) of this section. Notwithstanding the prior sentence, a pass-through partner is only required to include on a statement under paragraph (e)(3) of this section the adjustments that would be required to be included on statements furnished to owners or beneficiaries under sections 6037 and 6034A, as applicable, if the pass-through partner had correctly reported the items for the year to which the adjustments relate. If the pass-through partner fails to comply with the requirements of this paragraph (e)(6), the provisions of paragraph (e)(2) of this section apply.

* * * * *

(g) *Examples.* The following examples illustrate the rules of this section. For purposes of these examples, each partnership is subject to subchapter C of chapter 63 of the Code, each partnership and partner has a calendar year taxable year, no modifications are requested by any partnership under § 301.6225–2 (unless otherwise stated), no penalties, additions to tax, or additional amounts are determined at the partnership level (unless otherwise stated), all persons are U.S. persons (unless otherwise stated), and the highest rate of income tax in effect for all taxpayers is 40 percent for all relevant periods.

Example 1. On its partnership return for the 2020 tax year, Partnership reported ordinary income of \$1,000 and charitable contributions of \$400. On June 1, 2023, the IRS mails a notice of final partnership adjustment (FPA) to Partnership for Partnership's 2020 year disallowing the charitable contribution in its entirety and determining that a 20 percent accuracy-related penalty under section 6662(b) applies to the disallowance of the charitable contribution. Partnership makes a timely election under section 6226 in accordance with § 301.6226–1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and files a timely petition in the Tax Court challenging the partnership adjustments. The Tax Court determines that Partnership is not entitled to any of the claimed \$400 in charitable contributions and upholds the applicability of the penalty. The decision regarding Partnership's 2020 tax year becomes final on December 15, 2025. Pursuant to § 301.6226–2(b), the partnership adjustments are finally determined on December 15, 2025. On February 2, 2026, Partnership files the statements described under § 301.6226–2 with the IRS and furnishes to partner A, an individual who was a partner in Partnership during 2020, a statement described in § 301.6226–2. A had a 25 percent interest in Partnership during all of 2020 and was allocated 25 percent of all items from Partnership for that year. The statement shows A's share of ordinary income reported on Partnership's return for the reviewed year

of \$250 and A's share of the charitable contribution reported on Partnership's return for the reviewed year of \$100. The statement also shows no adjustment to A's share of ordinary income, but does show an adjustment to A's share of the charitable contribution, a reduction of \$100 resulting in \$0 charitable contribution allocated to A from Partnership for 2020. In addition, the statement reports that a 20 percent accuracy-related penalty under section 6662(b) applies. A must pay the additional reporting year tax as determined in accordance with paragraph (b) of this section, in addition to A's penalties and interest. A computes his additional reporting year tax as follows. First, A determines the correction amount for the first affected year (the 2020 taxable year) by taking into account A's share of the partnership adjustment (<100> reduction in charitable contribution) for the 2020 taxable year. A determines the amount by which his chapter 1 tax for 2020 would have increased if the \$100 adjustment to the charitable contribution from Partnership were taken into account for that year. There is no adjustment to tax attributes in A's intervening years as a result of the adjustment to the charitable contribution for 2020. Therefore, A's aggregate of the adjustment amounts is the correction amount for 2020, A's first affected year. In addition to the aggregate of the adjustment amounts being added to the chapter 1 tax that A owes for 2020, the reporting year, A must calculate a 20 percent accuracy-related penalty on A's underpayment attributable to the \$100 adjustment to the charitable contribution, as well as interest on the correction amount for the first affected year and the penalty determined in accordance with paragraph (d) of this section. Interest on the correction amount for the first affected tax year runs from April 15, 2021, the due date of A's 2020 return (the first affected tax year) until A pays this amount. In addition, interest runs on the penalty from April 15, 2021, the due date of A's 2020 return for the first affected year until A pays this amount. On his 2026 income tax return, A must report the additional reporting year tax determined in accordance with paragraph (b) of this section, which is the correction amount for 2020, plus the accuracy-related penalty determined in accordance with paragraph (i) of this section, and interest determined in accordance with paragraph (d) of this section on the correction amount for 2020 and the penalty.

Example 2. On its partnership return for the 2020 tax year, Partnership reported an ordinary loss of \$500 million. On June 1, 2023, the IRS mails an FPA to Partnership for the 2020 taxable year determining that \$300 million of the \$500 million in ordinary loss should be recharacterized as a long-term capital loss. Partnership has no long-term capital gain for its 2020 tax year. The FPA for Partnership's 2020 tax year reflects an adjustment of an increase in ordinary income of \$300 million (as a result of the disallowance of the recharacterization of \$300 million from ordinary loss to long-term capital loss) and an imputed underpayment related to that adjustment, as well as an adjustment of an additional \$300 million in long-term capital loss for 2020 which does

not result in an imputed underpayment pursuant to under § 301.6225-1(c)(2)(ii). Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the imputed underpayment in the FPA and does not file a petition for readjustment under section 6234. Accordingly, under § 301.6226-1(b)(2) and § 301.6225-3(b)(6), the adjustment year partners (as defined in § 301.6241-1(a)(2)) do not take into account the \$300 million long-term capital loss that does not result in an imputed underpayment. Rather, the reviewed year partners will take into account the \$300 million long-term capital loss. The time to file a petition expires on August 30, 2023. Pursuant to § 301.6226-2(b), the partnership adjustments become finally determined on August 30, 2023. On September 30, 2023, Partnership files with the IRS statements described in § 301.6226-2 and furnishes statements to all of its reviewed year partners in accordance with § 301.6226-2. One partner of Partnership in 2020, B (an individual), had a 25 percent interest in Partnership during all of 2020 and was allocated 25 percent of all items from Partnership for that year. The statement filed with the IRS and furnished to B shows B's allocable share of the ordinary loss reported on Partnership's return for the 2020 taxable year as \$125 million. The statement also shows an adjustment to B's allocable share of the ordinary loss in the amount of <\$75 million>, resulting in a corrected ordinary loss allocated to B of \$50 million for taxable year 2020 (\$125 million originally allocated to B less \$75 million which is B's share of the adjustment to the ordinary loss). In addition, the statement shows an increase to B's share of long-term capital loss in the amount of \$75 million (B's share of the adjustment that did not result in the imputed underpayment with respect to Partnership). B must pay the additional reporting year tax as determined in accordance with paragraph (b) of this section. B computes his additional reporting year tax as follows. First, B determines the correction amount for the first affected year (the 2020 taxable year) by taking into account B's share of the partnership adjustments (a \$75 million reduction in ordinary loss and an increase of \$75 million in long-term capital loss) for the 2020 taxable year. B determines the amount by which his chapter 1 tax for 2020 would have increased if the \$75 million adjustment to ordinary loss and the \$75 million adjustment to long-term capital loss from Partnership were taken into account for that year. Second, B determines if there is any increase in chapter 1 tax for any intervening year as a result of the adjustment to the ordinary and capital losses for 2020. B's aggregate of the adjustment amounts is the correction amount for 2020, B's first affected year plus any correction amounts for any intervening years. B is also liable for any interest on the correction amount for the first affected year and for any intervening year as determined in accordance with paragraph (d) of this section.

Example 3. On its partnership return for the 2020 tax year, Partnership, a domestic partnership, reported U.S. source dividend income of \$2,000. On June 1, 2023, the IRS mails an FPA to Partnership for Partnership's

2020 year increasing the amount of U.S. source dividend income to \$4,000 and determining that a 20 percent accuracy-related penalty under section 6662(b) applies to the increase in U.S. source dividend income. Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and does not file a petition for readjustment under section 6234. The time to file a petition expires on August 30, 2023. Pursuant to § 301.6226-2(b), the partnership adjustments become finally determined on August 30, 2023. On September 30, 2023, Partnership files the statements described under § 301.6226-2 with the IRS and furnishes to partner C, a nonresident alien individual who was a partner in Partnership during 2020 (and remains a partner in Partnership in 2023), a statement described in § 301.6226-2. C had a 50 percent interest in Partnership during all of 2020 and was allocated 50 percent of all items from Partnership for that year. The statement shows C's share of U.S. source dividend income reported on Partnership's return for the reviewed year of \$1,000 and an adjustment to U.S. source dividend income of \$1,000. In addition, the statement reports that a 20 percent accuracy-related penalty under section 6662(b) applies. Under § 301.6226-2(h)(3)(i), because the additional \$1,000 in U.S. source dividend income allocated to C is an amount subject to withholding (as defined in § 301.6226-2(h)(3)(i)), Partnership must pay the amount of tax required to be withheld on the adjustment. See §§ 1.1441-1(b)(1) and 1.1441-5(b)(2)(i)(A) of this chapter. Under § 301.6226-2(h)(3)(ii), Partnership may reduce the amount of withholding tax it must pay because it has valid documentation from 2020 that establishes that C was entitled to a reduced rate of withholding in 2020 on U.S. source dividend income of 10 percent pursuant to a treaty. Partnership withholds \$100 of tax from C's distributive share, remits the tax to the IRS, and files the necessary return and information returns required by § 1.1461-1 of this chapter. On his 2023 return, C must report the additional reporting year tax determined in accordance with paragraph (b) of this section, the accuracy-related penalty determined in accordance with paragraph (i) of this section, and interest determined in accordance with paragraph (d) of this section on the correction amount for the first affected year, the correction amount for any intervening year, and the penalty. Under paragraph (f) of this section, C may claim the \$100 withholding tax paid by Partnership pursuant to § 301.6226-2(h)(3)(i) as a credit under section 33 against C's income tax liability on his 2023 return.

Example 4. On its partnership return for the 2020 tax year, Partnership reported ordinary income of \$100 million and a long-term capital gain of \$40 million. Partnership had four equal partners during the 2020 tax year: E, F, G, and H, all of whom were individuals. On its partnership return for the 2020 tax year, the entire long-term capital gain was allocated to partner E and the ordinary income was allocated to all partners based on their equal (25 percent) interest in

Partnership. The IRS initiates an administrative proceeding with respect to Partnership's 2020 taxable year and determines that the long-term capital gain should have been allocated equally to all four partners and that Partnership should have recognized an additional \$10 million in ordinary income. On June 1, 2023, the IRS mails an FPA to Partnership reflecting the reallocation of the \$40 million long-term capital gain so that F, G, and H each have \$10 million increase in long-term capital gain and E has a \$30 million reduction in long-term capital gain for 2020. In addition, the FPA reflects the partnership adjustment increasing ordinary income by \$10 million. The FPA reflects a general imputed underpayment with respect to the increase in ordinary income and a specific imputed underpayment with respect to the increase in long-term capital gain allocated to F, G, and H. In addition, the FPA reflects a \$30 million partnership adjustment that does not result in an imputed underpayment, that is, the reduction of \$30 million in long-term capital gain with respect to E. Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the specific imputed underpayment relating to the reallocation of long-term capital gain. Partnership does not file a petition for readjustment under section 6234. The time to file a petition expires on August 30, 2023. Pursuant to § 301.6226-2(b), the partnership adjustments become finally determined on August 30, 2023. Partnership timely pays and reports the general imputed underpayment relating to the partnership adjustment to ordinary income. On September 30, 2023, Partnership files with the IRS statements described in § 301.6226-2 and furnishes statements to its partners reflecting their share of the partnership adjustments as finally determined in the FPA that relate to the specific imputed underpayment, that is, the reallocation of long-term capital gain. The statements for F, G, and H each reflect a partnership adjustment of an additional \$10 million of long-term capital gain for 2020. The statement for E reflects a partnership adjustment of a reduction of \$30 million of long-term capital gain for 2020. All partners must pay the additional reporting year tax as determined in accordance with paragraph (b) of this section in the partners' reporting year, which is 2023. They compute their additional reporting year tax as follows. First, they determine the correction amount for the first affected year (the 2020 taxable year) by taking into account their share of the partnership adjustments for the 2020 taxable year. They each determine the amount by which their chapter 1 tax for 2020 would have increased if the adjustment to long-term capital gain from Partnership were taken into account for that year. Second, they determine if there is any increase in chapter 1 tax for any intervening year as a result of the adjustment to the long-term capital gain for 2020. Their aggregate of the adjustment amounts is the correction amount for 2020, their first affected year plus any correction amounts for any intervening years. They are also liable for any interest on the correction amount for the first affected year and for any intervening year as determined in accordance

with paragraph (d) of this section. In accordance with paragraph (b) of this section, the correction amounts may not be less than zero. Accordingly, E's additional reporting year tax is zero because E only has a reduction in capital gain which would not result in an increase in chapter 1 tax.

Example 5. On its partnership return for the 2020 taxable year, Partnership reported a long-term capital loss of \$5 million. During an administrative proceeding with respect to Partnership's 2020 taxable year, the IRS mails a notice of proposed partnership adjustment (NOPPA) in which it proposes to disallow \$2 million of the reported \$5 million long-term capital loss. F, a C corporation partner with a 50 percent interest in Partnership, received 50 percent of all long-term capital losses for 2020. As part of the modification process described in § 301.6225-2(d)(2), F files an amended return for 2020 taking into account F's share of the partnership adjustment (\$1 million reduction in long-term capital loss) and pays the tax owed for 2020, including interest. Also as part of the modification process, F also files amended returns for 2021 and 2022 and paid additional tax (and interest) for these years because the reduction in long-term capital loss for 2020 affected the tax due from F for 2021 and 2022. See § 301.6225-2(d)(2)(iv). The reduction of the long-term capital loss in 2020 did not affect any other taxable year of F. The IRS approves the modification with respect to F and on June 1, 2023, mails an FPA to Partnership for Partnership's 2020 year reflecting the partnership adjustment reducing the long-term capital loss in the amount of \$2 million. The FPA also reflects the modification to the imputed underpayment based on the amended returns filed by F taking into account F's share of the reduction in the long-term capital loss. Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and files a timely petition in the Tax Court challenging the partnership adjustments. The Tax Court upholds the determinations in the FPA and the decision regarding Partnership's 2020 tax year becomes final on December 15, 2025. Pursuant to § 301.6226-2(b), the partnership adjustments are finally determined on December 15, 2025. On February 1, 2026, Partnership files the statements described under § 301.6226-2 with the IRS and furnishes to its partners statements reflecting their shares of the partnership adjustment. The statement issued to F reflects F's share of the partnership adjustment for Partnership's 2020 taxable year as finally determined by the Tax Court. The statement shows F's share of the long-term capital loss adjustment for the reviewed year of \$1 million and the \$1 million reduction in long-term capital losses taken into account by F as part of the amended return modification. Accordingly, in accordance with paragraph (b) of this section, when F computes its correction amounts for the first affected year (the 2020 taxable year) and the intervening years (the 2021 through 2026 taxable years), F computes any additional chapter 1 tax for those years using the returns for the 2020, 2021, and 2022 taxable years as amended during the modification process.

Example 6. Partnership has two equal partners for the 2020 tax year: I (an individual) and J (a partnership). For the 2020 tax year, J has two equal partners—K and L—both individuals. On June 1, 2023, the IRS mails a notice of final partnership adjustment (FPA) to Partnership for Partnership's 2020 year increasing Partnership's ordinary income by \$500,000 and asserting an imputed underpayment of \$200,000. Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and does not file a petition for readjustment under section 6234. The time to file a petition expires on August 30, 2023. Pursuant to § 301.6226-1(b), the partnership adjustments become finally determined on August 30, 2023. Therefore, Partnership's adjustment year is 2023, the due date of the adjustment year return is March 15, 2024, and if requested, the extended due date for the adjustment year return is September 16, 2024. On October 12, 2023, Partnership timely files with the IRS statements described in § 301.6226-2 and timely furnishes statements to its partners reflecting their share of the partnership adjustments as finally determined in the FPA. The statements to I and J each reflect a partnership adjustment of \$250,000 of ordinary income. I takes its share of the adjustments reflected on the statements furnished by Partnership into account on I's return for the 2023 tax year in accordance with paragraph (b) of this section. On April 1, 2024, J takes the adjustments into account under paragraph (e)(3) of this section by timely filing the information required by that section with the IRS and furnishing statements to K and L reflecting each partner's share of the adjustments reflected on the statements Partnership furnished to J. K and L must take their share of adjustments reflected on the statements furnished by J into account on their returns for the 2023 tax year in accordance with paragraph (b) of this section by treating themselves as reviewed year partners for purposes of that paragraph.

Example 7. On its partnership return for the 2020 tax year, Partnership reported that it placed Asset, which had a depreciable basis of \$210,000, into service in 2020 and depreciated Asset over 5 years, using the straight-line method. Accordingly, Partnership claimed depreciation of \$42,000 in each year related to Asset. Partnership has two equal partners for the 2020 tax year: M (a partnership) and N (an S corporation). For the 2020 tax year, N has one shareholder, O, who is an individual. On June 1, 2023, the IRS mails an FPA to Partnership for Partnership's 2020 year. In the FPA, the IRS determines that Asset should have been depreciated over 7 years instead of 5 years and adjusts the depreciation for the 2020 tax year to \$30,000 instead of \$42,000 resulting in a \$12,000 adjustment. This adjustment results in an imputed underpayment of \$4,800. Partnership makes a timely election under section 6226 in accordance with § 301.6226-1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and does not file a petition for readjustment under section 6234. The time to

file a petition expires on August 30, 2023. Pursuant to § 301.6226–1(b), the partnership adjustments become finally determined on August 30, 2023. On October 12, 2023, Partnership timely files with the IRS statements described in § 301.6226–2 and furnishes statements to its partners reflecting their share of the partnership adjustments as finally determined in the FPA. The statements to M and N reflect a partnership adjustment of \$6,000 of ordinary income for the 2020 tax year as well as a \$6,000 increase in ordinary income for each of the 2021 and 2022 tax years relating to the change to the depreciable life of Asset. On February 1, 2024, N takes the adjustments into account under paragraph (e)(3) of this section by issuing a statement to O reflecting her share of the adjustments reported to N on the statement it received from Partnership. Although not due until September 15, 2024 (the extended due date of the adjustment year return of Partnership), on March 22, 2024, M takes the adjustments into account under paragraph (e)(4) of this section by paying an amount calculated like an imputed underpayment equal to $\$7,200$ ($(\$6,000 \text{ for } 2020 + \$6,000 \text{ for } 2021 + \$6,000 \text{ for } 2022) \times 40 \text{ percent}$) on the adjustments reflected on the statement it received from Partnership including M's share of the partnership tax attributes plus interest on the amount calculated in accordance with paragraph (e)(4)(iv)(B) of this section. On her 2023 return, O takes the adjustments into account under this section. Therefore, O reports and pays the additional reporting year tax determined in accordance with paragraph (b) of this section, which is the correction amount for 2020 plus the correction amount for 2021 (related to the adjustment to tax attributes) plus the correction amount for 2022 (related to the adjustment to tax attributes), and pays interest determined in accordance with paragraph (d) of this section on the correction amounts for each of those years.

Example 8. On its partnership return for the 2020 tax year, Partnership reported \$1 million of ordinary loss. Partnership has two equal partners for the 2020 tax year: P and Q, both S corporations. For the 2020 tax year, P had one shareholder, R, an individual. For the 2020 tax year, Q had two shareholders, S and T, both individuals. On June 1, 2023, the IRS mails a notice of final partnership adjustment (FPA) to Partnership for Partnership's 2020 year determining \$500,000 of the \$1 million of ordinary loss should be recharacterized as \$500,000 of long-term capital loss and \$500,000 of the ordinary loss should be disallowed. The FPA asserts an imputed underpayment of \$400,000 ($\$1 \text{ million} \times 40 \text{ percent}$) on the \$1 million reduction to ordinary loss and reflecting an adjustment that does not result in an imputed underpayment of a \$500,000 capital loss. Partnership makes a timely election under section 6226 in accordance with § 301.6226–1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and does not file a petition for readjustment under section 6234. The time to file a petition expires on August 30, 2023. Pursuant to § 301.6226–1(b), the partnership adjustments become finally

determined on August 30, 2023. On October 12, 2023, Partnership timely files with the IRS statements described in § 301.6226–2 and furnishes statements to its partners reflecting their share of the partnership adjustments as finally determined in the FPA. The statements to P and Q each reflect a partnership adjustment of \$500,000 increase in ordinary income and an increase in capital loss of \$250,000 in accordance with § 301.6225–3(b)(6). P takes the adjustments into account under paragraph (e)(3) of this section by timely furnishing a statement to R. Q takes the adjustments into account under paragraph (e)(4) of this section by paying an amount calculated like an imputed underpayment under paragraph (e)(4)(iii) of this section, as well as interest determined under paragraph (e)(4)(iv)(B) of this section on the amount. After applying the rules set forth in § 301.6225–1 regarding the netting and grouping of adjustments, Q calculates an amount of \$200,000 which is equal to the residual grouping of \$500,000 multiplied by 40 percent. The residual grouping contains the \$500,000 attributable to the adjustment to ordinary income. Q also has one adjustment that does not result in an imputed underpayment—the \$250,000 increase to capital loss. On its 2023 return, Q reports and allocates the \$250,000 capital loss to its shareholders for its 2023 taxable year as a capital loss as provided in § 301.6225–3. Q must report and pay the amounts due under paragraph (e)(4) of section no later than September 15, 2024, the extended due date of Partnership's return for the 2023 year, which is the adjustment year.

Example 9. On its partnership return for the 2020 tax year, Partnership reported a \$1 million long-term capital gain on the sale of Stock. Partnership has two equal partners for the 2020 tax year: U (an individual) and V (a partnership). For the 2020 tax year, V has two equal partners: W (an individual) and X (a partnership). For the 2020 tax year, X has two equal partners: Y and Z, both of which are C corporations. On June 1, 2023, the IRS mails a NOPPA to Partnership for Partnership's 2020 year proposing a \$500,000 increase in the long-term capital gain from the sale of Stock and an imputed underpayment of \$200,000 ($\$500,000 \times 40 \text{ percent}$). On July 17, 2023, Partnership timely submits a request to modify the rate used in calculating the imputed underpayment under § 301.6225–2(d)(4). Partnership submits sufficient information demonstrating that \$375,000 of the \$500,000 adjustment is allocable to individuals (50 percent of the \$500,000 adjustment allocable to U and 25 percent of the \$500,000 adjustment allocable to W) and the remaining \$125,000 is allocable to C corporations (the indirect partners Y and Z). The IRS approves the modification and the imputed underpayment is reduced to \$118,750 ($(\$375,000 \times 20 \text{ percent}) + (\$125,000 \times 35 \text{ percent})$). See § 301.6225–2(b)(3). On February 28, 2024, the IRS mails an FPA to Partnership for Partnership's 2020 year determining a \$500,000 increase in the long-term capital gain on the sale of Stock and asserting an imputed underpayment of \$118,750 after the approved modifications. Partnership makes a timely election under

section 6226 in accordance with § 301.6226–1 with respect to the imputed underpayment in the FPA for Partnership's 2020 year and does not file a petition for readjustment under section 6234. The time to file a petition expires on May 28, 2024. Pursuant to § 301.6226–1(b), the partnership adjustments become finally determined on May 28, 2024. On July 26, 2024, Partnership timely files with the IRS statements described in § 301.6226–2 and furnishes statements to its partners reflecting their share of the partnership adjustments as finally determined in the FPA. The statements to U and V each reflect a partnership adjustment of a \$250,000 increase in long-term capital gain. V takes the adjustments into account under paragraph (e)(4) of this section by paying an amount calculated like an imputed underpayment under paragraph (e)(4)(iii) of this section, as well as interest determined under paragraph (e)(4)(iv)(B) of this section on the amount. On February 3, 2025, V takes the adjustments into account under paragraph (e)(4) of this section by paying an amount equal to \$68,750 ($(\$125,000 \times 35 \text{ percent for the adjustments allocable to X}) + (\$125,000 \times 20 \text{ percent for the adjustments allocable to W})$) which includes the rate modifications approved by the IRS with respect to Y and Z. V must also pay any interest on the amount as determined in accordance with paragraph (e)(4)(iv)(B) of this section. V must report and pay the amounts due under paragraph (e)(4) of this section no later than September 15, 2025, the extended due date of Partnership's return for the 2024 year, which is the adjustment year.

* * * * *

(i) *Penalties—(1) In general.* In the case of a partnership that makes an election under section 6226, the applicability of penalties, additions to tax, and additional amounts that relate to a partnership adjustment are determined at the partnership level in accordance with section 6221(a). The partnership's reviewed year partners are liable for such penalties, additions to tax, and additional amounts as determined under paragraph (i)(2) of this section.

(2) *Determining the amount of each reviewed year partner's penalties.* To determine a reviewed year partner's penalties, additions to tax, and additional amounts for the reporting year, each reviewed year partner computes the penalty, addition to tax, or additional amount imposed with respect to the correction amount (or portion thereof) calculated under paragraph (b) of this section for the first affected year or intervening year, as applicable. The reviewed year partner calculates the penalty, addition to tax, or additional amount as if the correction amount were an underpayment or understatement for the first affected year or intervening year, as applicable. If after taking into account the adjustments in accordance

with this section, the reviewed year partner would not have an underpayment, or has an understatement that falls below the applicable threshold for the imposition of a penalty, no penalty would be due from that reviewed year partner for the reporting year under this paragraph (i)(2). For penalties in the case of a pass-through partner that makes a payment under paragraph (e)(4) of this section, see paragraph (e)(4)(iv) of this section.

(3) *Partner-level defenses to penalties.* A partner claiming that a penalty, addition to tax, or additional amount that relates to an adjustment reflected on a statement described in § 301.6226-2 (or paragraph (e)(3)(i) of this section) would not be due because of a partner-level defense must first pay the penalty and file a claim for refund. Partner-level defenses are limited to those that are personal to the partner (for example, a reasonable cause and good faith defense under section 6664(c) that is based on the facts and circumstances applicable to the partner).

(j) *Treatment of disregarded entities and wholly-owned trusts.* In the case of a reviewed year partner that is an entity described in § 301.7701-2(c)(2)(i) or a trust that is wholly owned by only one person, whether the grantor or another person, and where the trust reports the owner's information to payors under § 1.671-4(b)(2)(i)(A) of this chapter and that is furnished a statement described in § 301.6226-2 (or paragraph (e)(3)(i) of this section), the owner of the disregarded entity or wholly-owned trust must take into account the adjustments reflected on that statement in accordance with this section as if the owner were the reviewed year partner.

■ **Par. 7.** Section 301.6227-3, as proposed to be amended at 82 FR 27334 (June 14, 2017), is further amended by revising paragraphs (b)(1) and (c) to read as follows:

§ 301.6227-3 Adjustments requested in an administrative adjustment request taken into account by reviewed year partners.

* * * * *

(b) * * *

(1) *In general.* A reviewed year partner that is furnished a statement described in paragraph (a) of this section must treat the statement as if it were issued under section 6226(a)(2) and, on or before the due date for the reporting year must pay the additional reporting year tax (as defined in § 301.6226-3(a)), if any, determined after taking into account that partner's share of the adjustments requested in the AAR in accordance with § 301.6226-3. For purposes of paragraph (b) of this section, the rule under

§ 301.6226-3(d)(4) (regarding the increased rate of interest) does not apply and the last sentence in § 301.6226-3(b)(1) (regarding the prohibition on correction amounts being less than zero) is disregarded. Nothing in this section entitles any partner to a refund of tax imposed by chapter 1 of subtitle A of the Internal Revenue Code (chapter 1 tax) to which such partner is not entitled. For instance, a partnership-partner (as defined in § 301.6241-1(a)(7)) may not claim a refund with respect to its share of any adjustment.

* * * * *

(c) *Reviewed year partners that are pass-through partners—(1) In general.* Except as provided in paragraphs (c)(2) and (3) of this section, if a statement described in paragraph (a) of this section (including a statement described in this paragraph (c)(1)) is furnished to a pass-through partner (as defined in § 301.6241-1(a)(5)), the pass-through partner must take into account the adjustments reflected on that statement in accordance with § 301.6226-3(e) by treating the partnership that filed the AAR as the partnership that made an election under § 301.6226-1. For purposes of this paragraph (c)(1), the statement furnished to the pass-through partner by the partnership filing the AAR is treated as if it were a statement issued under section 6226(a)(2) and described in § 301.6226-2.

(2) *Adjustments that do not result in an imputed underpayment.* If the adjustments requested in an AAR do not result in an imputed underpayment (as described in § 301.6227-2(d)), § 301.6226-3(e)(2) does not apply, and the pass-through partner must take into account the adjustments reflected on the statement described in paragraph (a) or (c)(1) of this section in accordance with § 301.6226-3(e)(3).

(3) *Contents of statements.* Each statement described in paragraph (c)(1) of this section must include the following information—

(i) The name and correct taxpayer identification number (TIN) of the partnership that filed the AAR with respect to the adjustments reflected on the statements described in paragraph (c)(1) of this section;

(ii) The adjustment year of the partnership described in paragraph (c)(3)(i) of this section;

(iii) The extended due date for the return for the adjustment year of the partnership described in paragraph (c)(3)(i) of this section (as described in § 301.6226-3(e)(3)(ii));

(iv) The date on which the partnership described in paragraph (c)(3)(i) of this section furnished its

statements required under § 301.6227-2(d);

(v) The name and correct TIN of the partnership that furnished the statement to the pass-through partner if different from the partnership described in paragraph (c)(3)(i) of this section;

(vi) The name and correct TIN of the pass-through partner;

(vii) The pass-through partner's taxable year to which the adjustments set forth in the statement described in paragraph (c)(1) of this section relate;

(viii) The name and correct TIN of the affected partner (as defined in § 301.6226-3(e)(3)(i)) to whom the statement is being furnished;

(ix) The current or last address of the affected partner that is known to the pass-through partner;

(x) The affected partner's share of items as originally reported to such partner under section 6031(b) and, if applicable, section 6227, for the taxable year to which the adjustments reflected on the statement furnished to the pass-through partner relate;

(xi) The affected partner's share of partnership adjustments determined under § 301.6227-2(e)(2) as if the affected partner were the reviewed year partner and the partnership were the pass-through partner; and

(xii) Any other information required by forms, instructions, and other guidance prescribed by the IRS.

(4) *Partners of the pass-through partner must take into account the adjustments.* For purposes of paragraph (c) of this section, when taking into account the adjustments as described in § 301.6226-3(e)(3)(iv), the rules under § 301.6226-3(d)(4) (regarding the increased rate of interest) do not apply, and the last sentence in § 301.6226-3(b)(1) (regarding the prohibition on correction amounts being less than zero) is disregarded. Therefore, an affected partner may reduce chapter 1 tax for the reporting year by the amount determined in accordance with § 301.6226-3.

* * * * *

■ **Par. 8.** Section 301.6231-1 is added to read as follows:

§ 301.6231-1 Notice of proceedings and adjustments.

(a) *Notices to which this section applies.* In the case of any administrative proceeding under subchapter C of chapter 63 of the Internal Revenue Code (subchapter C of chapter 63), including an administrative proceeding with respect to an administrative adjustment request (AAR) filed by a partnership under section 6227, the following notices must be mailed to the partnership and the

partnership representative (as described in section 6223 and § 301.6223-1)—

(1) Notice of any administrative proceeding initiated at the partnership level with respect to an adjustment of any item of income, gain, loss, deduction, or credit (as defined in § 301.6221(a)-1(b)(1)) of a partnership for a partnership taxable year, or any partner's distributive share (as described in § 301.6221(a)-1(b)(2)) thereof, under subchapter C of chapter 63 (notice of administrative proceeding (NAP));

(2) Notice of any proposed partnership adjustment resulting from an administrative proceeding under subchapter C of chapter 63 (notice of proposed partnership adjustment (NOPPA)); and

(3) Notice of any final partnership adjustment resulting from an administrative proceeding under subchapter C of chapter 63 (notice of final partnership adjustment (FPA)).

(b) *Time for mailing notices*—(1) *Notice of proposed partnership adjustment.* A NOPPA is timely if it is mailed before the expiration of the period for making adjustments under section 6235(a)(1) (including any extensions under section 6235(b) and any special rules under section 6235(c)).

(2) *Notice of final partnership adjustment.* An FPA may not be mailed earlier than 270 days after the date on which the NOPPA is mailed unless the partnership agrees, in writing, with the Internal Revenue Service (IRS) to waive the 270-day period. See § 301.6225-2(c)(3)(iii) for the effect of a waiver under this paragraph (b)(2) on the 270-period for requesting a modification under section 6225(c). See § 301.6232-1(d)(2) for the rules regarding a waiver of the limitations on assessment under § 301.6232-1(c).

(c) *Last known address.* A notice described in paragraph (a) of this section is sufficient if mailed to the last known address of the partnership representative and the partnership (even if the partnership or partnership representative has terminated its existence).

(d) *Notice mailed to partnership representative*—(1) *In general.* A notice described in paragraph (a) of this section will be treated as mailed to the partnership representative if the notice is mailed to the partnership representative that is reflected in the IRS records as of the date the letter is mailed.

(2) *No partnership representative in effect.* In any case in which no partnership representative designation is in effect in accordance with § 301.6223-1(f)(2), a notice described in paragraph (a) of this section mailed to

“PARTNERSHIP REPRESENTATIVE” at the last known address of the partnership satisfies the requirements of section 6231(a).

(e) *Restrictions on additional FPAs after petition filed.* The IRS may mail more than one FPA to any partnership for any partnership taxable year. However, except in the case of fraud, malfeasance, or misrepresentation of a material fact, the IRS may not mail an FPA to a partnership with respect to a partnership taxable year after the partnership has filed a timely petition for readjustment under section 6234 with respect to an FPA issued with respect to such partnership taxable year.

(f) *Withdrawal of NAP or NOPPA.* The IRS may, without consent of the partnership, withdraw any NAP or NOPPA. A NAP or NOPPA that has been withdrawn by the IRS has no effect for purposes of subchapter C of chapter 63. For instance, if the IRS withdraws a NAP with respect to a partnership taxable year, the prohibition under section 6227(c) on filing an AAR after the mailing of a NAP no longer applies with respect to such taxable year.

(g) *Rescission of FPA.* The IRS may, with the consent of the partnership, rescind any FPA. An FPA that is rescinded is not an FPA for purposes of subchapter C of chapter 63, and the partnership cannot bring a proceeding under section 6234 with respect to such FPA.

(h) *Applicability date*—(1) *In general.* Except as provided in paragraph (h)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) *Election under § 301.9100-22T in effect.* This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100-22T is in effect.

■ **Par. 9.** Section 301.6232-1 is added to read as follows:

§ 301.6232-1 Assessment, collection, and payment of imputed underpayment.

(a) *In general.* An imputed underpayment determined under subchapter C of chapter 63 of the Internal Revenue Code (Code) is assessed and collected in the same manner as if the imputed underpayment were a tax imposed by subtitle A of the Code for the adjustment year (as defined in § 301.6241-1(a)(1)) except that the deficiency procedures under subchapter B of chapter 63 of the Code do not apply to an assessment of an imputed underpayment. Accordingly, no notice under section 6212 is required for, and the restrictions under section 6213 do not apply to, the assessment of any

imputed underpayment. See paragraph (c) of this section for limitations on assessment and paragraph (d) of this section for exceptions to restrictions on adjustments.

(b) *Payment of the imputed underpayment.* Upon receipt of notice and demand from the Internal Revenue Service (IRS), an imputed underpayment must be paid by the partnership at the place and time stated in the notice. In the case of an adjustment requested in an administrative adjustment request (AAR) under section 6227(b)(1) that is taken into account by the partnership under § 301.6227-2(b), payment of the imputed underpayment is due on the date the AAR is filed. The IRS may assess the amount of the imputed underpayment reflected on the AAR on the date the AAR is filed. For interest with respect to an imputed underpayment, see § 301.6233(a)-1(b).

(c) *Limitation on assessment.* Except as otherwise provided by this section, no assessment of an imputed underpayment may be made (and no levy or proceeding in any court for the collection of an imputed underpayment may be made, begun, or prosecuted) before—

(1) The close of the 90th day after the day on which a notice of a final partnership adjustment (FPA) was mailed under section 6231(a)(3); and

(2) If a petition for readjustment is filed under section 6234 with respect to such FPA, the decision of the court has become final.

(d) *Exceptions to restrictions on adjustments and assessments*—(1) *Adjustments treated as mathematical or clerical errors*—(i) *In general.* A notice to a partnership that, on account of a mathematical or clerical error appearing on the partnership return or as a result of a failure by a partnership-partner (as defined in § 301.6241-1(a)(7)) to comply with section 6222(a), the IRS has adjusted or will adjust items of income, gain, loss, deduction, or credit (as defined in § 301.6221(a)-1(b)(1)) to correct the error or to make the items consistent under section 6222(a) and has assessed or will assess any imputed underpayment (determined in accordance with § 301.6225-1) resulting from the adjustment is not considered an FPA under section 6231(a)(3). A petition for readjustment under section 6234 may not be filed with respect to such notice. The limitations under section 6232(b) and paragraph (c) of this section do not apply to an assessment under this paragraph (d)(1)(i). For the definition of mathematical or clerical error generally, see section 6213(g)(2). For application of mathematical or

clerical error in the case of inconsistent treatment by a partner that fails to give notice, see § 301.6222–1(b).

(ii) *Request for abatement—(A) In general.* Except as provided in paragraph (d)(1)(ii)(B) of this section, a partnership that is mailed a notice described in paragraph (d)(1)(i) of this section may file with the IRS, within 60 days after the date of such notice, a request for abatement of any assessment of an imputed underpayment specified in such notice. Upon receipt of the request, the IRS must abate the assessment. Any subsequent assessment of an imputed underpayment with respect to which abatement was made is subject to the provisions of subchapter C of chapter 63 of the Code, including the limitations under paragraph (c) of this section.

(B) *Adjustments with respect to inconsistent treatment by a partnership-partner.* If an adjustment that is the subject of a notice described in paragraph (d)(1)(i) of this section is due to the failure of a partnership-partner to comply with section 6222(a), paragraph (d)(1)(ii)(A) of this section does not apply, and abatement of any assessment specified in such notice is not available. However, prior to assessment, a partnership-partner that has failed to comply with section 6222(a) may correct the inconsistency by filing an administrative adjustment request under section 6227 or filing an amended partnership return and furnishing amended statements, as appropriate.

(iii) *Partnerships that have an election under section 6221(b) in effect.* In the case of a partnership-partner that has an election under section 6221(b) in effect for the reviewed year (as defined in § 301.6241–1(a)(8)), any tax resulting from an adjustment due to the partnership-partner's failure to comply with section 6222(a) may be assessed with respect to the reviewed year partners (as defined in § 301.6241–1(a)(9)) of the partnership-partner (or indirect partners of the partnership-partner, as defined in § 301.6241–1(a)(4)). Such tax may be assessed in the same manner as if the tax were on account of a mathematical or clerical error appearing on the reviewed year partner's or indirect partner's return, except that the procedures under section 6213(b)(2) for requesting an abatement of such assessment do not apply.

(2) *Partnership may waive limitations.* A partnership may at any time by a signed notice in writing filed with the IRS waive the limitations under paragraph (c) of this section (whether or not an FPA has been mailed under

section 6231(a)(3) by the IRS at the time of the waiver).

(e) *Limit on amount of imputed underpayment where no proceeding is begun.* If no proceeding under section 6234 is begun with respect to an FPA mailed under section 6231(a)(3) before the close of the 90th day after the day on which such FPA was mailed, the amount for which the partnership is liable under section 6225 with respect to such FPA cannot exceed the amount determined in such FPA.

(f) *Applicability date—(1) In general.* Except as provided in paragraph (f)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) *Election under § 301.9100–22T in effect.* This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100–22T is in effect.

■ **Par. 10.** Section 301.6233(a)–1 is added to read as follows:

§ 301.6233(a)–1 Interest and penalties determined from reviewed year.

(a) *Interest and penalties with respect to the reviewed year.* Except to the extent provided in section 6226(c) and the regulations thereunder, in the case of a partnership adjustment (as defined in § 301.6241–1(a)(6)) for a reviewed year (as defined in § 301.6241–1(a)(8)), a partnership is liable for—

(1) Interest computed in accordance with paragraph (b) of this section; and

(2) Any penalty, addition to tax, or additional amount as provided under paragraph (c) of this section.

(b) *Computation of interest with respect to partnership adjustments for the reviewed year.* The interest imposed on an imputed underpayment resulting from partnership adjustments for the reviewed year is the interest that would be imposed under chapter 67 of the Internal Revenue Code (Code) if the imputed underpayment were treated as an underpayment of tax for the reviewed year. The interest imposed on an imputed underpayment under this paragraph (b)(1) begins on the day after the due date of the partnership return (without regard to extension) for the reviewed year and ends on the earlier of—

(1) The date prescribed for payment (as described in § 301.6232–1(b));

(2) The due date of the partnership return (without regard to extension) for the adjustment year (as defined in § 301.6241–1(a)(1)); or

(3) The date the imputed underpayment is fully paid.

(c) *Penalties with respect to partnership adjustments for the*

reviewed year—(1) In general. In accordance with section 6221(a), the applicability of any penalties, additions to tax, and additional amounts that relate to a partnership adjustment for the reviewed year is determined at the partnership level as if the partnership had been an individual subject to tax imposed by chapter 1 of subtitle A of the Code for the reviewed year, and the imputed underpayment were an actual underpayment of tax or understatement for such year. Nothing in this paragraph (c)(1) affects the application of any penalty, addition to tax, or additional amount that may apply to the partnership or to any reviewed year partner (as defined in § 301.6241–1(a)(9)) or to any indirect partner (as defined in § 301.6241–1(a)(4)) that is unrelated to a partnership adjustment under subchapter C of chapter 63 of the Code.

(2) *Coordination with accuracy-related and fraud penalty provisions—(i) In general.* In the case of penalties imposed under section 6662, section 6662A, and section 6663 with respect to partnership adjustments in accordance with paragraph (c)(1) of this section, the rules described in paragraphs (c)(2)(ii), (iii), (iv), and (v) of this section apply.

(ii) *Determining the portion of the imputed underpayment to which a penalty applies—(A) In general.* In the case of penalties imposed under section 6662, section 6662A, and section 6663, paragraph (c)(2)(ii) of this section applies if—

(1) There is at least one adjustment with respect to which no penalty has been imposed and at least one adjustment with respect to which a penalty has been imposed; or

(2) There are at least two adjustments with respect to which penalties have been imposed and the penalties have different rates.

(B) *Calculating the portion of the imputed underpayment to which the penalty applies.* In computing the portion of an imputed underpayment to which a penalty applies, adjustments that do not result in the imputed underpayment (as described in § 301.6225–1(c)(2)) are not taken into account. The portion of an imputed underpayment to which a penalty applies is calculated as follows—

(1) All the partnership adjustments that resulted in the imputed underpayment are grouped together according to whether they are adjustments with respect to which a penalty has been imposed and, if so, according to rate of penalty. Negative adjustments as defined in paragraph (c)(2)(ii)(C) of this section are grouped

in accordance with paragraphs (c)(2)(ii)(D) and (E) of this section.

(2) Within each grouping described in paragraph (c)(2)(ii)(B)(1) of this section, multiply the portion of each non-credit partnership adjustment by the rate that applied to such portion when calculating the imputed underpayment. See §§ 301.6225-1(c)(1)(i); 301.6225-2(b)(3)(iii)(B), (d)(4).

(3) Within each grouping, add the amounts that were calculated under paragraph (c)(2)(ii)(B)(2) of this section.

(4) Within each grouping, increase or decrease the amounts that were calculated under paragraph (c)(2)(ii)(B)(3) of this section by any credit adjustments.

(C) *Negative adjustments.* An adjustment that resulted in the imputed underpayment that is an increase in an item of loss, deduction, or credit or a decrease to an item of income or gain is a *negative adjustment*.

(D) *Grouping of negative adjustments.* Negative adjustments are grouped under paragraph (c)(2)(ii)(B)(1) of this section in the following order—

(1) Partnership adjustments with respect to which no penalties have been imposed;

(2) Adjustments with respect to which a penalty has been imposed at a 20 percent rate;

(3) Adjustments with respect to which a penalty has been imposed at a 30 percent rate;

(4) Adjustments with respect to which a penalty has been imposed at a 40 percent rate;

(5) Adjustments with respect to which a penalty has been imposed at a 75 percent rate.

(E) *Negative adjustments that reduce a grouping to zero.* If when allocating the negative adjustments under paragraph (c)(2)(ii)(D) of this section, the amount calculated in paragraph (c)(2)(ii)(B) of this section for a particular grouping equals zero, any remaining negative adjustments (or portion thereof) that would otherwise reduce the amount to less than zero are allocated to the next grouping in sequential order under paragraph (c)(2)(ii)(D) of this section.

(F) *Fraud penalties under section 6663.* If any portion of an imputed underpayment is determined by the IRS to be attributable to fraud, the entire imputed underpayment is treated as attributable to fraud. This paragraph (c)(2)(ii)(F) does not apply to any portion of the imputed underpayment the partnership establishes by a preponderance of the evidence is not attributable to fraud.

(iii) *Substantial understatement penalty under section 6662(d)—(A) In*

general. For purposes of application of the penalty under section 6662(d) (substantial understatement of income tax), the imputed underpayment is treated as an understatement under section 6662(d)(2). To determine whether an imputed underpayment treated as an understatement under this paragraph (c)(3)(iii)(A) is a substantial understatement under section 6662(d)(1), the rules of section 6662(d)(1)(A) apply by treating the amount described in paragraph (c)(3)(iii)(B) of this section as the tax required to be shown on the return for the taxable year under section 6662(d)(1)(A)(i).

(B) *Amount of tax required to be shown on the return.* The amount described in this paragraph (c)(3)(iii)(B) is the tax that would result by treating the net ordinary business income or loss of the partnership for the reviewed year, reflecting any partnership adjustments as finally determined, as taxable income described in section 1(c) (determined without regard to section 1(h)).

(iv) *Reportable transaction understatement under section 6662A.* For purposes of application of the penalty under section 6662A (reportable transaction understatement penalty), the portion of an imputed underpayment attributable to an item described under section 6662A(b)(2) is treated as a reportable transaction understatement under section 6662A(b).

(v) *Reasonable cause and good faith.* For purposes of determining whether a partnership satisfies the reasonable cause and good faith exception under section 6664(c) or (d) with respect to a penalty under section 6662, section 6662A, or section 6663, the partnership is treated as the taxpayer. See § 1.6664-4 of this chapter. Accordingly, the facts and circumstances taken into account to determine whether the partnership has established reasonable cause and good faith are the facts and circumstances applicable to the partnership. A partner-level defense (as described in § 301.6226-3(i)(3)) may not be raised in a proceeding of the partnership except as provided under the modification procedures set forth in § 301.6225-2(d)(2) (amended returns) or in § 301.6225-2(d)(8) (partner closing agreements).

(3) *Examples.* The following examples illustrate the rules of paragraph (c) of this section. For purposes of these examples, each partnership has a calendar taxable year, and the highest tax rate in effect for all taxpayers is 40 percent for all relevant periods.

Example 1. One adjustment with respect to which a penalty is imposed. In an

administrative proceeding with respect to Partnership's 2018 partnership return, the IRS determines that Partnership understated ordinary income by \$100. The \$100 understatement is due to negligence or disregard of rules or regulations under section 6662(c), and a 20-percent accuracy-related penalty applies under section 6662(a). The IRS also determines that Partnership understated long-term capital gain by \$300, but no penalty applies with respect to that adjustment. Partnership does not request modification of the imputed underpayment under section 6225 and does not raise any penalty defenses prior to issuance of the notice of final partnership adjustment (FPA). In the FPA, the IRS determines that the imputed underpayment is \$160 ($(\$100 + \$300) \times 40$ percent). In determining the penalty, the \$100 adjustment (to which the 20-percent penalty relates) is grouped separately from the \$300 adjustment (to which no penalty applies). The portion of the imputed underpayment to which the 20-percent penalty applies is \$40 ($\100×40 percent), and the penalty is \$8 ($\40×20 percent).

Example 2. More than one adjustment with respect to which the same rate of penalty is imposed. The facts are the same as in *Example 1* of this paragraph (c)(3), except that the IRS determines that Partnership also overstated its credits by \$10. The overstatement of credits is due to negligence or disregard of rules or regulations under section 6662(c), and a 20-percent accuracy-related penalty applies under section 6662(a). Because the Partnership did not request modification, the imputed underpayment is \$170 ($(\$100 + \$300) \times 40$ percent) + \$10). In determining the penalty, the \$10 credit adjustment and the \$100 understatement of income, both of which are adjustments with respect to which the 20-percent accuracy-related penalty is imposed, are grouped together. Accordingly, the portion of the imputed underpayment to which the 20-percent accuracy-related penalty applies is \$50 ($(\100×40 percent) + \$10), and the penalty is \$10 ($\50×20 percent).

Example 3. Negative adjustment. The facts are the same as in *Example 2* of this paragraph (c)(3), except that there is also an adjustment that reduces ordinary income by \$50. In calculating the imputed underpayment under § 301.6225-1, the \$50 decrease to ordinary income is netted with the \$100 increase in ordinary income. Therefore, the \$50 decrease in ordinary income is an adjustment that resulted in the imputed underpayment and therefore a negative adjustment described in paragraph (c)(2)(ii)(C) of this section. Because Partnership did not request modification, the imputed underpayment is \$150 ($(\$100 - \$50) + \$300) \times 40$ percent) + \$10). To determine the portion of the imputed underpayment to which the 20-percent accuracy-related penalty applies, the \$50 reduction to ordinary income is grouped with the \$300 adjustment to long-term capital gain (in accordance with paragraph (c)(2)(ii)(D) of this section). Accordingly, the portion of the imputed underpayment to which the 20-percent accuracy-related penalty applies is \$50 ($(\100×40 percent) + \$10), and the penalty is \$10 ($\50×20 percent).

Example 4. Two adjustments with respect to which penalties of different rates have been imposed. The facts are the same as in *Example 3* of this paragraph (c)(3), except that the \$300 adjustment to long-term capital gain is due to a gross valuation misstatement. A 40-percent accuracy-related penalty under section 6662(a) and (h) applies to the portion of the imputed underpayment attributable to the gross valuation misstatement. The imputed underpayment is \$150 $((\$100 - \$50) + \$300) \times 40$ percent) + \$10). Under paragraph (c)(2)(ii)(B) of this section, the adjustment to long-term capital gain (the adjustment to which the 40-percent penalty relates) and the adjustments to ordinary income and credits (the adjustments to which the 20-percent penalty relates) are grouped separately. In accordance with paragraph (c)(2)(ii)(D) of this section, because there are no partnership adjustments with respect to which no penalties have been imposed, the \$50 reduction in ordinary income (the negative adjustment) is allocated to the grouping of adjustments with respect to which the 20-percent penalty is imposed. The amount described under paragraph (c)(2)(ii)(B) of this section with respect to the 20-percent penalty grouping is \$30 $((\$100 \times 40$ percent) - $(\$50 \times 40$ percent) + 10). Therefore, the portion of the imputed underpayment to which the 20 percent accuracy-related penalty applies is \$30 and the penalty is \$6 $(\$30 \times 20$ percent). The portion of the imputed underpayment to which the 40-percent gross valuation misstatement penalty applies is \$120 $(\$300 \times 40$ percent), and the penalty is \$48 $(\$120 \times 40$ percent). The accuracy-related penalty under section 6662(a) is \$54.

Example 5. Modification with respect to tax-exempt partner. The IRS initiates an administrative proceeding with respect to Partnership's 2019 taxable year. Partnership has four equal partners during its 2019 taxable year: Two partners are partnerships, A and B; one partner is a tax-exempt entity, C; and the fourth partner is an individual, D. The IRS timely mails a notice of proposed partnership adjustment (NOPPA) to Partnership for its 2019 taxable year proposing a single partnership adjustment increasing Partnership's ordinary income by \$400,000. The \$400,000 increase in income is due to negligence or disregard of rules or regulations under section 6662(c). A 20-percent accuracy-related penalty under section 6662(a) and (c) applies to the portion of the imputed underpayment attributable to the negligence or disregard of the rules or regulations. In the NOPPA, the IRS determines an imputed underpayment of \$160,000 $(\$400,000 \times 40$ percent); the portion of the imputed underpayment to which the 20-percent penalty applies is \$32,000 $(\$160,000 \times 20$ percent). Partnership requests modification under § 301.6225-2(d)(3) (regarding tax-exempt partners) with respect to the amount of additional income allocated to C, and the IRS approves the request. After modification of the imputed underpayment, the imputed underpayment is \$120,000 $((\$400,000 - \$100,000) \times 40$ percent), and the penalty is \$24,000 $(\$120,000 \times 20$ percent).

Example 6. Amended return modification. The facts are the same as in *Example 5* of this

paragraph (c)(3), except in addition to the modification with respect to C's tax-exempt status, Partnership requests a modification under § 301.6225-2(d)(2) (regarding amended returns) with respect to the \$100,000 of additional income allocated to D. In accordance with the rules under § 301.6225-2(d)(2), D files an amended return for D's 2019 taxable year taking into account \$100,000 of additional ordinary income. In addition, in accordance with § 301.6225-2(d)(2)(viii), D takes into account on D's return the 20-percent accuracy-related penalty for negligence or disregard of rules or regulations that relates to the ordinary income adjustment. D's tax attributes for other taxable years are not affected. The IRS approves the modification. As a result, Partnership's total netted partnership adjustment under § 301.6225-1(c)(3) is \$200,000 $(\$400,000$ less $\$100,000$ allocable to C and $\$100,000$ taken into account by D). The imputed underpayment, after modification, is \$80,000 $(\$200,000 \times 40$ percent), and the penalty is \$16,000 $(\$80,000 \times 20$ percent).

(d) **Applicability date—(1) In general.** Except as provided in paragraph (d)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) **Election under § 301.9100-22T in effect.** This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100-22T is in effect.

■ **Par. 11.** Section 301.6233(b)-1 is added to read as follows:

§ 301.6233(b)-1 Interest and penalties with respect to the adjustment year return.

(a) **Interest and penalties with respect to failure to pay imputed underpayment on the date prescribed.** In the case of any failure to pay an imputed underpayment on the date prescribed for such payment (as described in § 301.6232-1(b)), a partnership is liable for—

(1) Interest as determined under paragraph (c) of this section; and

(2) Any penalty, addition to tax, or additional amount as determined under paragraph (d) of this section.

(b) **Imputed underpayments to which this section applies.** This section applies to the portion of an imputed underpayment determined by the IRS under section 6225(a)(1), or an imputed underpayment resulting from adjustments requested by a partnership in an administrative adjustment request under section 6227, that is not paid by the date prescribed for payment under § 301.6232-1(b).

(c) **Interest.** Interest determined under this paragraph (c) is the interest that would be imposed under chapter 67 of the Internal Revenue Code (Code) by treating any unpaid amount of the imputed underpayment as an

underpayment of tax imposed for the adjustment year (as defined in § 301.6241-1(a)(1)). The interest under this paragraph (c) begins on the date prescribed for payment (as described in § 301.6232-1(b)) and ends on the date payment of the imputed underpayment is made.

(d) **Penalties.** If a partnership fails to pay an imputed underpayment by the date prescribed for payment (as described in § 301.6232-1(b)), section 6651(a)(2) applies to such failure, and any unpaid amount of the imputed underpayment is treated as if it were an underpayment of tax for purposes of part II of subchapter A of chapter 68 of the Code. For purposes of this section, the penalty under 6651(a)(2) is applied by treating the unpaid amount of the imputed underpayment as the unpaid amount shown as tax on a return required under subchapter A of chapter 61 of the Code.

(e) **Applicability date—(1) In general.** Except as provided in paragraph (e)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) **Election under § 301.9100-22T in effect.** This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100-22T is in effect.

■ **Par. 12.** Section 301.6234-1 is added to read as follows:

§ 301.6234-1 Judicial review of partnership adjustment.

(a) **In general.** Within 90 days after the date on which a notice of a final partnership adjustment (FPA) with respect to any partnership taxable year is mailed under section 6231(a)(3), a partnership may file a petition for a readjustment of any partnership adjustment (as defined in § 301.6241-1(a)(6)) reflected in the FPA for such taxable year (without regard to whether an election under section 6226 has been made with respect to any imputed underpayment reflected in such FPA) with—

(1) The Tax Court;

(2) The district court of the United States for the district in which the partnership's principal place of business is located; or

(3) The Court of Federal Claims.

(b) **Jurisdictional requirement for bringing action in district court or Court of Federal Claims.** A petition for readjustment under this section with respect to any partnership adjustment may be filed in a district court of the United States or the Court of Federal Claims only if the partnership filing the petition deposits with the Internal

Revenue Service (IRS), on or before the date the petition is filed, the amount of any imputed underpayment resulting from the partnership adjustment.

(c) *Treatment of deposit as payment of tax.* Any amount deposited in accordance with paragraph (b) of this section, while deposited, will not be treated as a payment of tax for purposes of the Internal Revenue Code (Code). Notwithstanding the preceding sentence, an amount deposited in accordance with paragraph (b) of this section will be treated as a payment of tax for purposes of chapter 67 of the Code (relating to interest). Interest will be allowed and paid in accordance with section 6611.

(d) *Effect of decision dismissing action.* If an action brought under this section is dismissed other than by reason of a rescission of the FPA under section 6231(c) and § 301.6231-1(g), the decision of the court dismissing the action is considered as its decision that the FPA is correct.

(e) *Amount deposited may be applied against assessment.* If the limitations on assessment under section 6232(b) and § 301.6232-1(c) no longer apply with respect to an imputed underpayment for which a deposit under paragraph (b) of this section was made, the IRS may apply the amount deposited against any such imputed underpayment that is assessed.

(f) *Applicability date*—(1) *In general.* Except as provided in paragraph (f)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) *Election under § 301.9100-22T in effect.* This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100-22T is in effect.

■ **Par. 13.** Section 301.6235-1 is added to read as follows:

§ 301.6235-1 Period of limitations on making adjustments.

(a) *In general.* Except as provided in section 6235(c) and (d) and paragraph (b) of this section (regarding extensions), no partnership adjustment (as defined in § 301.6241-1(a)(6)) for any partnership taxable year may be made after the later of the date that is—

(1) 3 years after the latest of—

(i) The date on which the partnership return for such taxable year was filed;

(ii) The return due date (as defined in section 6241(3)) for the taxable year; or

(iii) The date on which the partnership filed an administrative adjustment request with respect to such taxable year under section 6227; or

(2) The date described in paragraph (b) of this section with respect to a request for modification; or

(3) The date described in paragraph (c) of this section with respect to a notice of proposed partnership adjustment.

(b) *Modification requested under section 6225(c)*—(1) *In general.* For purposes of paragraph (a)(2) of this section, in the case of any request for modification of any imputed underpayment under section 6225(c), the date by which the Internal Revenue Service (IRS) may make a partnership adjustment is the date that is 270 days (plus the number of days of an extension of the modification period (as described in § 301.6225-2(c)(3)(i)) agreed to by the IRS under section 6225(c)(7) and § 301.6225-2(c)(3)(ii)) after the date on which everything required to be submitted to the IRS pursuant to section 6225(c) is so submitted.

(2) *Date on which everything is required to be submitted*—(i) *In general.* For purposes of paragraph (b)(1) of this section, the date on which everything required to be submitted to the IRS pursuant to section 6225(c) is so submitted is the earlier of—

(A) The date the modification period ends (including extensions) as described in § 301.6225-2(c)(3)(i) and (ii); or

(B) The date the modification period expires as a result of a waiver of the prohibition on mailing a notice of final partnership adjustment (FPA) under § 301.6231-1(b)(2). See § 301.6225-2(c)(3)(iii).

(ii) *Incomplete submission has no effect.* A determination by the IRS that the information submitted as part of a request for modification is incomplete has no effect on the applicability of paragraph (b)(2) of this section.

(c) *Notice of proposed partnership adjustment.* For purposes of paragraph (a)(3) of this section, the date by which the IRS may make a partnership adjustment is the date that is 330 days (plus the number of days of an extension of the modification period (as described in § 301.6225-2(c)(3)(i)) agreed to by the IRS under section 6225(c)(7) and § 301.6225-2(c)(3)(ii)) after the date the last notice of proposed partnership adjustment (NOPPA) is mailed under section 6231(a)(2), regardless of whether modification is requested by the partnership under section 6225(c).

(d) *Extension by agreement.* The periods described in paragraphs (a), (b), and (c) of this section (including any extension of those periods pursuant to this paragraph (d)) may be extended by an agreement, in writing, entered into

by the partnership and the IRS before the expiration of such period.

(e) *Examples.* The following examples illustrate the rules of this section. For purposes of these examples, each partnership has a calendar taxable year.

Example 1. Partnership timely files its partnership return for the 2020 taxable year on March 1, 2021. On September 1, 2023, Partnership files an administrative adjustment request (AAR) under section 6227 with respect to its 2020 taxable year. As of September 1, 2023, the IRS has not initiated an administrative proceeding under subchapter C of chapter 63 of the Internal Revenue Code with respect to Partnership's 2020 taxable year. Therefore, as of September 1, 2023, under paragraph (a)(1) of this section, the period for making partnership adjustments with respect to Partnership's 2020 taxable year expires on September 1, 2026.

Example 2. Partnership timely files its partnership return for the 2020 taxable year on the due date, March 15, 2021. On February 1, 2023, the IRS mails to Partnership and the partnership representative of Partnership (PR) a notice of administrative proceeding under section 6231(a)(1) with respect to Partnership's 2020 taxable year. Assuming no AAR has been filed with respect to Partnership's 2020 taxable year and the IRS has not yet mailed a NOPPA under section 6231(a)(2) with respect to Partnership's 2020 taxable year, the period for making partnership adjustments for Partnership's 2020 taxable year expires on the date determined under paragraph (a)(1) of this section, March 15, 2024.

Example 3. The facts are the same as in *Example 2* of this paragraph (e), except that on June 1, 2023, pursuant to § 301.6235-1(d), PR signs an agreement extending the period for making partnership adjustments under section 6235(a)(1) for Partnership's 2020 taxable year to December 31, 2025. In addition, on June 2, 2025, the IRS mails to Partnership and PR a timely NOPPA under section 6231(a)(2). Pursuant to § 301.6225-2(c)(3)(i), the modification period expires on February 27, 2026 (270 days after June 2, 2025, the date the NOPPA is mailed), but PR does not submit a request for modification on or before this date. Under paragraph (c) of this section, the date for purposes of paragraph (a)(3) of this section is April 28, 2026, the date that is 330 days from the mailing of the NOPPA. Because April 28, 2026 is later than the date under paragraph (a)(1) of this section (December 31, 2025, as extended under paragraph (d) of this section), and because no modification was requested, paragraph (a)(2) of this section is not applicable, April 28, 2026 is the date on which the period for making partnership adjustments expires under section 6235.

Example 4. The facts are the same as in *Example 3* of this paragraph (e), except that PR notifies the IRS that Partnership will be requesting modification. On January 5, 2026, PR and the IRS agree to extend the modification period pursuant to section 6225(c)(7) and § 301.6225-2(c)(3)(ii) for 45 days—from February 27, 2026 to April 13,

2026. PR submits the request for modification to the IRS on April 13, 2026. Therefore, the date determined under paragraph (b) of this section is February 22, 2027, which is 270 days after the date everything required to be submitted was so submitted pursuant to paragraph (b)(2) of this section plus the additional 45-day extension of the modification period agreed to by PR and the IRS. Because February 22, 2027 is later than the date under paragraph (a)(1) of this section (December 31, 2025, as extended under paragraph (d) of this section) and the date under paragraph (a)(3) of this section (June 12, 2026, which is 330 days from the date the NOPPA was mailed plus the 45-day extension under section 6225(c)(7)), February 22, 2027 is the date on which the period for making partnership adjustments expires under section 6235.

Example 5. The facts are the same as in *Example 4* of this paragraph (e), except that PR does not request an extension of the modification period. On February 1, 2026, PR submits a request for modification and PR, and the IRS agree in writing to waive the prohibition on mailing an FPA pursuant to § 301.6231-1(b)(2). Pursuant to § 301.6225-2(c)(3)(iii), the modification period expires as of February 1, 2026, rather than February 27, 2026. Accordingly, under paragraph (b)(2) of this section, the date on which everything required to be submitted pursuant to section 6225(c) is so submitted is February 1, 2026, and the 270-day period described in paragraph (b)(1) of this section begins to run on that date. Therefore, the date for purposes of paragraph (a)(2) of this section is October 29, 2026, which is 270 days after February 1, 2026, the date on which everything required to be submitted under section 6225(c) is so submitted. Because October 29, 2026 is later than the date under paragraph (a)(1) of this section (December 31, 2025, as extended under paragraph (d) of this section) and the date under paragraph (a)(3) of this section (April 28, 2026), October 29, 2026 is the date on which the period for making partnership adjustments expires under section 6235.

Example 6. The facts are the same as in *Example 5* of this paragraph (e), except PR completes its submission of information to support a request for modification on July 1, 2025, but does not execute a waiver pursuant to § 301.6231-1(b)(2). Therefore, pursuant to paragraph (b)(2) of this section, February 26, 2026, the date the modification period expires, is the date on which everything required to be submitted pursuant to section 6225(c) is so submitted. As a result, the 270-day period described in paragraph (b)(1) of this section expires on November 23, 2026. Because November 23, 2026 is later than the date under paragraph (a)(1) of this section (December 31, 2025, as extended under paragraph (d) of this section) and the date under paragraph (a)(3) of this section (April 28, 2026), November 23, 2026 is the date on which the period for making partnership adjustments expires under section 6235.

(f) **Applicability date—(1) In general.** Except as provided in paragraph (f)(2) of this section, this section applies to partnership taxable years beginning after December 31, 2017.

(2) **Election under § 301.9100-22T in effect.** This section applies to any partnership taxable year beginning after November 2, 2015 and before January 1, 2018 for which a valid election under § 301.9100-22T is in effect.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 2017-27071 Filed 12-15-17; 11:15 am]

BILLING CODE 4830-01-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA-HQ-OPP-2016-0639; FRL-9971-11]

Receipt of a Pesticide Petition Filed for Residues of Aluminum tris (O-ethylphosphonate) In or On Fruit, Citrus, Group 10-10

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notification of filing of petition and request for comment.

SUMMARY: This document announces the Agency's receipt of an initial filing of a pesticide petition requesting the modification of regulations for residues of pesticide chemicals in or on various commodities.

DATES: Comments must be received on or before January 18, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA-HQ-OPP-2016-0639, by one of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- **Mail:** OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001.

- **Hand Delivery:** To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT: Michael L. Goodis, Registration Division (7505P), Office of Pesticide Programs, Environmental Protection Agency, 1200

Pennsylvania Ave. NW, Washington, DC 20460-0001; main telephone number: (703) 305-7090; email address: RDfRNotices@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

You may be potentially affected by this action if you are an agricultural producer, food manufacturer, or pesticide manufacturer. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Crop production (NAICS code 111).
- Animal production (NAICS code 112).
- Food manufacturing (NAICS code 311).
- Pesticide manufacturing (NAICS code 32532).

B. What should I consider as I prepare my comments for EPA?

1. **Submitting CBI.** Do not submit this information to EPA through regulations.gov or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. **Tips for preparing your comments.** When preparing and submitting your comments, see the commenting tips at <http://www.epa.gov/dockets/comments.html>.

3. **Environmental justice.** EPA seeks to achieve environmental justice, the fair treatment and meaningful involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or

disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

II. What action is the Agency taking?

EPA is announcing receipt of a pesticide petition filed under section 408 of the Federal Food, Drug, and Cosmetic Act (FFDCA), 21 U.S.C. 346a, requesting the modification of regulations in 40 CFR part 180 for residues of pesticide chemicals in or on various food commodities. The Agency is taking public comment on the request before responding to the petitioner. EPA is not proposing any particular action at this time. EPA has determined that the pesticide petition described in this document contains data or information prescribed in FFDCA section 408(d)(2), 21 U.S.C. 346a(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the pesticide petition. After considering the public comments, EPA intends to evaluate whether and what action may be warranted. Additional data may be needed before EPA can make a final determination on this pesticide petition.

Pursuant to 40 CFR 180.7(f), a summary of the petition that is the subject of this document, prepared by the petitioner, is included in a docket EPA has created for this rulemaking. The docket for this petition is available at <http://www.regulations.gov>.

As specified in FFDCA section 408(d)(3), 21 U.S.C. 346a(d)(3), EPA is publishing notification of the petition so that the public has an opportunity to comment on this request for the modification of regulations for residues of pesticides in or on food commodities. Further information on the petition may be obtained through the petition summary referenced in this unit.

PP 6F8517. (EPA-HQ-OPP-2016-0639). Tessengerlo Kerley, Inc., 2255 N. 44th St., Suite 300, Phoenix, AZ 85008, requests to amend the tolerance in 40 CFR 180.415 for residues of the fungicide, aluminum tris (*O*-ethylphosphonate), in or on fruit, citrus, group 10 from 5.0 parts per million (ppm) to fruit, citrus, Group 10-10 at 9.0 ppm. Adequate enforcement methodology available in the Pesticide Analytical Manual (PAM II, Method II) is used to measure and evaluate the chemical aluminum tris (*O*-ethylphosphonate). *Contact:* RD.

Authority: 21 U.S.C. 346a.

Dated: November 27, 2017.

Michael L. Goodis,

Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 2017-27099 Filed 12-18-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 713

[EPA-HQ-OPPT-2017-0421; FRL-9971-82]

RIN 2070-AK22

Mercury; Reporting Requirements for the TSCA Mercury Inventory; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: EPA issued a document in the **Federal Register** of October 26, 2017, concerning proposed reporting requirements for applicable persons to provide information to assist in the preparation of an “inventory of mercury supply, use, and trade in the United States.” This document extends the comment period for 16 days, from December 26, 2017 to January 11, 2018. EPA received requests to extend the comment period and believes it is appropriate to do so in order to give stakeholders additional time to assess the impacts of the proposal, review technical documents in the docket, and prepare comments.

DATES: Comments, identified by docket identification number EPA-HQ-OPPT-2017-0421, must be received on or before January 11, 2018.

ADDRESSES: Follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of October 26, 2017 (82 FR 49564) (FRL-9970-07).

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Thomas Groeneveld, National Program Chemicals Division, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-1188; email address: groeneveld.thomas@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554-1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION: This document extends the public comment

period established in the **Federal Register** document of October 26, 2017 (82 FR 49564) (FRL-9970-07). EPA is hereby extending the comment period, which was set to end on December 26, 2017, to January 11, 2018.

To submit comments, or access the docket, please follow the detailed instructions provided under **ADDRESSES** in the **Federal Register** document of October 26, 2017 (82 FR 49564) (FRL-9970-07). If you have questions, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects in 40 CFR Part 713

Environmental protection, Mercury, Elemental mercury, Mercury compounds, Inventory, Supply, Use, Trade, Manufacture, Import, Export.

Dated: December 6, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator.

[FR Doc. 2017-27217 Filed 12-18-17; 8:45 am]

BILLING CODE 6560-50-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648-BH07

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Vermilion Snapper Management Measures; Amendment 47

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

ACTION: Notice of availability; request for comments.

SUMMARY: The Gulf of Mexico (Gulf) Fishery Management Council (Council) has submitted Amendment 47 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), for review, approval, and implementation by NMFS. Amendment 47 would establish a proxy for the estimate of the stock maximum sustainable yield (MSY) and revise the stock annual catch limit (ACL) for Gulf vermilion snapper. The purpose of Amendment 47 is to ensure that the MSY and ACL values for vermilion snapper are consistent with the results of the most recent stock assessment.

DATES: Written comments must be received on or before February 20, 2018.

ADDRESSES: You may submit comments on the amendment identified by “NOAA–NMFS–2017–0106” by either of the following methods:

- **Electronic Submission:** Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0106, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- **Mail:** Submit written comments to Lauren Waters, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered by NMFS. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

Electronic copies of Amendment 47, which includes an environmental assessment, a fishery impact statement, a Regulatory Flexibility Act analysis, and a regulatory impact review, may be obtained from the Southeast Regional Office website at: http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/am47/docs/PDFs/gulf_reef_am47_vermilion_final.pdf.

FOR FURTHER INFORMATION CONTACT: Lauren Waters, Southeast Regional Office, NMFS, telephone: 727–824–5305; email: Lauren.Waters@noaa.gov.

SUPPLEMENTARY INFORMATION: The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) requires each regional fishery management council to submit any FMP or amendment to NMFS for review and approval, partial approval, or disapproval. The Magnuson-Stevens Act also requires that NMFS, upon receiving an FMP or amendment, publish an announcement in the **Federal Register** notifying the public that the FMP or amendment is available for review and comment.

The FMP being revised by Amendment 47 was prepared by the Council and implemented by NMFS through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Act.

Background

The Magnuson-Stevens Act requires the Council to specify the MSY for managed stocks. The National Standard 1 Guidelines state that the Council should adopt a reasonable proxy for MSY if data are insufficient to estimate MSY directly.

Status of the Vermilion Snapper Stock

Amendment 23 to the FMP established MSY for vermilion snapper as the yield associated with F_{MSY} when the stock is at equilibrium, where F is defined as fishing mortality (70 FR 109; June 8, 2005). The final rule for the Generic Annual Catch Limit (ACL) and Accountability Measures (AM) Amendment established the vermilion snapper stock ACL and set it equal to the ABC at 3.42 million lb (1.55 million kg), round weight (76 FR 82044, December 29, 2011).

In 2016, a standard assessment for vermilion snapper was conducted (SEDAR 45) and the stock status was evaluated using several MSY proxies. Under all proxies evaluated in SEDAR 45, overfishing was not occurring and the stock was not overfished. The Council’s Scientific and Statistical Committee (SSC) determined that the most appropriate proxy for MSY is the yield when fishing at a mortality rate corresponding to 30 percent spawning potential ratio ($F_{30\%}$ SPR).

SEDAR 45 also included projections for the overfishing limit and the ABC. The SSC provided the Council two recommendations for ABC: One that is derived from fishing at 75 percent of the MSY proxy ($F_{30\%}$ SPR) and results in a declining ABC from 2017 through 2021, and one that is derived using the average of 2017–2021 ABCs and results in a constant ABC. The two ABC recommendations are equivalent in terms of maintaining the stock status and the Council selected the constant catch scenario that yielded an ABC of 3.11 million lb (1.41 million kg).

Actions Contained in Amendment 47

Amendment 47 includes measures to establish a proxy for the estimate of the stock MSY and revise the stock ACL for Gulf vermilion snapper consistent with the results of SEDAR 45 and the SSC’s new ABC recommendation.

MSY Proxy

For vermilion snapper, the Council’s SSC recommended that a proxy be used for MSY. The Council’s SSC recommended $F_{30\%}$ SPR as the MSY proxy for SEDAR 45, and the Council agreed. Under this proxy, the stock is not overfished or undergoing overfishing.

Stock ACL

The current ACL of 3.42 million lb (1.55 million kg), round weight, exceeds the ABCs recommended by the Council’s SSC. Therefore, the Council determined that the ACL for vermilion snapper should be decreased to equal the constant catch ABC and Amendment 47 would set the stock ACL at 3.11 million lb (1.41 million kg), round weight.

The current accountability measures for vermilion snapper require NMFS to close the commercial and recreational fishing seasons if the combined commercial and recreational landings reach or are projected to reach the stock ACL. Since 2013, combined landings have been less than 3.00 million lb (1.36 million kg), round weight, every year. Therefore, NMFS does not expect the combined landings of vermilion snapper to reach the proposed stock ACL and result in a closure before the end of the fishing year.

Proposed Rule for Amendment 47

A proposed rule that would implement Amendment 47 has been drafted. In accordance with the Magnuson-Stevens Act, NMFS is evaluating the proposed rule to determine whether it is consistent with the FMP, the Magnuson-Stevens Act, and other applicable law. If that determination is affirmative, NMFS will publish the proposed rule in the **Federal Register** for public review and comment.

Consideration of Public Comments

The Council has submitted Amendment 47 for Secretarial review, approval, and implementation. Comments on Amendment 47 must be received by February 20, 2018. Comments received during the respective comment periods, whether specifically directed to Amendment 47 or the proposed rule, will be considered by NMFS in its decision to approve, partially approve, or disapprove Amendment 47 and will be addressed in the final rule.

All comments received by NMFS on Amendment 47 or the proposed rule during their respective comment periods will be addressed in the final rule.

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

Dated: December 14, 2017.

Alan D. Risenhoover,
Director, Office of Sustainable Fisheries,
National Marine Fisheries Service.

[FR Doc. 2017–27283 Filed 12–18–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration****50 CFR Part 660**

[Docket No. 161024999–7999–01]

RIN 0648–BG40

Fisheries Off West Coast States; Pacific Coast Groundfish Fishery Management Plan; Authorization of an Oregon Recreational Fishery for Midwater Groundfish Species

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

ACTION: Proposed rule; request for comments.

SUMMARY: This proposed rule would authorize the use of midwater long-leader gear for recreational fishing in waters seaward of a boundary line approximating the 40 fathoms depth contour off the coast of Oregon. Midwater long-leader gear would be allowed for both charter and private vessels seaward of the 40 fathom seasonal depth closure and monitored with the existing Oregon Ocean Recreational Boat Sampling (ORBS) program. The use of this long-leader gear is intended to aid in limiting bycatch of overfished and rebuilding rockfish species, such as bottom-dwelling yelloweye rockfish, while still allowing for the catch of abundant midwater species such as yellowtail and widow rockfish. The season would be limited and occur between the months of April and September, months currently subject to depth restrictions.

DATES: Comments on this proposed rule must be received by January 18, 2018.

ADDRESSES: Submit your comments on this document, identified by NOAA–NMFS–2017–0047, by either of the following methods:

- *Electronic Submissions:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0047, click the “Comment Now!” icon, complete the required fields, and enter or attach your comments.

- *Mail:* Submit written comments to Barry Thom, Regional Administrator, West Coast Region, NMFS, 1201 NE Lloyd Blvd., Suite 1100, Portland, OR 97232; Attn: Christopher Biegel.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of

the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter “N/A” in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Christopher Biegel, phone: 503–231–6291, fax: 503–872–2737, or email: Christopher.biegel@noaa.gov.

SUPPLEMENTARY INFORMATION:**Electronic Access**

This proposed rule is accessible via the internet at the Office of the Federal Register website at <https://www.federalregister.gov>. Background information and documents are available at the NMFS West Coast Region website at <http://www.westcoast.fisheries.noaa.gov/fisheries/groundfish/index.html> and at the Pacific Fishery Management Council’s website at <http://www.pccouncil.org>.

Background

On the West Coast, recreational fisheries primarily occur in non-federal waters (zero to three nautical miles off the coast) and are managed by the states of Washington, Oregon, and California. Inter-state coordination is facilitated through the Pacific States Marine Fisheries Commission (PSMFC). The Pacific Fishery Management Council (Council) and NMFS manage and regulate fisheries that occur within federal waters (three to 200 nautical miles off the coast). Recreational groundfish fisheries are primarily managed with time/area closures, size restrictions, and bag limits. Fishing participation and effort in Oregon recreational fisheries varies seasonally and geographically with participation highest during warmer months.

There are more than 90 species of groundfish managed under the Pacific Coast Groundfish Fishery Management Plan, including over 60 species of rockfish in the family Scorpaenidae, seven roundfish species, 12 flatfish species, assorted shark species, all endemic skate species, all endemic grenadier species, and a few miscellaneous bottom-dwelling marine fish species. Groundfish species occur throughout the Federal Exclusive Economic Zone (EEZ) off the coast of Oregon and within state waters,

occupying diverse habitats at all stages in their life history.

The area affected by the proposed rule is the recreational groundfish fishing grounds within the west coast EEZ, from 3 to 200 nautical miles off the coast of Oregon. Groundfish fishing is largely confined to depths of 30 fathoms or less, approximately 30 miles or less off the coast. Federally-managed recreational groundfish fishing that could be directly affected by the proposed action occurs in Federal waters seaward of 40 fathoms off the Oregon coast (42 °00’ N lat. to 46 °18’ N lat.). For the period 2011–2015, anglers fished on approximately 84,405 trips per year for bottomfish (groundfish) in Oregon waters. This represents the largest single recreational ocean fishery in Oregon, representing about 44 percent of the total effort over that time period.

Since 2004, the Oregon recreational groundfish fisheries have been restricted to shallow depths (less than 20–40 fm) during the peak effort and catch months to reduce interactions with deeper water species, especially yelloweye rockfish. The recreational groundfish fisheries are an important part of the local economy and social fabric in Oregon’s coastal communities, and the implementation of deep-water rockfish closures in 2004 left several ports without any viable groundfish fishing opportunities. In an effort to increase recreational fishing opportunities in these ports, and relieve some pressure from nearshore reefs, exempted fishing permits (EFP) were issued to test the viability of long-leader gear. EFP test fishing, conducted by the Oregon Recreational Fishing Alliance in cooperation with the Oregon Department of Fish and Wildlife (ODFW), began in 2009 and was completed by 2011. Based in part on favorable EFP test fishing results using midwater long-leader gear on Oregon sport charter fishing vessels, the Council in 2015 requested that regulations authorizing a midwater long-leader fishery off of Oregon be created.

Under the proposed rule, midwater long-leader recreational groundfish fishing would be authorized seaward of a line approximating the 40 fathom depth curve exclusively off the coast of Oregon (42 °00’ N lat. to 46 °18’ N lat.) from April–September to target abundant and healthy midwater species while avoiding or minimizing interactions with overfished rockfish species. The gear configuration would include one fishing line, deployed with a sinker and no more than three hooks, with a minimum of 30 feet (9.14 meters) between the sinker and the lowest hook, and a non-compressible float attached to the line above the hooks. The gear may

be equipped with artificial lures and flies not to exceed 5 inches in length. Natural bait, and lures or flies greater than 5 inches in length, may not be used. Further, lingcod retention would be prohibited. All other existing state and Federal groundfish regulations, such as bag limits, rockfish conservation areas, etc., would remain in effect. This alternative would be monitored with the existing Oregon ORBS program.

The Council approved language in the definition of long-leader gear that included a prohibition on “large lures” but did not include a definition. After consultation with ODFW, this rule is proposing that “large lure” be defined as *over five inches in length*. This definition is based on industry standard lure sizes commonly used in the recreational fishery. Public comment is being requested on this definition.

Classification

Pursuant to section 304 (b)(1)(A) of the Magnuson-Stevens Act, 16 U.S.C. 1854(b)(1)(A), NMFS Acting Assistant Administrator has determined that this proposed rule is consistent with the Pacific Coast Groundfish Fishery Management Plan, other provisions of the Magnuson-Stevens Act, and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

An initial regulatory flexibility analysis (IRFA) was prepared, as required by section 603 of the Regulatory Flexibility Act (RFA). The IRFA describes the economic impact this proposed rule, if adopted, would have on small entities. When an agency proposes regulations, the RFA, 5 U.S.C. 603 *et seq.*, requires the agency to prepare and make available for public comment an IRFA that describes the impact on small businesses, non-profit enterprises, local governments, and other small entities. The IRFA is to aid the agency in considering all reasonable regulatory alternatives that would minimize the economic impact on affected small entities. A copy of the IRFA is available from NMFS (see **ADDRESSES**). A summary of the analysis follows.

A description of the action, why it is being considered, and the legal basis for this action are contained in the Background section of the preamble and in the **SUMMARY** section of the preamble.

Description and Estimate of the Number of Small Entities to Which the Rule Applies

The RFA, 5 U.S.C. 603 *et seq.*, requires government agencies to assess

the effects that regulatory alternatives would have on small entities. For marinas and charter/party boats, a small business is defined as any business/organization independently owned and operated, not dominant in its field of operation (including its affiliates), with annual receipts not in excess of \$7.5 million.

An estimated 104 recreational charter entities targeted groundfish in Oregon in 2014. Each of these vessels had an estimated average revenue of \$35,743 from groundfish, from a total annual average revenue of \$116,453, with other significant revenue earned in the salmon, tuna/albacore, and shellfish fisheries. It is estimated that all 104 entities would be considered small entities under the RFA.

In 2015 there were 106,504 angler trips in the Oregon recreational groundfish fisheries. This accounted for \$14,225,329 in trip-related expenses (excludes durable goods) and 327 jobs in the state of Oregon. Recreational anglers are not considered small entities under the RFA.

Many charter operations in Oregon earn a majority of their revenue from salmon fishing, however given the natural variability of the salmon fishery year to year, there is a potential for more commercial charter operations to turn to groundfish if the salmon fishery declines.

Estimate of Economic Impacts on Small Entities, by Entity Size and Industry

This rule is expected to give recreational charter entities in Oregon increased flexibility to pursue groundfish fishing opportunities, which is expected to provide positive economic impacts. The rule does not limit any existing activity or impose any mandatory new costs on the fleet, so the overall benefit to small entities is expected to be slightly positive, as some or most vessels may not choose to participate in the midwater fishery due to increased fuel costs from the distance required to travel, and because of midwater gear requirements. If charter operations choose to supplement groundfish in low-salmon years, benefits to these small entities would increase.

Reporting and Recordkeeping Requirements

There are no new reporting and recordkeeping requirements associated with this rule.

Relevant Federal Rules That May Duplicate, Overlap or Conflict With the Proposed Action

There are no relevant Federal rules that may duplicate, overlap, or conflict with this action.

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

NMFS prepared, and the Council reviewed, a preliminary draft Environmental Assessment (EA) prior to recommending NMFS move forward with promulgating this rule.¹ NMFS is making available a draft EA simultaneous with the publication of this proposed rule in the **Federal Register**.² The preliminary and draft EA analyzed three alternatives in addition to a no action alternative. Of those analyzed, the Council’s preferred alternative was the only one that accomplished the stated objectives of creating fishing opportunities while limiting bycatch of overfished and rebuilding rockfish species, such as bottom-dwelling yelloweye rockfish, and still allowing for the catch of abundant midwater species. In addition, the Council’s preferred alternative would provide the largest potential positive impact to small business entities. In addition to those analyzed, a number of other alternatives to the proposed action were considered, but ultimately rejected for the purposes of further analysis in the draft EA. For example, an alternative that would reduce the number of months open for the fishery was considered and rejected. Further, an alternative to establish a midwater long-leader recreational groundfish fishery in California waters was considered, but then eliminated from further analysis after the California Department of Fish and Wildlife (CDFW) expressed concerns regarding the monitoring, enforcement, and funding challenges associated with establishing a new fishery in California waters. Additionally, there has been very little EFP test fishing of the midwater long-leader recreational gear in California waters. CDFW argued that until robust observer-verified data exist, this potential alternative presents too high a risk to include in the suite of alternatives under consideration.

¹ Available at: http://www.pcouncil.org/wp-content/uploads/2016/02/G5_Att1_DraftEA_ORmidwaterSport_MAR2016BB.pdf.

² Available at: http://www.westcoast.fisheries.noaa.gov/publications/nepa/groundfish/groundfish_nepa_documents.html.

Because of these issues, CDFW withdrew their interest in participating in the fishery.

An alternative to establish a midwater long-leader recreational groundfish fishery in Oregon waters for only the sport charter vessel fleet was considered by the Council, as that fleet could carry observers on board the vessels to collect data on interactions with prohibited and constraining species. It was noted that no current program exists for placing observers on private recreational vessels, and such a program would require additional analyses and consideration. The Council decided not to recommend this alternative for further analysis due in part to ODFW policy regarding sector separation and the goal of preserving equality in managing sport recreational fisheries modes in Oregon.

The Council considered an alternative allowing retention of all groundfish species, including lingcod. However, the Council did not recommend further analysis of this alternative given concerns about the increased potential for yelloweye rockfish bycatch should anglers choose to target more bottom-dwelling species, like lingcod.

The Council considered recommending additional monitoring and reporting requirements for anglers fishing in deep waters with the long-leader gear. However, ODFW regards the current sampling rate of the ORBS monitoring program (which includes angler-reported discard estimates by species and area) to be sufficient for adequately covering new activities under the proposed action.

Finally, the Council considered allowing the fishery to operate seaward of 30 fathoms but did not make that part of their recommended alternatives for further analysis. This decision was based in part on input from law enforcement that a 10 fathom buffer zone (i.e., fishing seaward of 40 fathom enforceable depth contour) would be preferred to allow for effective and efficient enforcement when using depth-based regulations.

NMFS believes that rule will not have a significant impact on small

businesses. An estimated 104 small entities are potentially impacted by this rule. This rule is not anticipated to have a substantial or significant economic impact on small entities, or place small entities at a disadvantage to large entities. We are requesting comments on this conclusion.

List of Subjects in 50 CFR Part 660

Fisheries, Fishing, and Reporting and recordkeeping requirements.

Dated: December 14, 2017.

Samuel D. Rauch, III,
Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 660 is proposed to be 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 § 660.351, add, in alphabetical order, the definition of “long-leader gear” as follows:

§ 660.351 Recreational fishery—definitions.

* * * * *

Long-leader gear (also known as Holloway gear) means fishing gear with the following: one fishing line, deployed with a sinker and no more than three hooks, with a minimum of 30 feet (9.14 meters) between the sinker and the lowest hook, and a non-compressible float attached to the line above the hooks. The gear may be equipped with artificial lures and flies not to exceed 5 inches in length. Natural bait, and lures or flies greater than 5 inches in length, may not be used.

* * * * *

■ 3. In § 660.360, paragraphs (c)(2)(i)(B) and (c)(2)(iii)(B) are revised to read as follows:

§ 660.360 Recreational fishery—management measures.

* * * * *

- (c) * * *
- (2) * * *
- (i) * * *

(B) *Recreational rockfish conservation area (RCA)*. Fishing for groundfish with recreational gear is prohibited within the recreational RCA, a type of closed area or groundfish conservation area. It is unlawful to take and retain, possess, or land groundfish taken with recreational gear within the recreational RCA. A vessel fishing in the recreational RCA may not be in possession of any groundfish. [For example, if a vessel fishes in the recreational salmon fishery within the RCA, the vessel cannot be in possession of groundfish while within the RCA. The vessel may, however, on the same trip fish for and retain groundfish shoreward of the RCA on the return trip to port.] Off Oregon, from April 1 through September 30, recreational fishing for groundfish is prohibited seaward of a recreational RCA boundary line approximating the 40 fm (73 m) depth contour, except that fishing for flatfish (other than Pacific halibut) is allowed seaward of the 40 fm (73 m) depth contour when recreational fishing for groundfish is permitted, and fishing with long-leader gear (as defined in § 660.351) is allowed seaward of the 40 fm (73 m) depth contour (i.e., within the RCA) from April 1 through September 30. Coordinates for the boundary line approximating the 40 fm (73 m) depth contour are listed at § 660.71.

* * * * *

- (iii) * * *

(B) *Lingcod*. There is a 3 fish limit per day for lingcod from January 1 through December 31. The minimum size for lingcod retained in the Oregon recreational fishery is 22 in (56 cm) total length. For vessels using long-leader gear (as defined in § 660.351) and fishing inside the recreational RCA, possession of lingcod is prohibited.

* * * * *

[FR Doc. 2017-27282 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-22-P

Notices

Federal Register

Vol. 82, No. 242

Tuesday, December 19, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

December 14, 2017.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104-13. Comments are requested regarding (1) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments regarding this information collection received by January 18, 2018 will be considered. Written comments should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), New Executive Office Building, 725-17th Street NW, Washington, DC 20502. Commenters are encouraged to submit their comments to OMB via email to: OIRA_Submission@OMB.EOP.GOV or fax (202) 395-5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250-7602. Copies of the submission(s) may be obtained by calling (202) 720-8958.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs

potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

Animal Plant and Health Inspection Service

Title: Black Stem Rust; Identification Requirements and Addition of Rust-Resistant Varieties.

OMB Control Number: 0579-0186.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701-*et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants and plant products to prevent the introduction of plant pests into the United States or their dissemination within the United States. Black stem rust is one of the most destructive plant diseases of small grains that are known to exist in the United States. The disease is caused by a fungus that reduces the quality and yield of infected wheat, oat, barley, and rye crops by robbing host plants of food and water.

Need and Use of the Information: APHIS will collect information to prevent the spread of black stem rust by providing for and requiring the accurate identification of rust-resistant varieties by inspectors. Businesses that request APHIS to add a variety to the list of rust-resistant barberries, need to provide APHIS with a written description and color pictures that can be used by the State nursery inspectors to clearly identify the variety and distinguish it from other varieties. This action enables nurseries to move the species into and through protected areas and to propagate and sell the species in States or parts of States designated as protected areas.

Description of Respondents: Business or other for profit; State, Local or Tribal Government.

Number of Respondents: 4.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 32.

Animal Plant and Health Inspection Service

Title: Importation of Pine Shoot Beetle Host Material from Canada.

OMB Control Number: 0579-0257.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701-7772), the Secretary of Agriculture is

authorized to prohibit or restrict the importation, entry, or movement of plants and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The Animal Plant and Health Inspection Service (APHIS) foreign quarantine regulations restrict the importation of pine shoot beetle host material into the United States from Canada. Pine shoot beetle (PSB) is a pest of pine trees. It can cause damage in weak and dying trees where reproductive and immature stages of PSB occur, and in the new growth of healthy trees. PSB can damage urban ornamental trees and can cause economic losses to the timber, Christmas trees, and nursery industries.

Need and Use of the Information: APHIS will collect the information using Compliance Agreements (and information collected from any appeal process of the agreement), Importer Document (written statement), Appeal of Compliance and Canadian Phytosanitary Certificates to protect the United States from the introduction of pine shoot beetle and other plant diseases.

Description of Respondents: Business or other for profit; Federal Government.

Number of Respondents: 21.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 91.

Animal and Plant Health Inspection Service

Title: Importation of Fresh Mangoes from Jamaica into the Continental United States.

OMB Control Number: 0579-0419.

Summary of Collection: Under the Plant Protection Act (7 U.S.C. 7701, *et seq.*), the Secretary of Agriculture is authorized to prohibit or restrict the importation, entry, or movement of plants, and plant pests to prevent the introduction of plant pests into the United States or their dissemination within the United States. The regulations in "Subpart-Fruit and Vegetables" (7 CFR 319.56 through 319.56-77, referred to as the regulations) prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of plant pests that are new to or not widely distributed within the United States. In accordance with § 319.56-71, mangoes may be imported

from Jamaica into the continental United States under certain conditions to prevent the introduction of plant pests into the United States.

Need and Use of the Information: APHIS will use the following information collection activities to support the importation of mangoes from Jamaica: (1) Operational Workplan; (2) Production Site Registration; (3) Pest Detection Investigation; (4) Heat Treatment Certified Facility; (5) Heat Treatment Monitoring and Inspections; (6) Trust Fund Agreement; (7) Phytosanitary Certificate w/additional Declaration; (8) Inspection; and (9) Emergency Action Notification. Failure to collect this information would cripple APHIS' ability to ensure that mangoes from Jamaica are not carrying plant pests.

Description of Respondents: Businesses or other for-profit; Foreign Federal Government.

Number of Respondents: 5.

Frequency of Responses: Reporting: On occasion.

Total Burden Hours: 427.

Animal and Plant Health Inspection Service

Title: Importation of Fresh Blueberry Fruit from Morocco into the Continental United States.

OMB Control Number: 0579-0421.

Summary of Collection: The Plant Protection Act (PPA, 7 U.S.C. 7701 *et seq.*) authorizes the Secretary of Agriculture to restrict the importation, entry, or interstate movement of plants, plant products, and other articles within the United States to prevent the introduction of plant pests or their dissemination. The Animal and Plant Health Inspection Service (APHIS) Plant Protection and Quarantine (PPQ) Program enforces the Act by regulating the importation of fruits and vegetables into the United States. These regulations are found in Section 319 of the Code of Federal Regulations (CFR) under "Subpart—Fruits and Vegetables" (7 CFR 319.56-1 through 319.56-80). Under § 319.56-69, fresh fruit of highbrush blueberries (*Vaccinium corymbosum* L. and hybrid varieties *V. corymbosum x angustifolium* (*V. x atlanticum* and *V. corymbosum x virgatum*)) from Morocco may be imported into the continental United States under certain conditions that prevent the introduction of plant pests *Ceratitis capitata* (Mediterranean fruit fly) and fungus *Monilinia fructigena* (Honey ex Whetzel) into the country.

Need and Use of the Information: APHIS will use information collection activities and actions to ensure these conditions are met. These activities

include registering production sites, inspecting crops, performing remedial actions, obtaining foreign phytosanitary certificates with declarations, and submitting applications for permits and appeals if denied. Activities also include submitting notices of arrival and responding to emergency action notifications. These activities for this commodity are the minimum necessary to protect crops and the agriculture industry from dangerous foreign plant pests and diseases.

Description of Respondents: Business or other for-profit; Foreign Federal Government.

Number of Respondents: 15.

Frequency of Responses: Reporting on occasion.

Total Burden Hours: 82.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. 2017-27249 Filed 12-18-17; 8:45 am]

BILLING CODE 3410-34-P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; National Woodland Owner Survey

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on the renewal of the *National Woodland Owner Survey* information collection.

DATES: Comments must be received in writing on or before February 20, 2018 to be assured of consideration.

Comments received after that date will be considered to the extent practicable.

ADDRESSES: Comments concerning this notice should be addressed to Brett Butler, USDA Forest Service, 160 Holdsworth Way, Amherst, MA 01003. Comments also may be submitted via facsimile to 413-545-1860 or by email to: bbutler01@fs.fed.us.

Comments submitted in response to this notice may be made available to the public through relevant websites and upon request. For this reason, please do not include in your comments information of a confidential nature, such as sensitive personal information or proprietary information. If you send an email comment, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. Please note

that responses to this public comment request containing any routine notice about the confidentiality of the communication will be treated as public comments that may be made available to the public notwithstanding the inclusion of the routine notice.

The public may inspect the draft supporting statement and/or comments received at 160 Holdsworth Way, Room 202, Amherst, MA 01003 during normal business hours. Visitors are encouraged to call ahead to 413-545-1387 to facilitate entry to the building. The public may request an electronic copy of the draft supporting statement and/or any comments received be sent via return email. Requests should be emailed to bbutler01@fs.fed.us.

FOR FURTHER INFORMATION CONTACT:

Brett Butler, Northern Research Station, 413-545-1387. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1-800-877-8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: National Woodland Owner Survey.

OMB Number: 0596-0078.

Expiration Date of Approval: 11/30/2018.

Type of Request: Renewal.

Abstract: There are an estimated 816 million acres of forestland across the United States. Of this forestland, over half is owned by millions of corporations, families, individuals, tribes, and other private groups with the remaining managed by over a thousand different federal, state, and local government agencies. Understanding the attitudes and behaviors of the owners and managers of the forestland is critical for understanding the current and future state of the nation's forests. The Forest Service conducts the National Woodland Owner Survey (NWOS) to increase our understanding of:

- Who owns and manages the forestland of the United States;
- Why they own/manage it;
- How they have used it; and
- How they intend to use it.

This information is used by policy analysts, foresters, educators, and researchers to facilitate the planning and implementation of forest policies and programs.

The Forest Service's direction and authority to conduct the NWOS is from the Forest and Range Land Renewable Resources Planning Act of 1974, the Forest and Range Land Renewable Resources Act of 1978. These acts assign responsibility for the inventory and

assessment of forest and related renewable resources to the Forest Service. Additionally, the importance of an ownership survey in this inventory and assessment process is highlighted in the 2014 Farm Bill, the Agricultural Research, Extension, and Education Reform Act of 1998, and the recommendations of the Second Blue Ribbon Panel on the Forest Inventory and Analysis program (FIA).

Previous iterations of the NWOS were conducted in 1978, 1993, 2002–2006, 2011–2013, and 2017–2018. Approval for the last iteration of the NWOS expires on November 30, 2018. If renewed, the NWOS will operate for another 3-year cycle.

Information will be collected related to:

- The characteristics of the land holdings;
- Attitudes and perceptions of the owners and managers;
- Resource uses and management activities; and
- Where applicable, landowner demographics.

Separate survey instruments are being developed for families and individuals, corporate, and public ownerships. In addition, the owners in urban areas will be sent a different survey instrument. For the families and individuals, the dominant ownership group of forestland owners, a subset of ownerships will be sent survey instruments addressing the following topics, in addition to the core questions from the base survey instrument:

- Wildfires;
- Invasive species;
- Climate change;
- Land owner values; and
- Decision making.

The NWOS provides widely cited benchmarks for the number, extent, and characteristics of owners of forestland in the United States. These results have been used to assess the sustainability of forest resources at national, regional, and state levels; to implement and assess forest-land owner assistance programs; and to answer a variety of questions with topics ranging from fragmentation to the economics of timber production. This is the only effort to collect in-depth information about owners of forestland at the national scale. It provides longitudinal data to track ownership trends and allows for comparisons across regions of the country.

The respondents will be a statistically selected group of individuals, families, American Indian tribes, partnerships, corporations, nonprofit organizations, and other private groups that own forestland in the United States in

addition to a statistically selected group of federal, state, and local government agencies that manage forestland. A well distributed, random set of sampling points has been established across the country. At each point, remotely sensed data, such as aerial photographs or satellite imagery, will be used to identify forested points. For the forested points, public records will be used to identify the owners of record—the names and addresses of the landowners we will contact. The number of owners of forestland to be contacted in each state will be approximately 330.

The NWOS will utilize a mixed-mode survey technique involving cognitive interviews, focus groups, self-administered questionnaires, and telephone interviews. Cognitive interviews will be used to test specific questions. Focus groups will be used to provide more in-depth understanding of the responses and to explore new areas of inquiry.

The implementation of the self-administered survey will involve up to four contacts. First, a pre-notice postcard will be sent to all potential respondents describing this information collection and why the information is being collected. Second, a questionnaire with a cover letter and pre-paid return envelope will be sent to the potential respondents. The cover letter will reiterate the purpose of this information collection and provide the respondents with all legally required information. Third, a reminder will be mailed to thank the respondents and encourage the non-respondents to reply. Those who have yet to respond will be sent a new questionnaire, cover letter, and pre-paid return envelope. Telephone interviews will be used for follow-up with non-respondents. For corporations and public agencies, the primary survey instrument will be electronic, and for all other owners, the primary survey instrument will be paper forms with the option for completing the survey electronically online.

Forest Service researchers will coordinate all components of this information collection. Forest Service personnel with assistance provided by cooperators at the Family Forest Research Center located at the University of Massachusetts Amherst will conduct the mail portion of the survey, cognitive interviews, and focus groups. The U.S. Department of Agriculture, National Agricultural Statistics Service will conduct the telephone follow-ups. Data will be compiled and edited by Forest Service and Family Forest Research Center personnel. Forest Service researchers and cooperators will analyze the

collected data. National, regional, and state-level results will be distributed through print and/or electronic media.

This information collection will generate scientifically-based, statistically-reliable, up-to-date information about the owners of forestland in the United States. The results of these efforts will provide more reliable information on this important and dynamic segment of the United States population; thus facilitating more complete assessments of the country's forestland resources and improved planning and implementation of forestry programs on state, regional, and national levels.

Affected Public: Individuals and Households, the Private Sector (Businesses and Non-Profit Organizations), and/or State, Local or Tribal Government.

Estimate of Burden per Response: 25 minutes for families, individuals, and other private groups with small holdings; 30 minutes for corporations with large holdings; 15 minutes for public agencies.

Estimated Annual Number of Respondents: 4,188.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 2,433 Hours.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request toward Office of Management and Budget approval.

Dated: December 4, 2017.

Carlos Rodriguez-Franco,
Deputy Chief, Research and Development.
[FR Doc. 2017-27286 Filed 12-18-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Forest Service****Information Collection; Generic Clearance for Citizen Science Projects****AGENCY:** Forest Service, USDA.**ACTION:** Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments from all interested individuals and organizations on a new generic information collection request, *Generic Clearance for Citizen Science Projects*.

DATES: Comments must be received in writing on or before February 20, 2018 to be assured of consideration.

Comments received after that date will be considered to the extent practicable.

ADDRESSES: Send written comments to Michelle Tamez, USDA—Forest Service, Ecosystem Management Coordination, 201 14th St. SW, Washington, DC 20250 or by electronic mail to FSCCS@fs.fed.us. If comments are sent by electronic mail, the public is requested not to send duplicate written comments via regular mail. Please confine written comments to issues pertinent to the information collection request; explain the reasons for any recommended changes; and, where possible, reference the specific section or paragraph being addressed.

All timely and properly submitted comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received on this information collection at the USDA—Forest Service headquarters, Ecosystem Management Coordination, 201 14th St. SW, Washington, DC 20250 between the hours of 10:00 a.m. to 5:30 p.m. on business days. Those wishing to inspect comments should call ahead (202) 205-1194 to facilitate an appointment and entrance to the building.

FOR FURTHER INFORMATION CONTACT:

Agency Coordinator for Crowdsourcing and Citizen Science, Michelle Tamez at (202) 205-1194. Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for Citizen Science Projects.

OMB Number: 0596—NEW.

Expiration Date of Approval: NEW.

Type of Request: NEW.

Abstract: Citizen science brings together two important Forest Service

values—using sound science to guide our management and decision making, and connecting our work to the public that we serve. In order to ensure a timely and consistent process for Paperwork Reduction Act compliance, the Forest Service is proposing to develop a Generic Information Collection Request to be utilized for citizen science projects that support that Agency's mission.

Citizen science can support the Forest Service's mission by allowing the Agency to collect qualitative and quantitative data that can help inform scientific research; ecological, social and biological assessments and monitoring efforts; validate environmental models or tools; and enhance the quantity and quality of data collected across the country's diverse communities and ecosystems. Citizen science also creates an avenue to incorporate local knowledge and needs, and can contribute to increased data sharing, open data, and government transparency. The Forest Service may sponsor the collection of this type of information in connection with citizen science projects. When applicable, all such collections will accord with Agency policies and regulations related to human subjects and research. If a new collection is not within the parameters of this generic Information Collection Request (ICR), the Agency will submit a separate information collection request to Office of Management and Budget (OMB) for approval.

Collections under this generic ICR will be from volunteers who participate on their own initiative through an open and transparent process; the collections will be low-burden for participants; collections will be low-cost for both the participants and the Federal Government; and data will be available to support the scientific endeavors of the Agency, states, tribal or local entities where data collection occurs.

Estimate of Annual Burden on Respondents: 4,533,333 hours/year.

Type of Respondents: Participants/respondents will be individuals, not specific entities.

Estimated Annual Number of Respondents: 160,000/year.

Estimated Annual Number of Responses per Respondent: 9 responses/respondent.

Comment is Invited:

Comment is invited on: (1) Whether this collection of information is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the

collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. The Forest Service will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the submission request for final Office of Management and Budget approval.

Dated: November 28, 2017.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017-27287 Filed 12-18-17; 8:45 am]

BILLING CODE 3411-15-P

DEPARTMENT OF AGRICULTURE**Rural Housing Service****Notice of Request for Extension of a Currently Approved Information Collection****AGENCIES:** Rural Housing Service, USDA.**ACTION:** Proposed collection; comments requested.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Rural Housing Service (RHS), the Rural Business-Cooperative Service (RBS), and Rural Utilities Service (RUS) intention to request an extension for a currently approved information collection in support of compliance with Civil Rights laws.

DATES: Comments on this notice must be received by February 20, 2018 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Angilla Denton, Equal Opportunity Specialist, Rural Development, Civil Rights Staff, U.S. Department of Agriculture, STOP 0703, 1400 Independence Ave. SW, Washington, DC 20250-0703, Telephone (202) 692-0099 (voice) or 692-0107 (TDD).

SUPPLEMENTARY INFORMATION:

Title: 7 CFR 1901-E, Civil Rights Compliance Requirements.

OMB Number: 0575-0018.

Expiration Date of Approval: March 31, 2018.

Type of Request: Extension of a Currently Approved Information Collection.

Abstract: The information collection under OMB Number 0575–0018 enables the RHS, RBS, and RUS, to effectively monitor a recipient's compliance with the civil rights laws, and to determine whether or not service and benefits are being provided to beneficiaries on an equal opportunity basis.

The RBS, RHS, and RUS are required to provide Federal financial assistance through its housing and community and business programs on an equal opportunity basis. The laws implemented in 7 CFR part 1901, subpart E, require the recipients of RBS, RHS, and RUS Federal financial assistance to collect various types of information, including information on participants in certain of these agencies' programs, by race, color, and national origin.

The information collected and maintained by the recipients of certain programs from RBS, RHS, and RUS is used internally by these agencies for monitoring compliance with the civil rights laws and regulations. This information is made available to USDA officials, officials of other Federal agencies, and to Congress for reporting purposes. Without the required information, RBS, RHS, RUS and its recipients will lack the necessary documentation to demonstrate that their programs are being administered in a nondiscriminatory manner, and in full compliance with the civil rights laws. In addition, the RBS, RHS, RUS and their recipients would be vulnerable in lawsuits alleging discrimination in the affected programs of these agencies, and would be without appropriate data and documentation to defend themselves by demonstrating that services and benefits are being provided to beneficiaries on an equal opportunity basis.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7.5 hours per response.

Respondents: Recipients of RBS, RHS, and RUS Federal financial assistance, loan, and loan guarantee programs.

Estimated Number of Respondents: 27,000.

Estimated Number of Responses per Respondent: 2.72.

Estimated Number of Responses: 73,559.

Estimated Total Annual Burden on Respondents: 550,276.

Copies of this information collection can be obtained from Jeanne Jacobs, Regulations and Paperwork

Management Branch, Support Services Division, at (202) 692–0040.

Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Rural Development, including whether the information will have practical utility; (b) the accuracy of the Agencies' estimate of the burden of the proposed collection of information including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology. Comments may be sent to Jeanne Jacobs, Regulations and Paperwork Management Branch, Support Services Division, Rural Development, U.S. Department of Agriculture, STOP 0742, Washington, DC 20250–0742. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

Dated: December 4, 2017.

Richard A. Davis,

Acting Administrator, Rural Housing Service.

[FR Doc. 2017–27285 Filed 12–18–17; 8:45 am]

BILLING CODE 3410–XV–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–900]

Diamond Sawblades and Parts Thereof From the People's Republic of China: Final Results of Antidumping Duty Changed Circumstances Review

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

SUMMARY: On November 7, 2017, the Department of Commerce (the Department) published a notice of initiation and preliminary results of a changed circumstances review of the antidumping duty order on diamond sawblades and parts thereof (diamond sawblades) from the People's Republic of China (the PRC). In that notice, we preliminarily determined that Chengdu Huifeng New Material Technology Co., Ltd. is the successor-in-interest to Chengdu Huifeng Diamond Tools Co., Ltd. for purposes of determining

antidumping duty cash deposits and liabilities. No interested party submitted comments on or requested a public hearing to discuss the *Initiation and Preliminary Results*. For these final results, the Department continues to find that Chengdu Huifeng New Material Technology Co., Ltd. is the successor-in-interest to Chengdu Huifeng Diamond Tools Co., Ltd. for purposes of the antidumping duty order on diamond sawblades from the PRC.

DATES: Applicable December 19, 2017.

FOR FURTHER INFORMATION CONTACT:

Yang Jin Chun AD/CVD Operations, Office I, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–5760.

SUPPLEMENTARY INFORMATION:

Background

On November 7, 2017, the Department published a notice of initiation and preliminary results of a changed circumstances review of the antidumping duty order on diamond sawblades from the PRC.¹ Effective August 16, 2016, Chengdu Huifeng Diamond Tools Co., Ltd. (1) changed its legal status from a limited liability company to a joint-stock limited company and (2) changed its name to Chengdu Huifeng New Material Technology Co., Ltd.² On September 20, 2017, Chengdu Huifeng New Material Technology Co., Ltd. requested that the Department initiate an expedited changed circumstances review and determine that Chengdu Huifeng New Material Technology Co., Ltd. is the successor-in-interest to Chengdu Huifeng Diamond Tools Co., Ltd.

On November 7, 2017, we initiated a changed circumstances review and preliminarily determined that Chengdu Huifeng New Material Technology Co., Ltd. is the successor-in-interest to Chengdu Huifeng Diamond Tools Co., Ltd. for purposes of determining antidumping duty liability.³ In the *Initiation and Preliminary Results*, we provided all interested parties with an opportunity to comment and request a public hearing regarding our preliminary results. We received no comments or requests for a public hearing.

¹ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Initiation and Preliminary Results of Antidumping Duty Changed Circumstances Review*, 82 FR 51605 (November 7, 2017) (*Initiation and Preliminary Results*).

² See Chengdu Huifeng New Material Technology Co., Ltd.'s request for a changed circumstances review dated September 20, 2017.

³ See *Initiation and Preliminary Results*.

Scope of the Order

The products covered by the order are all finished circular sawblades, whether slotted or not, with a working part that is comprised of a diamond segment or segments, and parts thereof, regardless of specification or size, except as specifically excluded below. Within the scope of the order are semifinished diamond sawblades, including diamond sawblade cores and diamond sawblade segments. Diamond sawblade cores are circular steel plates, whether or not attached to non-steel plates, with slots. Diamond sawblade cores are manufactured principally, but not exclusively, from alloy steel. A diamond sawblade segment consists of a mixture of diamonds (whether natural or synthetic, and regardless of the quantity of diamonds) and metal powders (including, but not limited to, iron, cobalt, nickel, tungsten carbide) that are formed together into a solid shape (from generally, but not limited to, a heating and pressing process).

Sawblades with diamonds directly attached to the core with a resin or electroplated bond, which thereby do not contain a diamond segment, are not included within the scope of the order. Diamond sawblades and/or sawblade cores with a thickness of less than 0.025 inches, or with a thickness greater than 1.1 inches, are excluded from the scope of the order. Circular steel plates that have a cutting edge of non-diamond material, such as external teeth that protrude from the outer diameter of the plate, whether or not finished, are excluded from the scope of the order. Diamond sawblade cores with a Rockwell C hardness of less than 25 are excluded from the scope of the order. Diamond sawblades and/or diamond segment(s) with diamonds that predominantly have a mesh size number greater than 240 (such as 250 or 260) are excluded from the scope of the order. Merchandise subject to the order is typically imported under heading 8202.39.00.00 of the Harmonized Tariff Schedule of the United States (HTSUS). When packaged together as a set for retail sale with an item that is separately classified under headings 8202 to 8205 of the HTSUS, diamond sawblades or parts thereof may be imported under heading 8206.00.00.00 of the HTSUS. On October 11, 2011, the Department included the 6804.21.00.00 HTSUS classification number to the customs case reference file, pursuant to a request by U.S. Customs and Border Protection (CBP).⁴ The tariff classification is

⁴ See *Diamond Sawblades and Parts Thereof from the Republic of Korea: Preliminary Results of*

provided for convenience and customs purposes; however, the written description of the scope of the order is dispositive.

Final Results of Changed Circumstances Review

For the reasons stated in the *Initiation and Preliminary Results*, we continue to find that Chengdu Huifeng New Material Technology Co., Ltd. is the successor-in-interest to Chengdu Huifeng Diamond Tools Co., Ltd. for purposes of determining antidumping duty liability under the antidumping duty order on diamond sawblades from the PRC.⁵ As a result of this determination, we find that Chengdu Huifeng New Material Technology Co., Ltd. is entitled to the cash deposit rate previously assigned to Chengdu Huifeng Diamond Tools Co., Ltd. in the most recently completed administrative review of the antidumping duty order on diamond sawblades from the PRC.⁶ Consequently, the Department will instruct U.S. Customs and Border Protection to suspend liquidation of all shipments of subject merchandise exported by Chengdu Huifeng New Material Technology Co., Ltd., and entered, or withdrawn from warehouse, for consumption on or after the publication date of this notice in the **Federal Register** at 6.19 percent, which is the current antidumping duty cash deposit rate for Chengdu Huifeng Diamond Tools Co., Ltd.⁷ This cash deposit requirement shall remain in effect until further notice.

Notification to Interested Parties

This notice serves as a final reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice of final results is in accordance with sections 751(b)(1) and 777(i) of the Tariff Act of 1930, as

Antidumping Duty Administrative Review, 76 FR 76128, 76130 (December 6, 2011).

⁵ See *Initiation and Preliminary Results*, 82 FR at 51606-07.

⁶ See, e.g., *Notice of Final Results of Antidumping Duty Changed Circumstances Review: Certain Frozen Warmwater Shrimp from Thailand*, 81 FR 222 (January 5, 2016).

⁷ See *Diamond Sawblades and Parts Thereof from the People's Republic of China: Final Results of Antidumping Duty Administrative Review; 2014-2015*, 82 FR 26912 (June 12, 2017).

amended, and 19 CFR 351.216, and 19 CFR 351.221(c)(3).

Dated: December 14, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017-27308 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

International Trade Administration

[C-570-063]

Cast Iron Soil Pipe Fittings From the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination and Alignment of Final Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (Department) preliminarily determines that countervailable subsidies are being provided to producers and exporters of cast iron soil pipe fittings (soil pipe fittings) from the People's Republic of China (PRC). The period of investigation is January 1, 2016, through December 31, 2016.

DATES: Applicable December 19, 2017.

FOR FURTHER INFORMATION CONTACT: Dennis McClure or Jinny Ahn, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: 202-482-5973 or 202-482-0339, respectively.

SUPPLEMENTARY INFORMATION:

Background

This preliminary determination is made in accordance with section 703(b) of the Tariff Act of 1930, as amended (the Act). The Department published the notice of initiation of this investigation on August 8, 2017.¹ On September 2, 2017, the Department postponed the preliminary determination of this investigation and the revised deadline is now December 11, 2017.² For a

¹ See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Initiation of Countervailing Duty Investigation*, 82 FR 37048 (August 8, 2017) (*Initiation Notice*).

² See *Cast Iron Soil Pipe Fittings from the People's Republic of China: Postponement of Preliminary Determination in the Countervailing Duty Investigation*, 82 FR 44160 (September 21, 2017).

complete description of the events that followed the initiation of this investigation, see the Preliminary Decision Memorandum.³ A list of topics discussed in the Preliminary Decision Memorandum is included as Appendix II to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <http://access.trade.gov>, and is available to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at <http://enforcement.trade.gov/frn/>. The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the Investigation

The products covered by this investigation are cast iron soil pipe fittings from the PRC. For a complete description of the scope of this investigation, see Appendix I.

Scope Comments

In accordance with the preamble to the Department's regulations,⁴ the *Initiation Notice* set aside a period of time for parties to raise issues regarding product coverage (*i.e.*, scope).⁵ No

parties submitted comments with regard to the scope of this investigation.

Methodology

The Department is conducting this investigation in accordance with section 701 of the Act. For each of the subsidy programs found countervailable, the Department preliminarily determines that there is a subsidy, *i.e.*, a financial contribution by an "authority" that confers a benefit on the recipient, and that the subsidy is specific.⁶

The Department notes that, in making these findings, it relied, in part, on facts available and, because it finds that one or more respondents did not act to the best of their ability to respond to the Department's requests for information, it drew an adverse inference where appropriate in selecting from among the facts otherwise available.⁷ For further information, see "Use of Facts Otherwise Available and Adverse Inferences" in the Preliminary Decision Memorandum.

Alignment

As noted in the Preliminary Decision Memorandum, in accordance with section 705(a)(1) of the Act and 19 CFR 351.210(b)(4), the Department is aligning the final CVD determination in this investigation with the final determination in the companion AD investigation of cast iron soil pipe fittings based on a request made by the petitioner.⁸ Consequently, the final CVD

determination will be issued on the same date as the final antidumping duty determination, which is currently scheduled to be issued no later than April 24, 2018, unless postponed.

All-Others Rate

Sections 703(d) and 705(c)(5)(A) of the Act provide that in the preliminary determination, the Department shall determine an estimated all-others rate for companies not individually examined. This rate shall be an amount equal to the weighted average of the estimated subsidy rates established for those companies individually examined, excluding any zero and *de minimis* rates and any rates based entirely under section 776 of the Act.

In this investigation, the Department calculated individual estimated countervailable subsidy rates for Shanxi Xuanshi Industrial Group Co., Ltd. and Wor-Biz International Trading Co., Ltd. (Anhui) that are not zero, *de minimis*, or based entirely on facts otherwise available. The Department calculated the all-others' rate using a weighted average of the individual estimated subsidy rates calculated for the examined respondents using each company's publicly-ranged values for the merchandise under consideration.⁹

Preliminary Determination

The Department preliminarily determines that the following estimated countervailable subsidy rates exist:

Producer/exporter	Subsidy rate (percent)
Shanxi Xuanshi Industrial Group Co., Ltd	8.66
Shijiazhuang Chengmei Import & Export Co., Ltd	102.31
Wor-Biz International Trading Co., Ltd. (Anhui)	12.72
All-Others	10.37

Suspension of Liquidation

In accordance with section 703(d)(1)(B) and (d)(2) of the Act, the Department will direct U.S. Customs and Border Protection (CBP) to suspend liquidation of entries of subject merchandise as described in the scope of the investigation entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**. Further, pursuant to 19 CFR

351.205(d), the Department will instruct CBP to require a cash deposit equal to the rates indicated above.

Disclosure

The Department intends to disclose its calculations and analysis to interested parties in this preliminary determination within five days of its public announcement, or if there is no public announcement, within five days

of the date of this notice in accordance with 19 CFR 351.224(b).

Verification

As provided in section 782(i)(1) of the Act, the Department intends to verify the information relied upon in making its final determination.

Public Comment

Case briefs or other written comments may be submitted to the Assistant

³ See Memorandum, "Decision Memorandum for the Preliminary Affirmative Determination of Cast Iron Soil Pipe Fittings from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

⁴ See *Antidumping Duties; Countervailing Duties, Final Rule*, 62 FR 27296, 27323 (May 19, 1997).

⁵ See *Initiation Notice*, 82 FR at 37049.

⁶ See sections 771(5)(B) and (D) of the Act regarding financial contribution; section 771(5)(E) of the Act regarding benefit; and section 771(5A) of the Act regarding specificity.

⁷ See sections 776(a) and (b) of the Act.

⁸ See Petitioner's Letter, "Cast Iron Soil Pipe Fittings from the People's Republic of China: Request to Align the Final Determinations," dated November 16, 2017. The petitioner in this

investigation is the Cast Iron Soil Pipe Institute, a trade association whose members are all domestic producers of soil pipe fittings. The individual members of the Cast Iron Soil Pipe Institute are AB&I Foundry, Charlotte Pipe & Foundry, and Tyler Pipe. See *Initiation Notice*, 82 FR at 37048.

⁹ See Memorandum regarding: Calculation of the All-Others Rate for the Preliminary Determination, dated December 11, 2017.

Secretary for Enforcement and Compliance no later than seven days after the date on which the last verification report is issued in this investigation. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.¹⁰ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this investigation are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

Parties are reminded that briefs and hearing requests are to be filed electronically using ACCESS and that electronically filed documents must be received successfully in their entirety by 5 p.m. Eastern Time on the due date.

International Trade Commission Notification

In accordance with section 703(f) of the Act, the Department will notify the International Trade Commission (ITC) of its determination. If the Department's final determination is affirmative, the ITC will make its final determination before the later of 120 days after the date of this preliminary determination or 45 days after the Department's final determination.

Notification to Interested Parties

This determination is issued and published pursuant to sections 703(f) and 777(i) of the Act and 19 CFR 351.205(c).

Dated: December 11, 2017.

Gary Taverman,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix I

Scope of the Investigation

The merchandise covered by this investigation is cast iron soil pipe fittings, finished and unfinished, regardless of industry or proprietary specifications, and regardless of size. Cast iron soil pipe fittings are nonmalleable iron castings of various designs and sizes, including, but not limited to, bends, tees, wyes, traps, drains, and other common or special fittings, with or without side inlets.

Cast iron soil pipe fittings are classified into two major types—hubless and hub and spigot. Hubless cast iron soil pipe fittings are manufactured without a hub, generally in compliance with Cast Iron Soil Pipe Institute (CISPI) specification 301 and/or American Society for Testing and Materials (ASTM) specification A888. Hub and spigot pipe fittings have hubs into which the spigot (plain end) of the pipe or fitting is inserted. Cast iron soil pipe fittings are generally distinguished from other types of nonmalleable cast iron fittings by the manner in which they are connected to cast iron soil pipe and other fittings.

The subject imports are normally classified in subheading 7307.11.0045 of the Harmonized Tariff Schedule of the United States (HTSUS): Cast fittings of nonmalleable cast iron for cast iron soil pipe. The HTSUS subheading and specifications are provided for convenience and customs purposes only; the written description of the scope of this investigation is dispositive.

Appendix II

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Investigation
- IV. New Subsidy Allegations
- V. Alignment
- VI. Injury Test
- VII. Application of the CVD Law to Imports From the PRC
- VIII. Use of Facts Otherwise Available and Adverse Inferences
- IX. Subsidies Valuation
- X. Benchmarks and Interest Rates
- XI. Analysis of Programs
- XII. Calculation of the All-Others Rate
- XIII. ITC Notification
- XIV. Recommendation

[FR Doc. 2017-27307 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-DS-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF885

Pacific Fishery Management Council; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Pacific Fishery Management Council (Pacific Council) will host the Sixth National Meeting of the Scientific Coordination Subcommittee of the Council Coordination Committee (SCS6). The meeting theme is “The Use of Management Strategy Evaluation to Inform Management Decisions Made by the Regional Fishery Management Councils,” with three subthemes: Use of MSEs in evaluating and modifying harvest control rules; use of MSEs in investigating and accommodating uncertainty; and use of MSEs in adjusting harvest control rules in changing environments/non-static maximum sustainable yield. The agenda for the SCS6 meeting is available at <http://www.fisherycouncils.org/ssc-workshops/sixth-national-ssc-workshop-2018>.

DATES: The SCS6 meeting will be held on January 17–19, 2018. The meeting will begin at 8 a.m. Pacific Standard Time (PST) each day and finish when business is complete for the day.

ADDRESSES: The SCS6 meeting will be held at the Kona Kai Resort, 1551 Shelter Island Drive, San Diego, CA; telephone: (619) 221–8000. The meeting is open to the public and will also be streamed online for those who want to follow the proceedings remotely. Instructions for attending the meeting via live stream broadcast are given under **SUPPLEMENTARY INFORMATION**, below.

Council address: Pacific Fishery Management Council, 7700 NE Ambassador Place, Suite 101, Portland, OR 97220.

FOR FURTHER INFORMATION CONTACT: Mr. John DeVore, Staff Officer, Pacific Fishery Management Council; telephone: (503) 820–2413.

SUPPLEMENTARY INFORMATION: The SCS6 meeting will be live-streamed on the internet during the following hours: Wednesday, January 17, 2018 through Friday, January 19, 2018 beginning at 8 a.m. PST, ending daily at approximately 5:30 p.m. PST or when business for the

¹⁰ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

day is complete. Only the audio portion and presentations displayed on the screen at the SCS6 meeting will be broadcast. The audio portion is listen-only; you will be unable to speak to the meeting participants via the broadcast. To attend the webinar, (1) join the meeting by visiting this link <http://www.gotomeeting.com/online/webinar/join-webinar>; (2) enter the webinar ID: 367-785-355, and (3) enter your name and email address (required). It is recommended that you use a computer headset to listen to the meeting, but you may use your telephone for the audio-only portion of the meeting by dialing the toll number 1-562-247-8422 (not a toll-free number); enter the phone attendee audio access code: 621-905-598; then enter the Audio Pin: Shown after joining the webinar. Technical Information and System Requirements: PC-based attendees are required to use Windows® 7, Vista, or XP; Mac®-based attendees are required to use Mac OS® X 10.5 or newer; Mobile attendees are required to use iPhone®, iPad®, Android™ phone or Android tablet (See the http://www.gotomeeting.com/fec/webinar/gotowebinar_apps).

The purpose of the SCS6 meeting is for participants to discuss the use of Management Strategy Evaluations to better inform management decision-making by the eight Regional Fishery Management Councils and NMFS.

No management actions will be decided by the participants attending the SCS6 meeting. The participants' role will be the development of findings, which will be captured in proceedings of the meeting. These proceedings will be provided to the Council Coordination Committee and posted on the U.S. Regional Fishery Management Councils' website.

Although nonemergency issues not contained in the meeting agendas may be discussed, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically listed in this 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 of the meeting participants to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Mr. Kris

Kleinschmidt (503) 820-2411 at least 10 days prior to the meeting date.

Dated: December 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-27290 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF566

Draft 2017 Marine Mammal Stock Assessment Reports

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

ACTION: Notice; request for comments.

SUMMARY: NMFS reviewed the Alaska, Atlantic, and Pacific regional marine mammal stock assessment reports (SARs) in accordance with the Marine Mammal Protection Act. SARs for marine mammals in the Alaska, Atlantic, and Pacific regions were revised according to new information. NMFS solicits public comments on the draft 2017 SARs.

DATES: Comments must be received by March 19, 2018.

ADDRESSES: The 2017 draft SARs are available in electronic form via the internet at <https://www.fisheries.noaa.gov/national/marine-mammal-protection/draft-marine-mammal-stock-assessment-reports>.

Copies of the Alaska Regional SARs may be requested from Marcia Muto, Alaska Fisheries Science Center, NMFS, 7600 Sand Point Way NE, Seattle, WA 98115-6349.

Copies of the Atlantic, Gulf of Mexico, and Caribbean Regional SARs may be requested from Elizabeth Josephson, Northeast Fisheries Science Center, 166 Water St., Woods Hole, MA 02543.

Copies of the Pacific Regional SARs may be requested from Jim Carretta, Southwest Fisheries Science Center, 8604 La Jolla Shores Drive, La Jolla, CA 92037-1508.

You may submit comments, identified by NOAA-NMFS-2017-0065, by either of the following methods:

Federal e-Rulemaking Portal: Go to www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0065, click the "Comment Now!" icon, complete the required fields, and enter or attach your comments.

Mail: Send comments or requests for copies of reports to: Chief, Marine Mammal and Sea Turtle Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910-3226, Attn: Stock Assessments.

Instructions: NMFS may not consider comments if they are sent by any other method, to any other address or individual, or received after the end of the comment period. All comments received are a part of the public record and will generally be posted for public viewing on www.regulations.gov without change. All personal identifying information (e.g., name, address, etc.), confidential business information, or otherwise sensitive information submitted voluntarily by the sender will be publicly accessible. NMFS will accept anonymous comments (enter "N/A" in the required fields if you wish to remain anonymous).

FOR FURTHER INFORMATION CONTACT: Lisa Lierheimer, Office of Protected Resources, 301-427-8402, Lisa.Lierheimer@noaa.gov; Marcia Muto, 206-526-4026, Marcia.Muto@noaa.gov, regarding Alaska regional stock assessments; Elizabeth Josephson, 508-495-2362, Elizabeth.Josephson@noaa.gov, regarding Atlantic, Gulf of Mexico, and Caribbean regional stock assessments; or Jim Carretta, 858-546-7171, Jim.Carretta@noaa.gov, regarding Pacific regional stock assessments.

SUPPLEMENTARY INFORMATION:

Background

Section 117 of the Marine Mammal Protection Act (MMPA) (16 U.S.C. 1361 *et seq.*) requires NMFS and the U.S. Fish and Wildlife Service (FWS) to prepare stock assessments for each stock of marine mammals occurring in waters under the jurisdiction of the United States, including the Exclusive Economic Zone. These reports must contain information regarding the distribution and abundance of the stock, population growth rates and trends, estimates of annual human-caused mortality and serious injury (M/SI) from all sources, descriptions of the fisheries with which the stock interacts, and the status of the stock. Initial reports were completed in 1995.

The MMPA requires NMFS and FWS to review the SARs at least annually for strategic stocks and stocks for which significant new information is available, and at least once every three years for non-strategic stocks. The term "strategic stock" means a marine mammal stock: (A) For which the level of direct human-caused mortality exceeds the potential biological removal level or PBR (defined

by the MMPA as the maximum number of animals, not including natural mortalities, that may be removed from a marine mammal stock while allowing that stock to reach or maintain its optimum sustainable population); (B) which, based on the best available scientific information, is declining and is likely to be listed as a threatened species under the Endangered Species Act (ESA) within the foreseeable future; or (C) which is listed as a threatened species or endangered species under the ESA. NMFS and the FWS are required to revise a SAR if the status of the stock has changed or can be more accurately determined.

Prior to public review, the updated SARs under NMFS' jurisdiction are peer-reviewed within NMFS' Fisheries Science Centers and by members of three regional independent Scientific Review Groups (SRGs), which were established under the MMPA to independently advise NMFS on information and uncertainties related to the status of marine mammals.

The period covered by the 2017 draft SARs is 2011–2015. NMFS reviewed the status of marine mammal stocks as required and revised a total of 67 reports representing 75 stocks in the Alaska, Atlantic, and Pacific regions to incorporate new information. The 2017 revisions consist primarily of updated or revised M/SI estimates and updated abundance estimates. One stock (Gulf of Maine humpback whale) changed in status from non-strategic to strategic, and three stocks (California/Oregon/Washington (CA/OR/WA) Mesoplodont beaked whales, CA/OR/WA Cuvier's beaked whale, and Hawaii pelagic false killer whale) changed in status from strategic to non-strategic. Substantive revisions to the SARs are discussed below. NMFS solicits public comments on the draft 2017 SARs.

Guidelines for Assessing Marine Mammal Stocks (GAMMS)

The MMPA provides only general guidance on assessment methods and on the content of the reports. As a result, NMFS and FWS have held a series of workshops (1994, 1996, 2003, and 2011) to develop guidelines for consistently assessing marine mammal stocks and developing reports. The guidelines were most recently revised in 2016 (NMFS 2016), based on the 2011 GAMMS workshop, after opportunity for the public to review and provide comments (81 FR 10830, March 2, 2016). The 2017 draft reports reflect the first year that the 2016 revised guidelines have been applied.

Humpback Whales

On September 8, 2016, NMFS published a final rule revising the listing status of humpback whales under the ESA (81 FR 62259). We divided the globally listed endangered species into 14 distinct population segments (DPSs), removed the species-level listing, and in its place, listed four DPSs as endangered and one DPS as threatened. Based on their current statuses, the remaining nine DPSs did not warrant listing. Upon the effective date of the final rule, October 11, 2016, humpback whales listed as threatened or endangered retained their depleted status under the MMPA, and humpback whales not listed as threatened or endangered lost their depleted status under the MMPA.

In response to this revision to the humpback whale listing status, NMFS is currently evaluating the humpback whale stock delineations under the MMPA to determine whether we can align the stocks with the DPSs under the ESA. We note that the DPSs established in this final rule that occur in waters under the jurisdiction of the United States do not necessarily equate to the existing MMPA stocks for which Stock Assessment Reports (SARs) have been published in accordance with section 117 of the MMPA (16 U.S.C. 1386). As described in our **Federal Register** notice requesting comments on the Draft 2016 Marine Mammal Stock Assessment Reports (81 FR 70097, October 11, 2016), until we have completed our review of the MMPA stock delineations, we will treat existing MMPA stocks that fully or partially coincide with a listed DPS as depleted, and stocks that do not fully or partially coincide with a listed DPS as not depleted for management purposes. Therefore, in the interim, we will treat the Western North Pacific, Central North Pacific, and California/Oregon/Washington stocks as endangered and depleted because they partially or fully coincide with ESA-listed DPSs, and we will treat the Gulf of Maine and American Samoa stocks as no longer depleted because they do not coincide with any ESA-listed DPS. Any changes in stock delineation or MMPA section 117 elements (such as PBR or strategic status) will be reflected in future stock assessment reports, and the Scientific Review Groups and the public will be provided opportunity to review and comment.

Alaska Reports

In 2017, NMFS reviewed all 45 stocks in the Alaska region, and updated SARs under NMFS jurisdiction for 18 stocks (13 strategic and 5 non-strategic). Reports for the following strategic stocks

were revised for 2017: Steller sea lion, Western U.S.; northern fur seal, Eastern Pacific; beluga whale, Cook Inlet; killer whale, AT1 Transient; harbor porpoise, Southeast Alaska, Gulf of Alaska, and Bering Sea stocks; sperm whale, North Pacific; humpback whale, Western North Pacific and Central North Pacific stocks; fin whale, Northeast Pacific; North Pacific right whale, Eastern North Pacific; and bowhead whale, Western Arctic. Reports for the following non-strategic stocks were revised for 2017: Spotted seal, Alaska; and beluga whale, Beaufort Sea, Eastern Chukchi Sea, Eastern Bering Sea, and Bristol Bay stocks. Information on the remaining Alaska region stocks can be found in the final 2016 reports (Muto *et al.*, 2017).

Most revisions to the Alaska SARs included updates of abundance and/or M/SI estimates, including revised abundance estimates for the Western U.S. stock of Steller sea lions; Eastern Pacific northern fur seals; Alaska spotted seals; Eastern Chukchi Sea, Eastern Bering Sea, and Bristol Bay stocks of beluga whales; and Western Arctic bowhead whales.

Atlantic Reports

In 2017, NMFS reviewed all 116 stocks in the Atlantic region (including the Atlantic Ocean, Gulf of Mexico, and U.S. territories in the Caribbean), and updated SARs for 21 stocks under NMFS jurisdiction (13 strategic and 8 non-strategic). The reports for the following strategic stocks were revised for 2017: North Atlantic right whale, western Atlantic; humpback whale, Gulf of Maine; fin whale, Western North Atlantic (WNA); Bryde's whale, Gulf of Mexico; and 9 common bottlenose dolphin stocks (WNA northern migratory coastal; WNA southern migratory coastal; WNA South Carolina/Georgia coastal; WNA northern Florida coastal; WNA central Florida coastal; northern North Carolina Estuarine System; southern North Carolina Estuarine System; Barataria Bay Estuarine System; and Mississippi Sound, Lake Borgne, Bay Boudreau).

Reports for the following non-strategic stocks were revised for 2017: Minke whale, Canadian east coast; Risso's dolphin, WNA; Atlantic white-sided dolphin, WNA; common dolphin, WNA offshore; harbor porpoise, Gulf of Maine/Bay of Fundy; harbor seal, WNA; gray seal, WNA; and harp seal, WNA. Information on the remaining Atlantic region stocks can be found in the final 2016 reports (Waring *et al.*, 2017).

Most revisions to the Atlantic SARs included updates of abundance and/or M/SI estimates. New abundance estimates are available for the North

Atlantic right whale, western Atlantic; humpback whale, Gulf of Maine; and seven common bottlenose dolphin stocks (5 WNA coastal stocks, and 2 Gulf of Mexico stocks). For the 2017 SAR cycle, NMFS rewrote seven Atlantic common bottlenose dolphin reports (5 WNA coastal stocks, and the Northern North Carolina and Southern North Carolina Estuarine System Stocks) to address general comments from the SRG. Therefore, the reader will not see tracked changes in the draft 2017 reports for these stocks.

The draft 2017 North Atlantic right whale, western Atlantic SAR provides an updated abundance estimate for right whales of 455, based on a new statistical model for estimating abundance (Pace *et al.*, in press). When comparing the minimum abundance estimate from the 2016 SAR, the abundance appears to increase from 440 (final 2016 SAR) to 455 (draft 2017 SAR). However, these estimates are not comparable as they were derived using different methodologies. Prior assessments used counts of different individuals seen in a year, combined with some assumptions about deaths among those animals seen in prior years but not in the current year—the minimum number alive. In recent years, this method has been confounded by a change in right whale behavior: Whales are not being sighted at the times and places where they have historically been found and therefore are less likely to be sighted. The new statistical model for estimating abundance results in an estimate that is more current and more representative of the population trend than the minimum number alive method of the past. The model results of the time-series of abundance estimates show that abundance has slowly declined since 2010, after relatively steady increases since the early 1990s. However, M/SI estimates continue to be calculated based on the number reported. The mortality of female right whales is substantially (~50%) higher than males, and there are presently 1.5 males for each female in the species.

As a result of the humpback whale ESA listing rule (81 FR 62259; September 8, 2016), the Gulf of Maine stock of humpback whales is no longer considered ESA listed or depleted. Based on the most recent line-transect survey, the estimate of abundance for the Gulf of Maine humpback whales is 335, with a minimum population estimate of 239 whales. The previous estimate of 823 was based on data that are now considered outdated (greater than 8 years old) and those data were not included in this most recent abundance estimate; thus, the 2017

abundance estimate is considered negatively biased and likely not a true reflection of the size of the stock. Although the abundance appears to decline from 2016 to 2017, these estimates should not be compared as they were derived using different methodologies and data sets. As a result of the lower abundance estimate, the PBR for the Gulf of Maine humpback whale stock was reduced from 13 to 3.7 whales. The estimate of human-caused M/SI is now above PBR; thus, the stock has changed from non-strategic to strategic. However, because the abundance estimate is fairly imprecise, incomplete in coverage, and known to be negatively biased, the uncertainties associated with this assessment may have produced an incorrect determination of strategic status.

Abundance estimates were updated for the Barataria Bay Estuarine System (BBES) and the Mississippi Sound, Lake Borgne, Bay Boudreau (MS) stocks of common bottlenose dolphins in the draft 2017 SARs. The abundance estimates were derived using a spatially-explicit capture-mark-recapture model using photo-identification data collected during 2010–2014 (McDonald *et al.*, 2017, Hornsby *et al.*, 2017). The best estimate of abundance for the BBES stock of common bottlenose dolphins is 2,306, and the minimum population estimate is 2,138 bottlenose dolphins; both of these estimates were previously listed as “unknown” in the last revised SAR (2015). The updated PBR for the BBES stock of common bottlenose dolphins is 21. The updated best abundance estimate for the MS stock is 3,046, and the minimum abundance estimate is 2,896 (901 and 551, respectively, in the 2015 SAR). The abundance estimate for the MS stock is substantially higher than estimates reported in the 2015 SAR which were derived from aerial surveys. The updated estimate is still an underestimate of total stock size. The resulting PBR for the MS stock is 29 (5.6 in the 2015 SAR). The current best abundance estimate for common dolphins off the U.S. Atlantic coast is 70,184. This estimate, derived from 2011 shipboard and aerial surveys, is the only current estimate available. This estimate is substantially lower than the estimate from the 2015 SAR (173,486), because the previous estimate included data from the 2007 Trans-North Atlantic Sighting survey of Canadian waters. As recommended in the GAMMS (NMFS 2016), estimates older than eight years are unreliable, so this new estimate does not include data from the 2007 Canadian survey. The estimate should

not be interpreted as a decline in abundance of this stock, as previous estimates are not directly comparable.

The best estimate of abundance for the western North Atlantic stock of gray seals in Canada is 424,300 (CV = 0.16) using model-based abundance estimates derived from pup surveys. The ratio of total population size to pups in Canada is applied to the count of pups born in U.S. waters in 2016 (6,274), to approximate an Nbest and Nmin for gray seals in the U.S. The best estimate of abundance of gray seals in U.S. waters is 26,985 (95% CI: 22,042–33,036) and the minimum abundance in U.S. waters is 25,768. There is uncertainty in these abundance levels in the U.S. because life history parameters that influence the ratio of pups to total individuals in this portion of the population are unknown. Based on the minimum population estimate in U.S. waters, PBR for the portion of the stock in U.S. waters is 1,546. In U.S. waters, human-caused mortality does not exceed PBR.

Pacific Reports

In 2017, NMFS reviewed and considered for revising all 85 stocks in the Pacific region (waters along the west coast of the United States, within waters surrounding the main and Northwestern Hawaiian Islands (NWHI), and within waters surrounding U.S. territories in the Western Pacific), and updated SARs for 36 stocks (10 strategic and 26 non-strategic). The reports for the following strategic stocks were revised for 2017: Hawaiian monk seal; killer whale, Eastern North Pacific Southern Resident; sperm whale, CA/OR/WA; humpback whale, CA/OR/WA; blue whale, Eastern North Pacific; false killer whale, Main Hawaiian Islands (MHI) Insular; sperm whale, Hawaii (HI); blue whale, Central North Pacific; fin whale, HI; and sei whale, HI.

Reports for the following non-strategic stocks were revised for 2017: Baird's beaked whale, CA/OR/WA; Cuvier's beaked whale, CA/OR/WA; Mesoplodont beaked whales, CA/OR/WA; rough-toothed dolphin, HI; Risso's dolphin, HI; common bottlenose dolphin, Hawaiian Islands Stock Complex (five stocks: HI pelagic, Kaua'i and Ni'ihau, O'ahu, 4-Islands region, and Hawaiian Island); pantropical spotted dolphin, Hawaiian Islands Stock Complex (four stocks: HI pelagic, O'ahu, 4-Islands region, and HI Island); striped dolphin, HI pelagic; Fraser's dolphin, HI; melon-headed whale, Hawaiian Islands; pygmy killer whale, HI; false killer whale, NWHI; false killer whale, HI pelagic; killer whale, HI; short-finned pilot whale, HI; Blainville's beaked whale, HI Pelagic; Longman's beaked

whale, HI; Cuvier's beaked whale, HI pelagic; and Bryde's whale, HI. The HI pelagic false killer whale, CA/OR/WA Mesoplodont beaked whales, and CA/OR/WA Cuvier's beaked whale stocks changed from strategic to non-strategic because their five-year mortality and serious injury estimates for 2011–2015 are less than their PBRs. Information on the remaining Pacific region stocks can be found in the final 2016 reports (Carretta *et al.*, 2017).

Several abundance estimates for Pacific stocks were updated in the draft 2017 reports based on a new analysis of a 2010 pelagic line-transect survey within the U.S. Exclusive Economic Zone (EEZ) around the Hawaiian Islands (Bradford *et al.*, 2017a), a mark-recapture photo-ID analysis of MHI Insular false killer whales (Bradford *et al.*, 2017b), and completed 2015 field studies of Hawaiian monk seals (Johanos 2017). The updated estimates of abundance for California Current beaked whales are based on a recent trend-based analysis (Moore and Barlow 2017).

The Hawaii pelagic false killer whale stock changed from “strategic” to “non-strategic” because M/SI is now below PBR. However, the stock status is based on information only from within the U.S. EEZ around Hawaii because that is where the stock's abundance has been assessed, even though the stock's range (and fishery bycatch) extends into the adjacent high seas. Mortality and serious injury of this stock outside the EEZ (where there is no PBR) is not factored into the evaluation of stock status.

New approaches were developed to estimate Hawaiian monk seal abundance, both range-wide and at individual subpopulations. In the draft 2017 SAR, the best estimate of the total population size is 1,324 seals with a minimum abundance estimate of 1,261 (1,272 and 1,205, respectively, in the 2016 SAR). Past reports have concluded that Hawaiian monk seal stock dynamics did not conform to the underlying model for calculating PBR because the stock was declining despite being well below OSP. As a result, PBR for the Hawaiian monk seal was undetermined. The trend since 2013 does not indicate the stock has continued to decline, so that PBR may be determined. For the first time, the monk seal SAR provides a valid calculation for PBR of 4.4.

Dated: December 14, 2017.

Donna S. Wieting,

*Director, Office of Protected Resources,
National Marine Fisheries Service.*

[FR Doc. 2017–27281 Filed 12–18–17; 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: Pacific Islands Region Permit Family of Forms.

OMB Control Number: 0648–0490.

Form Number(s): None.

Type of Request: Regular (revision and extension of a currently approved information collection).

Number of Respondents: 354.

Average Hours per Response: Hawaii longline limited entry permits: Renewal on paper application—30 minutes; renewal online—15 minutes; transfer—1 hour, closed area exemption and permit appeals—2 hours; American Samoa longline limited entry permits: Renewal and additional permit application—45 minutes, transfer—1 hour 15 minutes, permit appeals—2 hours; all other permits: Paper—30 minutes, online—15 minutes.

Burden Hours: 169.

Needs and Uses: Regulations at 50 CFR 665, Subpart F, require that a vessel must be registered to a valid federal fishing permit to fish with longline gear for Pacific pelagic management unit species (PMUS), land or transship longline caught PMUS, or receive longline caught PMUS from a longline vessel, within the Exclusive Economic Zone (EEZ) of United States (U.S.) islands in the central and western Pacific, to fish with pelagic squid jig gear for PMUS within the Exclusive Economic Zone (EEZ) of United States (U.S.) islands in the central and western Pacific, or to fish with troll and handline gear for PMUS within the EEZ around each of the Pacific Remote Island Areas (PRIA), in areas not prohibited to fishing.

Regulations at 50 CFR parts 665, Subparts D and E, require that the owner of a vessel used to fish for, land,

or transship bottomfish management unit species (BMUS) using a large vessel (50 ft or longer) around Guam, fish commercially for BMUS in the EEZ around the Northern Mariana Islands, or use a vessel to fish for BMUS within the EEZ around each of the PRIA, in areas not prohibited to fishing, must register it to a valid federal fishing permit.

Regulations at 50 CFR 665, Subparts B, C, D, and E, require that a vessel used to fish for precious corals within the EEZ of U.S. islands in the central and western Pacific, must be registered to a valid federal fishing permit for a specific precious coral permit area.

The collection is revised by merging currently approved information collections OMB Control Numbers 0648–0584, Northern Mariana Islands Commercial Bottomfish Fishery Permit, 0648–0586, Pacific Islands Crustacean Permit, and 0648–0589, Pacific Islands Pelagic Squid Jig Fishing Permit, into OMB Control No. 0648–0490 Pacific Islands Region Permit Family of Forms. NMFS approved new two-tier processing fees for most permits, resulting in revised cost estimates.

Affected Public: Business or other for-profit organizations; individuals or households.

Frequency: Annually and on occasion.

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: December 14, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017–27288 Filed 12–18–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF899

**Fisheries of the South Atlantic;
Southeast Data, Assessment, and
Review (SEDAR); Public Meetings**

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

ACTION: Notice of SEDAR 55 Assessment Webinars I and II.

SUMMARY: The SEDAR 55 assessment of the South Atlantic stock of Vermilion Snapper will consist of a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: SEDAR 55 Assessment webinar I and II will be held on Thursday, January 11, 2018, from 9 a.m. until 1 p.m.; and Friday, February 9, 2018, from 9 a.m. until 1 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd 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: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; www.sedarweb.org.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571-4366; email: julia.byrd@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. The product of the SEDAR webinar series will be a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species 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 non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment webinars are as follows:

1. Participants will continue discussions to develop population models to evaluate stock status, estimate population benchmarks, and project future conditions, as specified in the Terms of Reference.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

3. Participants will prepare a workshop report and determine whether the assessment(s) are adequate for submission for review.

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

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business 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: December 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-27293 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648-XF880

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Public Meetings

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

ACTION: Notice of SEDAR 56 Assessment Webinars I and II.

SUMMARY: The SEDAR 56 assessment of the South Atlantic stock of *Black*

Seabass will consist of a series of webinars. See **SUPPLEMENTARY INFORMATION**.

DATES: SEDAR 56 Assessment webinar I and II will be held on Friday, January 12, 2018, from 9 a.m. until 1 p.m.; and Monday, January 29, 2018, from 9 a.m. until 1 p.m.

ADDRESSES:

Meeting address: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd 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: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; www.sedarweb.org.

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone (843) 571-4366; email: julia.byrd@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. The product of the SEDAR webinar series will be a report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses, and describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species 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 non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion in the Assessment webinars are as follows:

1. Participants will continue discussions to develop population models to evaluate stock status, estimate population benchmarks, and project future conditions, as specified in the Terms of Reference.

2. Participants will recommend the most appropriate methods and configurations for determining stock status and estimating population parameters.

3. Participants will prepare a workshop report and determine whether the assessment(s) are adequate for submission for review.

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: This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 10 business 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: December 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017-27284 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Atlantic Highly Migratory Species Vessel and Gear Marking

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before February 20, 2018.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW, Washington, DC 20230 (or via the internet at pracommments@doc.gov).

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the information collection instrument and instructions should be directed to Craig Cockrell, Highly Migratory Species Management Division, 13533 F/SF1, 1315 East-West Highway, Silver Spring, MD 20910; 301-427-8503; or craig.cockrell@noaa.gov.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a current information collection. These requirements apply to vessel owners in the Atlantic highly migratory species (HMS) Fishery.

Under current regulations at 50 CFR 635.6, fishing vessels permitted for Atlantic HMS fisheries must display their official vessel numbers on their vessels. Flotation devices and high-flyers attached to certain fishing gears must also be marked with the vessel's number to identify the vessel to which the gear belongs. These requirements are necessary for identification, law enforcement, and monitoring purposes.

Specifically, all vessel owners that hold a valid Atlantic HMS permit under 50 CFR 635.4, other than an Atlantic HMS Angling permit, are required to display their vessel identification number. Numbers must be permanently affixed to, or painted on, the port and starboard sides of the deckhouse or hull and on an appropriate weather deck, so as to be clearly visible from an enforcement vessel or aircraft. The vessel's identification number must be in block Arabic numerals permanently affixed to or painted on the vessel in contrasting color to the background, and must be at least 18 inches (45.7 cm) in height for vessels over 65 ft (19.8 m) in length; at least 10 inches (25.4 cm) in height for all other vessels over 25 ft (7.6 m) in length; and at least 3 inches (7.6 cm) in height for vessels 25 ft (7.6 m) in length or less.

Furthermore, the owner or operator of a vessel for which a permit has been issued under § 635.4 and that uses handline, buoy gear, harpoon, longline, or gillnet, must display the vessel's

name, registration number or Atlantic Tunas, Atlantic HMS Angling, or Atlantic HMS Charter/Headboat permit number on each float attached to a handline, buoy gear, or harpoon, and on the terminal floats and high-flyers (if applicable) on a longline or gillnet used by the vessel. The vessel's name or number must be at least 1 inch (2.5 cm) in height in block letters or arabic numerals in a color that contrasts with the background color of the float or high-flyer.

II. Method of Collection

There is no form or information collected under this requirement. Official vessel numbers issued to vessel operators are marked on the vessel and on flotation gear, if applicable.

III. Data

OMB Control Number: 0648-0373.

Form Number: None.

Type of Review: Regular submission (extension of a current information collection).

Affected Public: Non-profit institutions; State, local, or tribal government; business or other for-profit organizations (vessel owners).

Estimated Number of Respondents: 7,652.

Estimated Time per Response: 1 hour.

Estimated Total Annual Burden Hours: 7,652.

Estimated Total Annual Cost to Public: \$795,808.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

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

Dated: December 14, 2017.

Sarah Brabson,

NOAA PRA Clearance Officer.

[FR Doc. 2017-27289 Filed 12-18-17; 8:45 am]

BILLING CODE 3510-22-P

DEPARTMENT OF COMMERCE**National Oceanic and Atmospheric Administration**

RIN 0648–XF886

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public scoping meetings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public scoping meetings via webinar pertaining to Amendment 13 to the Spiny Lobster Fishery Management Plan (FMP) for the Gulf of Mexico and Atlantic Region. The amendment addresses alternatives for bully net regulations and enhanced cooperative management.

DATES: The scoping meetings will be held via webinar on January 8 and January 9, 2018.

ADDRESSES: *Council address:* South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone (843) 571–4366 or toll free (866) SAFMC–10; fax: (843) 769–4520; email: kim.iverson@safmc.net.

SUPPLEMENTARY INFORMATION: The scoping meetings will be conducted via webinar accessible via the internet from the Council's website at www.safmc.net. The scoping meetings will begin at 6 p.m. Registration for the webinars is required. Registration information will be posted on the Council's website at www.safmc.net as it becomes available.

Amendment 13 to the Spiny Lobster Fishery Management Plan

The draft amendment currently addresses inconsistencies between State of Florida spiny lobster regulations and those in federal waters including options for endorsement, marking, and gear prohibitions for bully net gear in the exclusive economic zone (EEZ) off Florida. The amendment also addresses re-establishing the procedure for enhanced cooperative management protocol for roles of federal and State of Florida agencies for the management of spiny lobster. Additional options to address bag limits on board commercial bully netters and divers, degradable panels in lobster traps, and the definition of artificial habitat are also included. The measures are expected to

help management and enforcement of spiny lobster harvest by creating consistent regulations in state and federal waters.

During the scoping meetings, Council staff will present an overview of the amendment and will be available for informal discussions and to answer questions via webinar. Members of the public will have an opportunity to go on record to record their comments for consideration by the Council.

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: December 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–27292 Filed 12–18–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF EDUCATION

[Docket No.: ED–2017–ICCD–0113]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Comment Request; Experimental Sites Initiative Reporting Tool 2017

AGENCY: Federal Student Aid (FSA), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing a new information collection.

DATES: Interested persons are invited to submit comments on or before January 18, 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–0113. Comments submitted in response to this notice should be submitted electronically through the Federal eRulemaking Portal at <http://www.regulations.gov> by selecting the Docket ID number or via postal mail, commercial delivery, or hand delivery. *Please note that comments submitted by fax or email and those submitted after the comment period will not be accepted.* Written requests for information or comments submitted by

postal mail or delivery should be addressed to the Director of the Information Collection Clearance Division, U.S. Department of Education, 400 Maryland Avenue SW, LBJ, Room 216–34, Washington, DC 20202–4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Warren Farr, 202–377–4380.

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: Experimental Sites Initiative Reporting Tool 2017.

OMB Control Number: 1845–NEW.

Type of Review: A new information collection.

Respondents/Affected Public: Private Sector; State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 300.

Total Estimated Number of Annual Burden Hours: 5,100.

Abstract: The Secretary of the U.S. Department of Education is authorized under Sec. 487A(b) to periodically select a limited number of institutions for voluntary participation as experimental sites under the Experimental Sites Initiatives (ESI) to provide recommendations on the impact and effectiveness of proposed regulations or new management initiatives. The

Department approved nine experiments to test ways to address federal objectives and meet the needs of financial aid administrators and federal financial aid recipients. Under the experiments, institutions are given the flexibility to test alternatives to existing requirements so that the Department can analyze the data obtained from participating institutions to validate current practices or to obtain information supportive of regulatory changes or recommendations for legislative change. The collection of this data and the results of these experiments will help the Department in its continuing efforts to improve Title IV program administration.

Dated: December 13, 2017.

Kate Mullan,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-27243 Filed 12-18-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

[Docket No.: ED-2017-ICCD-0158]

Agency Information Collection Activities; Comment Request; Annual Report on Appeals Process RSA-722

AGENCY: Office of Special Education and Rehabilitative Services (OSERS), Department of Education (ED).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, ED is proposing an extension of an existing information collection.

DATES: Interested persons are invited to submit comments on or before February 20, 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-0158. 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 216-44, Washington, DC 20202-4537.

FOR FURTHER INFORMATION CONTACT: For specific questions related to collection activities, please contact Edward West, 202-245-6145.

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: Annual Report on Appeals Process RSA-722.

OMB Control Number: 1820-0563.

Type of Review: An extension of an existing information collection.

Respondents/Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Annual Responses: 79.

Total Estimated Number of Annual Burden Hours: 158.

Abstract: Pursuant to Subsection 102(c)(8)(A) and (B) of the Rehabilitation Act of 1973 as amended by the Workforce Innovation and Opportunity Act the RSA-722 is needed to meet specific data collection requirements on the number of requests for mediations, hearings, administrative reviews and other methods of dispute resolution requested and the manner in which they were resolved. The information collected is used to evaluate the types of complaints made by applicants and eligible individuals of the vocational rehabilitation program and the final resolution of appeals filed. Respondents are State agencies that

administer the Federal/State Program for Vocational Rehabilitation.

Dated: December 13, 2017.

Tomakie Washington,

Acting Director, Information Collection Clearance Division, Office of the Chief Privacy Officer, Office of Management.

[FR Doc. 2017-27219 Filed 12-18-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF EDUCATION

National Assessment Governing Board

AGENCY: National Assessment Governing Board, U.S. Department of Education.

ACTION: Announcement of closed teleconference meeting.

SUMMARY: This notice sets forth the agenda for the January 11, 2018 closed teleconference meeting of the National Assessment Governing Board's (Governing Board) Nominations Committee, which has been delegated by the Governing Board to take action on behalf of the Board. This notice provides information to members of the public who may be interested in providing written comments related to the work of the Governing Board. Notice of this meeting is required under the Federal Advisory Committee Act (FACA).

FOR FURTHER INFORMATION CONTACT: Munira Mwalimu, Executive Officer/ Designated Federal Official for the Governing Board, 800 North Capitol Street NW, Suite 825, Washington, DC 20002, telephone: (202) 357-6938, fax: (202) 357-6945, email: Munira.Mwalimu@ed.gov.

SUPPLEMENTARY INFORMATION: *Statutory Authority and Function:* The Governing Board is established under the National Assessment of Educational Progress Authorization Act, Title III of Public Law 107-279. Written comments may be submitted electronically or in hard copy to the attention of the Executive Officer/Designated Federal Official (see contact information noted above). Information on the Governing Board, its membership and work can be found at www.nagb.gov.

The Governing Board is established to formulate policy for the National Assessment of Educational Progress (NAEP). The Governing Board's responsibilities include selecting subject areas to be assessed, developing assessment frameworks and specifications, developing appropriate student achievement levels for each grade and subject tested, improving the form and use of NAEP, developing

guidelines for reporting and disseminating results, and releasing initial NAEP results to the public.

The Governing Board's Nominations Committee fulfills the responsibility of making recommendations for potential candidates to fill Governing Board vacancies for terms of service established by law in various Governing Board categories. Following Nominations Committee action on the recommendations (per delegation of authority from the Governing Board on nominees from the October 2016 call for nominees), the final slate of candidates is submitted to the Secretary of Education for consideration and appointment to serve on the Governing Board, as defined in Section 302, Public Law 107-279; see <https://nagb.gov/about-naep/the-naep-law.html>.

On January 11, 2018, the Nominations Committee will meet in closed session from 6:30 p.m. to 8:30 p.m. The Committee will discuss nominees for the position of Chief State School Officer to complete the term of service (term expires on September 30, 2018) of the former incumbent, Massachusetts Commissioner of Education, Mitchell Chester. The Nominations Committee's discussions pertain solely to internal personnel rules and practices of an agency and information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy. As such, the discussions are protected by exemptions 2 and 6 of § 552b(c) of Title 5 of the United States Code.

During the November 17, 2017 Governing Board meeting, the Governing Board delegated authority to the Nominations Committee to receive, review, and take action on the final slate of recommended candidates for the position of Chief State School Officer. This delegation of authority allows the

timely submission of candidates to the Secretary of Education for consideration and action prior to the March 2018 Governing Board meeting.

Access to Records of the Meeting: Pursuant to FACA requirements, the public may also inspect the meeting deliberations for the November 2017 Board meeting via meeting minutes wherein the delegation of authority to take action on behalf of the Board was issued to the Nominations Committee by the Governing Board at www.nagb.gov beginning on February 12, 2018 by 10:00 a.m. ET. The report of the January 11 closed meeting will be available also on February 12, 2018.

Electronic Access to this Document: The official version of this document is published in the **Federal Register**. Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: www.gpo.gov/fdsys. At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF, you must have Adobe Acrobat Reader, which is available free at the Adobe website. You may also access documents of the Department published in the **Federal Register** by using the article search feature at: www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: Pub. L. 107-279, Title III—National Assessment of Educational Progress § 301.

William J. Bushaw,
Executive Director, National Assessment Governing Board (NAGB), U.S. Department of Education.

[FR Doc. 2017-27127 Filed 12-18-17; 8:45 am]

BILLING CODE 4000-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Sunshine Act Meeting Notice

The following notice of meeting is published pursuant to section 3(a) of the government in the Sunshine Act (Pub. L. 94-409), 5 U.S.C. 552b:

AGENCY HOLDING MEETING: Federal Energy Regulatory Commission.

DATE AND TIME: December 21, 2017, 10:00 a.m.

PLACE: Room 2C, 888 First Street NE, Washington, DC 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda, *NOTE—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kimberly D. Bose, Secretary, Telephone (202) 502-8400. For a recorded message listing items struck from or added to the meeting, call (202) 502-8627.

This is a list of matters to be considered by the Commission. It does not include a listing of all documents relevant to the items on the agenda. All public documents, however, may be viewed on line at the Commission's website at <http://ferc.capitolconnection.org/> sing the eLibrary link, or may be examined in the Commission's Public Reference Room.

1038TH—MEETING

[Regular Meeting; December 21, 2017, 10:00 a.m.]

Item No.	Docket No.	Company
ADMINISTRATIVE		
A-1	AD18-1-000	Agency Administrative Matters.
A-2	AD18-2-000	Customer Matters, Reliability, Security and Market Operations.
ELECTRIC		
E-1	RM18-2-000	Cyber Security Incident Reporting Reliability Standards.
E-2	AD17-9-000	Fast-Start Pricing in Markets Operated by Regional Transmission Organizations and Independent System Operators.
E-2	RM17-3-000	
E-3	EL18-33-000	New York Independent System Operator, Inc.
E-4	EL18-34-000	PJM Interconnection, L.L.C.
E-5	EL18-35-000	Southwest Power Pool, Inc.
E-6	ER18-208-000	Southwest Power Pool, Inc.
E-7	ER17-2027-000, ER17-2027-001	Southwest Power Pool, Inc.

1038TH—MEETING—Continued
 [Regular Meeting; December 21, 2017, 10:00 a.m.]

Item No.	Docket No.	Company
E-8	ER17-1741-000	Southwest Power Pool, Inc.
	ER17-1741-001	
E-9	ER17-426-000, ER17-426-002	Southwest Power Pool, Inc.
E-10	ER17-2097-001	Midcontinent Independent System Operator, Inc.
E-11	ER05-1056-010	Chehalis Power Generating, L.P.
E-12	ER17-192-002	Northern Maine Independent System Administrator, Inc.
E-13	EL17-51-000, ER17-912-002	Arizona Public Service Company.
E-14	EL16-116-000, ER16-277-008, ER16-1456-009.	Talen Energy Marketing, LLC.
	ER10-2432-014	Bayonne Plant Holding, L.L.C.
	ER10-2435-014	Camden Plant Holding, L.L.C.
	ER10-2442-012	Elmwood Park Power, LLC.
	ER10-2444-014	Newark Bay Cogeneration Partnership, L.P.
	ER10-3272-004	Lower Mount Bethel Energy, LLC.
	ER10-2449-012	York Generation Company LLC.
	ER16-2438-002	Pedricktown Cogeneration Company LP.
	ER16-2439-002	H.A. Wagner LLC.
	ER16-2440-002	Brandon Shores LLC.

GAS

G-1	RP18-183-000	Enterprise Products Operating LLC and Tenaska Marketing Ventures.
G-2	RP17-851-000	Gulf South Pipeline Company, LP.
G-3	RP17-848-000	Midcontinent Express Pipeline LLC.
G-4	PR17-28-000	Bay Gas Storage Company, Ltd.
G-5	RP17-806-000	Discovery Gas Transmission LLC.
G-6	RP17-990-000	Northern Natural Gas Company.
G-7	RP18-167-000	Energy Corporation of America and Greylock Production, LLC.
G-8	OR17-21-000	Grieve Pipeline, LLC.

HYDRO

H-1	RM16-19-000	Annual Charges for Use of Government Lands in Alaska.
H-2	P-2660-029	Woodland Pulp LLC.
H-3	P-14796-000	GreenGenStorage LLC.
H-4	P-14837-001	Advanced Hydropower, Inc.
H-5	P-1256-032	Loup River Public Power District.
H-6	P-1971-122	Idaho Power Company.

CERTIFICATES

C-1	CP16-33-000	Town of Walnut, Mississippi.
C-2	CP13-83-000	Arlington Storage Company, LLC.
C-3	CP16-9-003	Algonquin Gas Transmission, LLC.
	CP16-9-005, CP16-9-006, CP16-9-007	Maritimes & Northeast Pipeline, L.L.C.

Dated: December 14, 2017.

Kimberly D. Bose,
Secretary.

A free webcast of this event is available through <http://ferc.capitolconnection.org/>. Anyone with internet access who desires to view this event can do so by navigating to www.ferc.gov's Calendar of Events and locating this event in the Calendar. The event will contain a link to its webcast. The Capitol Connection provides technical support for the free webcasts. It also offers access to this event via television in the DC area and via phone bridge for a fee. If you have any questions, visit <http://ferc.capitolconnection.org/> or contact Danelle Springer or David Reininger at 703-993-3100.

Immediately following the conclusion of the Commission Meeting, a press briefing will be held in the Commission Meeting Room. Members of the public may view this briefing in the designated overflow room. This statement is intended to notify the public that the press briefings that follow Commission meetings may now be viewed remotely at Commission headquarters, but will not be telecast through the Capitol Connection service.

[FR Doc. 2017-27371 Filed 12-15-17; 11:15 am]

BILLING CODE 6717-01-P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18-11-000]

East Cheyenne Gas Storage, LLC; Notice of Intent To Prepare an Environmental Assessment for the Proposed Lewis Creek Amendment Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Lewis Creek Amendment Project (Project). The Commission will use this EA in its decision-making process to

determine whether the project is in the public convenience and necessity. East Cheyenne Gas Storage, LLC (East Cheyenne) is seeking authorization to amend the certificate previously issued in FERC Docket No. CP10–34–000 for the East Cheyenne Gas Storage Project in Logan County, Colorado. Specifically East Cheyenne seeks authorization to combine the working gas capacity and cushion gas capacity for the West Peetz and Lewis Creek Storage Fields and utilize the same maximum bottom-hole pressure, thus eliminating separately certified capacities for each field. East Cheyenne requests this amendment because recent (updated) geologic information shows that the West Peetz and Lewis Creek D-sands in the storage field are a single integrated reservoir. As part of this consolidation, East Cheyenne would reconfigure certain natural gas facilities in the Lewis Creek portion of the Project; and expand the buffer zone of the Project.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. Your input will help the Commission staff determine what issues they need to evaluate in the EA. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before January 8, 2018.

If you sent comments on this project to the Commission before the opening of this docket on October 27, 2017, you will need to file those comments in Docket No. CP18–11–000 to ensure they are considered as part of this proceeding.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement

negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

East Cheyenne provided landowners with a fact sheet prepared by the FERC entitled *An Interstate Natural Gas Facility On My Land? What Do I Need To Know?* This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC website (www.ferc.gov).

Public Participation

For your convenience, there are three methods you can use to submit your comments to the Commission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or FercOnlineSupport@ferc.gov. Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the *eComment* feature on the Commission's website (www.ferc.gov) under the link to *Documents and Filings*. This is an easy method for submitting brief, text-only comments on a project;

(2) You can file your comments electronically by using the *eFiling* feature on the Commission's website (www.ferc.gov) under the link to *Documents and Filings*. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on *eRegister*. If you are filing a comment on a particular project, please select "Comment on a Filing" as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address. Be sure to reference the project docket number (CP18–11–000) with your submission: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Room 1A, Washington, DC 20426.

Summary of the Proposed Project

East Cheyenne proposes to amend its current certificated Project by:

1. Reconfiguring the Injection/Withdrawal (I/W) wells in the Lewis Creek portion of the Project by converting one existing non-jurisdictional well to an I/W well (LC–D021) and collocating on the existing, non-jurisdictional well pad five directionally drilled I/W wells (LC–

D022, LC–D023, LC–D024, LC–D025, and LC–D026).

2. combining the certificated maximum working gas and cushion gas capacities of the West Peetz and Lewis Creek Storage Fields, eliminating the separate certificated West Peetz and Lewis Creek working and cushion gas capacities and reallocating cushion gas capacity as working gas capacity;

3. decreasing the total cushion gas capacity to 12.1 billion cubic feet and increasing the total working gas capacity to 22.5 billion cubic feet;¹

4. eliminating the currently certificated maximum bottom-hole pressure distinction between the West Peetz Storage Field (2,353 pounds per square inch absolute [PSIA]) and the Lewis Creek Storage Field (1,900 PSIA) and applying a maximum bottom-hole pressure of 2,353 PSIA uniformly across the single, integrated storage reservoir;

5. reconfiguring the pipelines originally certificated for the Lewis Creek Storage Field by:

a. Reducing the diameter of the previously authorized 20-inch-diameter Lewis Creek natural gas mainline pipeline to a 16-inch-diameter pipeline; and

b. reconfigure the 16-inch-diameter Lewis Creek natural gas mainline and the 6-inch-diameter water disposal pipeline as the Lewis Creek produced water mainline to connect directly to the reconfigured I/W wells LC–D021 through LC–D026 on the single LC–D021 well pad.²

6. reconfiguring the monitoring wells originally certificated for the Lewis Creek Storage Field. Eight monitoring wells are currently certificated in the Lewis Creek Storage Field: Two are existing and in service, (LC–M001 and LC–M002) and six are authorized but unconstructed (LC–M003, LC–M005 through LC–M009). LC–M003 would be relocated and installed as a new well (LC–M003 was previously authorized to be converted from an existing non-jurisdictional well). East Cheyenne would install one new monitoring well, LC–M004. There would be no change to monitoring wells LC–M005 and LC–M006. East Cheyenne would relocate and convert three existing non-jurisdictional wells to monitoring wells, LC–M007, LC–M008, LC–M009, for a total of nine wells to monitor the D-Sands in the Lewis Creek Storage Field; and

¹ East Cheyenne states that there would be no changes proposed to the injection and withdrawal capacities for the Project.

² East Cheyenne would no longer require the unconstructed natural gas and produced water laterals.

7. Eliminating the currently certificated, but unconstructed produced water disposal well (LC-W002), well pad, and appurtenant facilities certificated for the Project.

The general location of the project facilities is shown in appendix 1.³

Land Requirements for Construction

The changes along with the pipelines, wells, well pads, and access roads that East Cheyenne no longer requires as a result of the reconfiguration of the Lewis Creek portion of the certificated Project, would result in a reduction in the overall land requirements for the Project on the order of 55 acres associated with construction and 35 acres for operation. Land requirements for the amended Project would include land to be used temporarily for construction and land to be retained during operations as aboveground facility sites in the Lewis Creek storage field (well pads and access roads). The current land requirements for the amended Project is on the order of 53 acres for construction and 14 acres for operation.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us⁴ to discover and address concerns the public may have about proposals. This process is referred to as scoping. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- water resources, fisheries, and wetlands;
- vegetation and wildlife;
- endangered and threatened species;

- cultural resources;
- land use;
- air quality and noise;
- public safety; and
- cumulative impacts.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section, beginning on page 2.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.⁵ Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.⁶ We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/

pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an intervenor which is an official party to the Commission's proceeding. Intervenor play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the "Document-less Intervention Guide" under the "e-filing" link on the Commission's website. Motions to intervene are more fully described at <http://www.ferc.gov/resources/guides/how-to/intervene.asp>.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208-FERC, or on the FERC website at www.ferc.gov using the eLibrary link. Click on the eLibrary link, click on General Search and enter the docket number, excluding the last three

³ The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at www.ferc.gov using the link called eLibrary or from the Commission's Public Reference Room, 888 First Street NE, Washington, DC 20426, or call (202) 502-8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

⁴ We, us, and our refer to the environmental staff of the Commission's Office of Energy Projects.

⁵ The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, Part 1501.6.

⁶ The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

digits in the Docket Number field (*i.e.*, CP18–11). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at FercOnlineSupport@ferc.gov or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to www.ferc.gov/docs-filing/esubscription.asp.

Finally, public sessions or site visits will be posted on the Commission's calendar located at www.ferc.gov/EventCalendar/EventsList.aspx along with other related information.

Dated: December 8, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–27223 Filed 12–18–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER17–1561–001.
Applicants: New York Independent System Operator, Inc.
Description: Compliance filing: Compliance Order No. 831 Offer Caps to be effective 12/31/9998.

Filed Date: 12/8/17.
Accession Number: 20171208–5056.
Comments Due: 5 p.m. ET 12/29/17.
Docket Numbers: ER17–1871–001.
Applicants: Bayshore Solar B, LLC.
Description: Compliance filing: Bayshore Solar B LLC MBR Tariff to be effective 8/20/2017.

Filed Date: 12/8/17.
Accession Number: 20171208–5084.
Comments Due: 5 p.m. ET 12/29/17.
Docket Numbers: ER17–2471–001.
Applicants: ORNI 43 LLC.
Description: Second Amendment to September 14, 2017 ORNI 43 LLC tariff filing.

Filed Date: 12/7/17.

Accession Number: 20171207–5127.

Comments Due: 5 p.m. ET 12/21/17.
Docket Numbers: ER18–414–000.
Applicants: Midcontinent Independent System Operator, Inc.
Description: § 205(d) Rate Filing: 2017–12–08 SA 3067 ATC–UMERC GIA (J703) to be effective 11/30/2017.

Filed Date: 12/8/17.
Accession Number: 20171208–5074.
Comments Due: 5 p.m. ET 12/29/17.
Docket Numbers: ER18–415–000.
Applicants: El Paso Electric Company.
Description: § 205(d) Rate Filing: Rate Schedule No. 113 Agreement on Cost Responsibility for Wire Interconnection to be effective 12/9/2017.

Filed Date: 12/8/17.
Accession Number: 20171208–5113.
Comments Due: 5 p.m. ET 12/29/17.
Docket Numbers: ER18–416–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: 2018 SDGE TACBAA update to Transmission Owner Tariff Filing to be effective 1/1/2018.

Filed Date: 12/8/17.
Accession Number: 20171208–5117.
Comments Due: 5 p.m. ET 12/29/17.
Docket Numbers: ER18–417–000.
Applicants: Wisconsin Public Service Corporation.

Description: § 205(d) Rate Filing: Filing of a Wholesale Distribution Agreement w/CWP to be effective 1/1/2018.

Filed Date: 12/8/17.
Accession Number: 20171208–5121.
Comments Due: 5 p.m. ET 12/29/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 8, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–27222 Filed 12–18–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1946–014.
Applicants: Broad River Energy LLC.
Description: Updated Market Power Analysis for the Southeast Region of Broad River Energy LLC.
Filed Date: 12/7/17.

Accession Number: 20171207–5139.
Comments Due: 5 p.m. ET 02/05/18.

Docket Numbers: ER17–1769–001.
Applicants: Solar Star Oregon II, LLC.
Description: Supplement to October 20, 2017 Notice of Change in Status of Solar Star Oregon II, LLC.
Filed Date: 12/7/17.

Accession Number: 20171207–5159.
Comments Due: 5 p.m. ET 12/28/17.

Docket Numbers: ER18–407–000.
Applicants: Wildwood Lessee, LLC.
Description: Compliance filing: Certificate of Concurrence Filing to be effective 12/10/2017.

Filed Date: 12/7/17.
Accession Number: 20171207–5123.
Comments Due: 5 p.m. ET 12/28/17.

Docket Numbers: ER18–408–000.
Applicants: Pacific Gas and Electric Company.

Description: § 205(d) Rate Filing: TACBAA and RSBA Charge Update 2018 to be effective 3/1/2018.

Filed Date: 12/7/17.
Accession Number: 20171207–5125.
Comments Due: 5 p.m. ET 12/28/17.

Docket Numbers: ER18–409–000.
Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Notice of Cancellation LGIA Puente Power Project to be effective 2/8/2018.

Filed Date: 12/8/17.
Accession Number: 20171208–5000.
Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–410–000.
Applicants: Southern California Edison Company.

Description: Tariff Cancellation: Notices of Cancellation GIA and Service Agreement Santa Paula ES Project to be effective 2/15/2018.

Filed Date: 12/8/17.
Accession Number: 20171208–5001.
Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–411–000.
Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA for Peak Valley Solar Farm Project SA No. 198 to be effective 2/8/2018.

Filed Date: 12/8/17.

Accession Number: 20171208–5002.

Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–412–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing; Original Service Agreement No. 4869; Queue No. AC2–138 (WMPA) to be effective 12/1/2017.

Filed Date: 12/8/17.

Accession Number: 20171208–5019.

Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–413–000.

Applicants: Golden Spread Electric Cooperative, Inc.

Description: § 205(d) Rate Filing; Rider A SSR and Ex C Amendments to WPC to be effective 1/1/2018.

Filed Date: 12/8/17.

Accession Number: 20171208–5053.

Comments Due: 5 p.m. ET 12/29/17.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM18–5–000.

Applicants: Wabash Valley Power Association, Inc.

Description: Application for Termination of Mandatory Purchase Obligation of Wabash Valley Power Association, Inc.

Filed Date: 12/7/17.

Accession Number: 20171207–5136.

Comments Due: 5 p.m. ET 1/4/18.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: <http://www.ferc.gov/docs-filing/efiling/filing-req.pdf>. For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: December 8, 2017.

Kimberly D. Bose,
Secretary.

[FR Doc. 2017–27221 Filed 12–18–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0318; FRL–9970–40]

Agency Information Collection Activities; Proposed Renewal of an Existing Collection (EPA ICR No. 1250.11); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: "Request for Contractor Access to TSCA CBI" and identified by EPA ICR No. 1250.11 and OMB Control No. 2070–0075, represents the renewal of an existing ICR that is scheduled to expire on August 31, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before February 20, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0318, by one of the following methods:

- *Federal eRulemaking Portal:* <http://www.regulations.gov>. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.

- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at <http://www.epa.gov/dockets/contacts.html>.

Additional instructions on commenting or visiting the docket, along with more information about dockets generally, is available at <http://www.epa.gov/dockets>.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Chandler Sirmons, Information Management Division (7407M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200

Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–1138; email address: sirmons.chandler@epa.gov.

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave. Rochester, NY 14620; telephone number: (202) 554–1404; email address: TSCA-Hotline@epa.gov.

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

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 estimates 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.

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. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Request for Contractor Access to TSCA CBI.

ICR number: EPA ICR No. 1250.11.

OMB control number: OMB Control No. 2070–0075.

ICR status: This ICR is currently scheduled to expire on August 31, 2018. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other

appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: Certain employees of companies working under contract to EPA require access to TSCA confidential business information collected under the authority of TSCA in order to perform their official duties. The Office of Pollution Prevention and Toxics (OPPT), which is responsible for maintaining the security of TSCA confidential business information, requires that all individuals desiring access to TSCA CBI obtain and annually renew official clearance to TSCA CBI. As part of the process for obtaining TSCA CBI clearance, OPPT requires certain information about the contracting company and about each contractor employee requesting TSCA CBI clearance, primarily the name, Social Security Number and EPA identification badge number of the employee, the type of TSCA CBI clearance requested and the justification for such clearance, and the signature of the employee to an agreement with respect to access to and use of TSCA CBI. This information collection applies to the reporting activities associated with contractor personnel applying for new or renewed clearance for TSCA CBI.

Responses to the collection of information are voluntary but failure to provide the requested information will prevent a contractor employee from obtaining clearance for TSCA CBI. Respondents may claim all or part of a response confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 1.6 hours per response. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities:

Entities potentially affected by this ICR are companies under contract to the Environmental Protection Agency to provide certain services, whose employees must have access to Toxic Substances Control Act (TSCA) confidential business information to perform their duties.

Estimated total number of potential respondents: 21.

Frequency of response: Annually.

Estimated total average number of responses for each respondent: 1.0.

Estimated total annual burden hours: 341 hours.

Estimated total annual costs: \$19,305. This includes an estimated burden cost of \$19,305 and an estimated cost of \$0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is a decrease of 142 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects a decrease in the number of contractor employees that need TSCA CBI clearance. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: November 29, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017-27301 Filed 12-18-17; 8:45 am]

BILLING CODE 6560-50-P

ENVIRONMENTAL PROTECTION AGENCY

[EPA-HQ-OPP-2017-0539; FRL-9972-11]

RIN 2070-AK37

Pesticides; Certification of Pesticide Applicators Rule; Reconsideration of the Minimum Age Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is providing notice to the public that it has initiated a rulemaking process to revise the minimum age requirements in the Certification of

Pesticide Applicators rule. EPA expects to publish a Notice of Proposed Rulemaking in FY 2018 to solicit public input on these proposed revisions to the rule. EPA is also announcing that the implementation dates in the January 4, 2017 **Federal Register** (82 FR 952) (FRL-9956-70); for certifying authorities to submit revised certification plans, and for EPA to act on those plans remain in effect; EPA has no plans to change those implementation dates.

FOR FURTHER INFORMATION CONTACT:

Kevin Keane, Field and External Affairs Division (7506P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460; telephone number (703) 305-5557, email address: keaney.kevin@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This document is directed to the public in general. However, this document may be of particular interest to you if you apply restricted use pesticides (RUPs), use RUPs under the direct supervision of a certified applicator; are a State, Tribe or Federal agency who administers a certification program for pesticide applicators; a pesticide safety educator; or another person who provides pesticide safety training for pesticide applicator certification or recertification. The following list of North American Industrial Classification System (NAICS) codes is not intended to be exhaustive, but rather provides a guide to help readers determine whether this document applies to them. Potentially affected entities may include:

- Agricultural Establishments (Crop Production) (NAICS code 111).
- Animal Production and Aquaculture). (NAICS code 112).
- Nursery and Tree Production (NAICS code 111421).
- Agricultural Pest Control and Pesticide Handling on Farms (NAICS code 115112).
- Crop Advisors (NAICS codes 115112, 541690, 541712).
- Agricultural (Animal) Pest Control (Livestock Spraying) (NAICS code 115210).
- Forestry Pest Control (NAICS code 115310).
- Wood Preservation Pest Control (NAICS code 321114).
- Pesticide Registrants (NAICS code 325320).
- Pesticide Dealers (NAICS codes 424690, 424910, 444220).

- Insurance Carriers and Related Activities (NAICS code 524).
- Research & Demonstration Pest Control, Crop Advisor (NAICS code 541710).
- Industrial, Institutional, Structural & Health Related Pest Control (NAICS code 561710).
- Ornamental & Turf, Rights-of-Way Pest Control (NAICS code 561730).
- Environmental Protection Program Administrators (NAICS code 924110).
- Governmental Pest Control Programs (NAICS code 926140).

If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. What action is the Agency taking?

In accordance with Executive Order 13777, titled *Enforcing the Regulatory Reform Agenda*, EPA solicited public comments on regulations that may be appropriate for repeal, replacement or modification as part of the President's Regulatory Reform Agenda efforts through docket [EPA-HQ-OA-2017-0190]. In addition, EPA issued several rules in 2017 to delay the effective date of the final certification rule including one issued on May 15, 2017 (82 FR 22294), that solicited public comment on a proposed 12-month delay of the effective date. Some of the comments received during that comment period included input on specific provisions of the revised Certification of Pesticide Applicators rule (82 FR 952; January 4, 2017) in addition to or instead of comments on the proposed 12-month delay of the effective date.

Through these efforts, EPA received comments on the minimum age requirements in the certification rule, which were discussed at the November 2, 2017, meeting of the Office of Pesticide Program's Federal Advisory Committee, the Pesticide Program Dialogue Committee (PPDC). A transcript of the PPDC meeting will be posted when available on EPA's website at <https://www.epa.gov/pesticide-advisory-committees-and-regulatory-partners/pesticide-program-dialogue-committee-meeting-5>.

After considering these comments, revisiting the record, and reviewing the applicable statutory authority, EPA has determined that further consideration of the rule's minimum age requirements is warranted through the rulemaking process. EPA is providing notice to the public that the Agency has begun the internal rulemaking process to address the minimum age requirements in the Certification of Pesticide Applicators rule at 40 CFR 171. EPA expects to

publish a Notice of Proposed Rulemaking in FY 2018 to solicit public input on these proposed revisions to the Certification of Pesticide Applicators rule.

EPA is also announcing that the implementation dates in 40 CFR 171.5 of the final rule published on January 4, 2017, for certifying authorities to submit revised certification plans, and for EPA to act on those plans remain in effect; EPA has no plans to change those implementation dates. Therefore, if a certifying authority submits its modified certification plan by March 4, 2020, the existing approved certification plan remains in effect until EPA has approved or rejected the modified plan or March 4, 2022, whichever is earlier.

Authority: 7 U.S.C. 136–136y.

Dated: December 13, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–27302 Filed 12–18–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the “Government in the Sunshine Act” (5 U.S.C. 552b), notice is hereby given that the Federal Deposit Insurance Corporation's Board of Directors will meet in open session at 10:00 a.m. on Tuesday, December 19, 2017, to consider the following matters:

SUMMARY AGENDA: No substantive discussion of the following items is anticipated. These matters will be resolved with a single vote unless a member of the Board of Directors requests that an item be moved to the discussion agenda.

Disposition of minutes of previous Board of Directors' Meetings.

Memorandum and resolution re: Civil Money Penalty Annual Inflation Adjustment.

Memorandum and resolution re: Modifications to the Statement of Policy for Section 19 of the Federal Deposit Insurance Act.

Summary reports, status reports, and reports of actions taken pursuant to authority delegated by the Board of Directors, and reports of the Office of Inspector General.

DISCUSSION AGENDA: Memorandum and resolution re: FDIC 2018 Operating Budget.

The meeting will be held in the Board Room located on the sixth floor of the

FDIC Building located at 550 17th Street, NW, Washington, DC.

This Board meeting will be webcast live via the internet and subsequently made available on-demand approximately one week after the event. Visit <http://fdic.windrosemedia.com> to view the event. If you need any technical assistance, please visit our Video Help page at: <https://www.fdic.gov/video.html>.

The FDIC will provide attendees with auxiliary aids (e.g., sign language interpretation) required for this meeting. Those attendees needing such assistance should call 703–562–2404 (Voice) or 703–649–4354 (Video Phone) to make necessary arrangements.

Requests for further information concerning the meeting may be directed to Mr. Robert E. Feldman, Executive Secretary of the Corporation, at 202–898–7043.

Dated: December 15, 2017.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 2017–27380 Filed 12–15–17; 11:15 am]

BILLING CODE 6714–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER CITATION NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 57756.
PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: Tuesday, December 12, 2017 at 10:00 a.m. and its continuation at the conclusion of the open meeting on December 14, 2017.

CHANGES IN THE MEETING: This meeting also discussed: Information the premature disclosure of which would be likely to have a considerable adverse effect on the implementation of a proposed Commission action.

* * * * *

CONTACT FOR MORE INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Laura E. Sinram,

Deputy Secretary of the Commission.

[FR Doc. 2017–27379 Filed 12–15–17; 11:15 am]

BILLING CODE 6715–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreements Filed

The Commission hereby gives notice of the filing of the following agreements under the Shipping Act of 1984. Interested parties may submit comments on any agreements to the Secretary,

Federal Maritime Commission, Washington, DC 20573, within twelve days of the date this notice appears in the **Federal Register**. A copy of each agreement is available through the Commission's website (www.fmc.gov) or by contacting the Office of Agreements at (202)-523-5793 or tradeanalysis@fmc.gov.

Agreement No.: 011117-058.

Title: United States/Australasia Discussion Agreement.

Parties: ANL Singapore Pte Ltd.; CMA-CGM.; Hamburg-Süd; Mediterranean Shipping Company S.A.; and Pacific International Lines (PTE) LTD.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW, Washington, DC 20036.

Synopsis: The amendment would delete Compagnie Maritime Marfret S.A. as a party to the Agreement.

Agreement No.: 012463-001.

Title: Maersk/MSC/HMM Strategic Cooperation Agreement.

Parties: Maersk Line A/S; MSC Mediterranean Shipping Company SA; and Hyundai Merchant Marine Co., Ltd.

Filing Party: Wayne Rohde; Cozen O'Connor; 1200 19th Street NW, Washington, DC 20036.

Synopsis: The Amendment adds new termination rights, and clarifies certain existing termination rights. It also sets forth additional compliance requirements.

Agreement No.: 201143-016.

Title: West Coast MTO Agreement.

Parties: APM Terminals Pacific, Ltd.; Eagle Marine Services, Ltd.; Everport Terminal Services, Inc; International Transportation Service, Inc.; LBCT LLC d/b/a Long Beach Container Terminal LLC; Trapac, Inc.; Total Terminals LLC; West Basin Container Terminal LLC; Pacific Maritime Services, L.L.C.; SSAT (Pier A), LLC; and SSA Terminal (Long Beach), LLC.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW, Washington, DC 20036.

Synopsis: The amendment changes the names of certain parties to the agreement.

By Order of the Federal Maritime Commission.

Dated: December 14, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017-27261 Filed 12-18-17; 8:45 am]

BILLING CODE 6731-AA-P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

December 14, 2017.

TIME AND DATE: 10:00 a.m., Thursday, January 18, 2018.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor v. Signal Peak Energy, LLC*, Docket No. WEST 2016-624-R. (Issues include whether the Judge erred in concluding that the MSHA District Manager did not act arbitrarily or capriciously in rejecting the operator's ventilation plan.)

Any person attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Emogene Johnson (202) 434-9935/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

PHONE NUMBER FOR LISTENING TO ARGUMENT: 1-(866) 867-4769, Passcode: 678-100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017-27358 Filed 12-15-17; 11:15 am]

BILLING CODE 6735-01-P

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Notice

December 14, 2017.

TIME AND DATE: 10:00 a.m., Wednesday, January 17, 2018.

PLACE: The Richard V. Backley Hearing Room, Room 511N, 1331 Pennsylvania Avenue NW, Washington, DC 20004 (enter from F Street entrance).

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will hear oral argument in the matter *Secretary of Labor v. Signal Peak Energy, LLC*, Docket No. WEST 2016-624-R (Issues include whether the Judge erred in concluding that the MSHA District Manager did not act arbitrarily or capriciously in rejecting the operator's ventilation plan.)

Any person attending this oral argument who requires special

accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO:

Emogene Johnson (202) 434-9935/(202) 708-9300 for TDD Relay/1-800-877-8339 for toll free.

PHONE NUMBER FOR LISTENING TO ARGUMENT: 1-(866) 867-4769, Passcode:

678-100.

Sarah L. Stewart,

Deputy General Counsel.

[FR Doc. 2017-27357 Filed 12-15-17; 11:15 am]

BILLING CODE 6735-01-P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 16, 2018.

A. Federal Reserve Bank of Dallas (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. *BancAffiliated, Inc., Arlington, Texas:* to become a bank holding company by acquiring 100 percent of

the voting shares of Affiliated Bank, Bedford, Texas, upon its conversion to a bank.

Board of Governors of the Federal Reserve System, December 14, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017-27299 Filed 12-18-17; 8:45 am]

BILLING CODE 6210-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60Day-18-0943; Docket No. CDC-2017-0100]

Proposed Data Collections Submitted for Public Comment and Recommendations

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice with comment period.

SUMMARY: The Centers for Disease Control and Prevention (CDC), as part of its continuing efforts to reduce public burden and maximize the utility of government information, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. This notice invites comment on a proposed revision of the information collection project titled *Data Collection for the Residential Care Community and Adult Day Services Center Components of the National Study of Long-Term Care Providers*. CDC seeks to collect data for the residential care community and adult day services center components for the 2018 wave of the National Study of Long-Term Care Providers.

DATES: CDC must receive written comments on or before February 20, 2018.

ADDRESSES: You may submit comments, identified by Docket No. CDC-2017-0100 by any of the following methods:

- *Federal eRulemaking Portal:* *Regulation.gov*. Follow the instructions for submitting comments.

- *Mail:* Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329.

Instructions: All submissions received must include the agency name and Docket Number. CDC will post, without

change, all relevant comments to *Regulations.gov*.

Please note: Submit all public comments through the Federal eRulemaking portal (*regulations.gov*) or by U.S. mail to the address listed above.

FOR FURTHER INFORMATION CONTACT: To request more information on the proposed project or to obtain a copy of the information collection plan and instruments, contact Leroy A. Richardson, Information Collection Review Office, Centers for Disease Control and Prevention, 1600 Clifton Road NE, MS-D74, Atlanta, Georgia 30329; phone: 404-639-7570; Email: *omb@cdc.gov*.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501-3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. In addition, the PRA also requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each new proposed collection, each proposed extension of existing collection of information, and each reinstatement of previously approved information collection before submitting the collection to OMB for approval. To comply with this requirement, we are publishing this notice of a proposed data collection as described below.

The OMB is particularly interested in comments that will help:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;
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;
4. Minimize the burden of the collection of information on those who 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 submissions of responses;
5. Assess information collection costs.

Proposed Project

Data Collection for the Residential Care Community and Adult Day Service Center Components of the National Study of Long-Term Care Providers

(OMB Control Number 0920-0943 Expiration Date, 05/31/2019)—Revision—National Center for Health Statistics (NCHS), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Section 306 of the Public Health Service (PHS) Act (42 U.S.C. 242k), as amended, authorizes that the Secretary of Health and Human Services (DHHS), acting through NCHS, "shall collect statistics on health resources . . . [And] utilization of health care, including extended care facilities, and other institutions."

NCHS seeks approval to collect data for the residential care community (RCC) and adult day services center (ADSC) survey components of the fourth wave of the National Study of Long-Term Care Providers (NSLTCP). The request is for one-year clearance.

As background, here are some details on the complete study design. NSLTCP voluntary survey designed to: (1) Broaden NCHS' ongoing coverage of paid and regulated long-term care (LTC) providers; (2) merge with existing administrative data on LTC providers and service users (*i.e.*, Centers for Medicare and Medicaid Services (CMS) data on nursing homes and residents, home health agencies and patients, and hospices and patients); (3) update data more frequently on LTC providers and service users for which nationally representative administrative data do not exist; and (4) enable comparisons across LTC sectors and timely monitoring of supply, use, and characteristics of these sectors over time.

CDC will collect data collected from two types of LTC providers in the 50 states and the District of Columbia: 2,090 RCCs and 1,650 ADSCs. Data collected in 2012, 2014, and 2016 and the data collected in 2018 will include the basic characteristics, services, staffing, and practices of RCCs and ADSCs, and demographics, selected health conditions and health care utilization, physical functioning, and cognitive functioning of RCC residents and ADSC participants. The 2018 wave will include services user questionnaires.

Expected users of data from this collection effort include, but not limited to CDC and other Department of Health and Human Services (DHHS) agencies. Other potential users include the following: Office of the Assistant Secretary for Planning and Evaluation; the Administration for Community Living; and the Agency for Healthcare Research and Quality; associations, such as LeadingAge, National Center for

Assisted Living, American Seniors Housing Association, Argentum (formerly Assisted Living Federation of America), National Adult Day Services Association; universities; foundations; and other private sector organizations such as the Alzheimer’s Association and the AARP Public Policy Institute.

Expected burden from data collection for eligible cases is 80 minutes per respondent: 5 minutes for a contact confirmation call; 15 minutes for a screener and appointment setting call; 30 minutes for a provider questionnaire; and 30 minutes for a sampling and services user questionnaire. We estimate

an eligibility rate for ADSCs of 86% and for RCCs of 76%. One-year clearance requested to cover the collection of data. The burden for the collection shown in Table 1 below. There is no cost to respondents other than their time to participate.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)	Total burden (in hours)
RCC/ADSC Director/Designated Staff Member.	Contact Confirmation Call	3,740	1	5/60	312
RCC/ADSC Director/Designated Staff Member.	Screener and Appointment Setting Call.	3,740	1	15/60	935
RCC Director/Designated Staff Member.	RCC Provider Questionnaire	1,589	1	30/60	795
ADSC Director/Designated Staff Member.	ADSC Provider Questionnaire	1,419	1	30/60	710
RCC Director/Designated Staff Member.	RCC Sampling and Services User Questionnaire.	1,589	1	30/60	795
ADSC Director/Designated Staff Member.	ADSC Sampling and Services User Questionnaire.	1,419	1	30/60	710
Total .....	.....	.....	.....	.....	4,257

Leroy A. Richardson,
 Chief, Information Collection Review Office,
 Office of Scientific Integrity, Office of the
 Associate Director for Science, Office of the
 Director, Centers for Disease Control and
 Prevention.

[FR Doc. 2017-27258 Filed 12-18-17; 8:45 am]
 BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day-18-17AMP]

Agency Forms Undergoing Paperwork Reduction Act Review

In accordance with the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) has submitted the information collection request titled *Evaluation of the SAMHSA Naloxone Education and Distribution Program* to the Office of Management and Budget (OMB) for review and approval. CDC previously published a “Proposed Data Collection Submitted for Public Comment and Recommendations” notice on July 17, 2017 to obtain comments from the public and affected agencies. CDC did not receive comments related to the previous notice. This notice serves to allow an additional 30 days for public and affected agency comments.

CDC will accept all comments for this proposed information collection project. The Office of Management and Budget is particularly interested in comments that:

- (a) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- (b) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- (c) Enhance the quality, utility, and clarity of the information to be collected;
- (d) Minimize the burden of the collection of information on those who are to respond, including, through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses; and
- (e) Assess information collection costs.

To request additional information on the proposed project or to obtain a copy of the information collection plan and instruments, call (404) 639-7570 or send an email to omb@cdc.gov. Direct written comments and/or suggestions regarding the items contained in this notice to the Attention: CDC Desk Officer, Office of Management and

Budget, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395-5806. Provide written comments within 30 days of notice publication.

Proposed Project

Evaluation of the SAMHSA Naloxone Education and Distribution Program—New—National Center for Injury Prevention and Control (NCIPC), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

Overdose deaths involving prescription opioids and heroin have reached epidemic levels in the U.S. and continue to rise. To address the prescription drug/opioid overdose crisis, the federal government has recently allocated funding to improve access to treatment for opioid use disorders, reduce opioid related deaths, and strengthen prevention efforts. One program resulting from the federal government’s efforts to address the opioid crisis is the Substance Abuse and Mental Health Services Agency (SAMHSA) Grants to Prevent Prescription Drug/Opioid Overdose-Related Deaths. This proposed information collection project will help evaluate this program.

Through this program, SAMHSA awarded funding to 12 states. The funding is aimed at reducing the number of prescription drug/opioid overdose-related deaths and adverse events among individuals 18 years of

age and older through educating and training first responders and other key community sectors on the prevention of prescription drug/opioid overdose-related deaths, including the purchase and distribution of naloxone. SAMHSA is funding the grant and CDC is responsible for conducting the grantee evaluation.

The intended use of the resulting data is to increase CDC and SAMHSA understanding of the scope and impact of the program on overdose fatalities

and how program effectiveness may vary among different sub-populations and settings, and to increase knowledge of barriers and facilitators to program implementation.

Researchers will use key informant interviews and focus groups with participants in the activities enacted by the twelve state grant recipients. Participants will include state administrators of the grant and other PDO/Naloxone stakeholders including advisory council members, first

responders, social service providers, laypersons including end users and their family and friend. All focus groups and interviews will be analyzed through qualitative content analysis, including utilization of a systematic coding scheme.

Total burden in hours for this collection is 381. There are no costs to respondents other than their time. CDC requests a three-year OMB approval to collect the necessary project-related information.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
PDO/Naloxone Advisory Committee Members and Grantees.	Focus Group Discussion Guide	140	1	1.5
PDO/Naloxone Grantees	Key Informant Interview Guide for Grantees	36	1	1
PDO/Naloxone Stakeholders and Partners	Key Informant Interview Guide for Partners ..	84	1	1
PDO/Naloxone Laypersons	Key Informant Interview Guide for Laypersons.	24	1	1
All participants (PDO Naloxone grantees, advisory committee, stakeholders and partners, laypersons).	Recruitment contact script	284	1	5/60
PDO/Naloxone Grantees	Key Informant Selection Tool	12	1	15/60

Leroy A. Richardson,
 Chief, Information Collection Review Office,
 Office of Scientific Integrity, Office of the
 Associate Director for Science, Office of the
 Director, Centers for Disease Control and
 Prevention.

[FR Doc. 2017-27257 Filed 12-18-17; 8:45 am]

BILLING CODE 4163-18-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: ACF Generic Clearance for Mandatory Grant Financial Reports.

OMB No.: 0970—New.

Description: OMB has granted permission for ACF to submit a request

for a generic clearance to be used for the financial reports used in the administration of mandatory grants. This clearance supports the Departments initiative of *Generating Efficiencies through Streamlined Processes* by employing an abbreviated process.

If approved program offices will be at liberty to tailor a financial report to their specific needs rather than adhering to a standard form.

Respondents: States and Territories.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Mandatory Grant Financial Reports	900	4	5	18,000

Estimated Total Annual Burden Hours:

In compliance with the requirements of the Paperwork Reduction Act of 1995 (Pub. L. 104-13, 44 U.S.C. Chap. 35), the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and

Families, Office of Planning, Research and Evaluation, 330 C Street SW, Washington, DC 20201. Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have

practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to

comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2017-27306 Filed 12-18-17; 8:45 am]

BILLING CODE 4184-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-6716]

New Insights for Product Development and Bioequivalence Assessments of Generic Orally Inhaled and Nasal Drug Products; Public Workshop; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of public workshop; request for comments.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is announcing the following public workshop entitled “New Insights for Product Development and Bioequivalence Assessments of Generic Orally Inhaled and Nasal Drug Products.” The purposes of the workshop are to present the outcomes from the research projects conducted under the Generic Drug User Fee Amendments (GDUFA) Regulatory Science Research Program; discuss how regulatory science initiatives have helped address regulatory science knowledge gaps by providing insights on factors that influence the performance of generic orally inhaled and nasal drug products (OINDPs); share the Agency’s experience on the utility of novel analytical tools and methods developed under the regulatory science initiative for generic OINDP product development and bioequivalence assessments; and obtain input from the public on what, when, where, and how analytical methods and procedures should be applied in the development and review of abbreviated new drug applications (ANDAs) for complex OINDPs.

DATES: The public workshop will be held on January 9, 2018, from 8:30 a.m. to 4:30 p.m. Individuals who wish to attend the workshop must register by December 30, 2017. Submit either electronic or written comments on this public workshop by February 14, 2018. See the **SUPPLEMENTARY INFORMATION** section for registration date and information.

ADDRESSES: The public workshop will be held at FDA White Oak Campus,

10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503 B+C), Silver Spring, MD 20993-0002. Entrance for the public workshop participants (non-FDA employees) is through Building 1, where routine security check procedures will be performed. For parking and security information, please refer to <https://www.fda.gov/AboutFDA/WorkingatFDA/BuildingsandFacilities/WhiteOakCampusInformation/ucm241740.htm>.

You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 14, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of February 14, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else’s Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see “Written/Paper Submissions” and “Instructions”).

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in “Instructions.”

Instructions: All submissions received must include the Docket No. FDA-2017-N-6716 for “New Insights for Product Development and Bioequivalence Assessments of Generic Orally Inhaled and Nasal Drug Products.” Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as “Confidential Submissions,” publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states “THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.” The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT:

Renishkumar Delvadia, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 4704, Silver Spring, MD 20993, 240-402-7979, email: Renishkumar.delvadia@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:**I. Background**

In the Regulatory Science Enhancements section of the GDUFA Reauthorization Performance Goals and Program Enhancement Fiscal Years 2018–2022 (GDUFA II Commitment Letter) (available at: <https://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM525234.pdf>) FDA committed to “conduct internal and external research to support fulfilment of submission review and pre-ANDA commitments.” This continues commitments made in the GDUFA Program Performance Goals and Procedures for fiscal years 2013 through 2017 (GDUFA I Commitment Letter) (available at: <https://www.fda.gov/downloads/ForIndustry/UserFees/GenericDrugUserFees/UCM282505.pdf>). For complex OINDPs, this research is intended to support the development of scientific guidance and Agency policy to clarify the ANDA pathway for OINDPs and aid our understanding about the critical product attributes relevant for in vivo performance of OINDPs. This work has led to the development of tools beneficial to both industry and FDA for developing and evaluating generic OINDPs. This regulatory science research includes, but is not limited to, the following: (1) Identification of critical formulation and device attributes of generic OINDPs; (2) development of clinically relevant in vitro tools for prediction of in vivo regional drug deposition and dissolution from OINDPs; (3) development of computational fluid dynamic (CFD) and physiologically-based pharmacokinetic (PBPK) models for prediction of the local and systemic exposure of drugs delivered through OINDPs and to assess their applicability in generic OINDP development programs; and (4) identification, validation, and standardization of novel techniques that can be used for future bioequivalence assessments for generic OINDPs.

Since its commencement in 2012, the GDUFA Regulatory Science Research Program has continuously aided our understanding about the critical product attributes that are relevant for in vivo performance of OINDPs, and has led to

the development of tools beneficial to both industry and FDA for developing and assessing generic OINDPs. Several external and internal research projects have been initiated under the GDUFA Regulatory Science Research Program. The outcomes from these research studies have provided valuable insight about the factors influencing the performance of OINDPs and have helped the Agency fill regulatory science gaps in this area. For instance, advanced modeling tools developed under this initiative, such as CFD and PBPK, can provide insights about patient-device interactions and information about both local and systemic bioavailability, which can better characterize critical device and formulation attributes to further our understanding of generic drug-device combination products. Clinically relevant mouth-throat and nasal models are another example of this research which have shown good in vivo correlations in predicting regional drug deposition; these physical models allow us to predict the impact of certain performance characteristics of OINDPs on regional drug deposition in a realistic manner, potentially without the need for conducting comparative clinical endpoint studies. Similarly, Morphologically Directed Raman Spectroscopy (MDRS), a novel particle sizing method explored under the initiative, has shown promise in differentiating nasal suspension formulations of different drug particle sizes, and has opened the possibility of a new regulatory pathway for the approval of generic nasal suspension products without the need to conduct a comparative clinical endpoint study. Another research outcome developed under the science initiative for OINDPs has been work involving in-vitro dissolution methods, which are providing insights on the bridge between local drug deposition and its downstream systemic bioavailability. Our enhanced understanding about OINDPs from these regulatory science-based initiatives have informed us during the development of product-specific guidances for OINDPs, resulting in the publication of more than 39 product-specific guidance documents since the implementation of GDUFA in 2012.

To enhance communication of recent advances, including those supported by GDUFA funds, FDA plans to hold a public workshop on new analytical methods and assessment criteria for characterization of OINDPs.

II. Purpose and Scope of the Workshop

The purposes of the workshop are as follows:

1. To present the outcomes from the research projects initiated under the GDUFA Regulatory Science Research Program;
2. To discuss how regulatory science initiatives have helped address regulatory science gaps by providing insight on factors that influence the performance of OINDPs;
3. To share the Agency’s experience on the utility of novel analytical tools and methods developed under the regulatory science initiative for OINDP product development and bioequivalence assessments; and
4. To obtain input from the public on what, when, where, and how analytical methods and procedures should be applied in the development and review of complex OINDP ANDAs for therapeutic equivalence.

The scope of the workshop covers the current status of methods for characterization and bioequivalence evaluation of generic OINDPs.

The focus of this public workshop is on the evaluation of these new methods for characterizing and demonstrating therapeutic equivalence of OINDPs, including discussing the areas in which these methods may significantly contribute to generic product development and regulatory understanding, how and under what conditions the methods should be conducted and evaluated, and inherent scientific challenges with this complex class of products.

Public input will improve FDA’s current understanding of present and future methods available for evaluating OINDP therapeutic equivalence. The knowledge gained through this workshop discussion will be summarized and disseminated to the scientific community by publication(s).

III. Scope of Public Input Requested

FDA seeks input from the public on when, where, and how to utilize new methods for development of generic OINDPs and in the regulatory review of bioequivalence. Specific topics to be addressed include:

1. Identifying the areas in which new in vitro and computational methods can contribute to the development of generic OINDPs;
2. Discussing how in vitro testing for demonstrating OINDP therapeutic equivalence should be conducted and evaluated; and
3. Addressing the scientific challenges in assessing critical quality attributes of OINDPs and in developing new

methods for demonstrating OINDP therapeutic equivalence.

Registration: Persons interested in attending this public workshop must register online by December 30, 2017, by going to <https://www.fda.gov/Drugs/NewsEvents/ucm576064.htm>. Please provide complete contact information for each attendee, including name, title, affiliation, address, email, and telephone. The workshop agenda and other background materials will be available approximately 2 weeks before the workshop at <https://www.fda.gov/Drugs/NewsEvents/ucm576064.htm>. The agenda will include time for questions and answers throughout the day and for general comments and questions from the audience following panel discussions.

Registration is free and based on space availability, with priority given to early registrants. Persons interested in attending this public workshop must register by December 30, 2017, midnight Eastern Time. Early registration is recommended because seating is limited; therefore, FDA may limit the number of participants from each organization. If time and space permit, onsite registration on the day of the public workshop will be provided beginning at 8:30 a.m.

If you need special accommodations due to a disability, please contact Renishkumar Delvadia no later than December 30, 2017.

Streaming Webcast of the public workshop: This public workshop will also be webcast. A live webcast of this workshop will be viewable at <https://collaboration.fda.gov/r19djs3yfsf/> on the day of the workshop. A video record of the workshop will be available at the same web address for 1 year. If you have never attended a Connect Pro event before, test your connection at https://collaboration.fda.gov/common/help/en/support/meeting_test.htm. To get a quick overview of the Connect Pro program, visit https://www.adobe.com/go/connectpro_overview. FDA has verified the website addresses in this document, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

Dated: December 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27279 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0075]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Good Laboratory Practice Regulations for Nonclinical Studies

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by January 18, 2018.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, Fax: 202-395-7285, or emailed to oir_submission@omb.eop.gov. All comments should be identified with the OMB control number 0910-0119. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Ila S. Mizrahi, Office of Operations, Food and Drug Administration, Three White Flint North, 10A-12M, 11601 Landsdown St., North Bethesda, MD 20852, 301-796-7726, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Good Laboratory Practice Regulations for Nonclinical Studies—21 CFR Part 58

OMB Control Number 0910-0119—Extension

Sections 409, 505, 512, and 515 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 348, 355, 360b, and 360e) and related statutes require manufacturers of food additives, human drugs and biological products, animal drugs, and medical devices to demonstrate the safety and utility of their product by submitting applications to FDA for

research or marketing permits. Such applications contain, among other important items, full reports of all studies done to demonstrate product safety in man and/or other animals. In order to ensure adequate quality control for these studies and to provide an adequate degree of consumer protection, the Agency issued good laboratory practice (GLP) regulations for nonclinical laboratory studies in part 58 (21 CFR part 58). The regulations specify minimum standards for the proper conduct of safety testing and contain sections on facilities, personnel, equipment, standard operating procedures (SOPs), test and control articles, quality assurance, protocol and conduct of a safety study, records and reports, and laboratory disqualification.

Part 58 requires testing facilities engaged in conducting toxicological studies to retain, and make available to regulatory officials, records regarding compliance with GLPs. Records are maintained on file at each testing facility and examined there periodically by FDA inspectors. The GLP regulations require that, for each nonclinical laboratory study, a final report be prepared that documents the results of quality assurance unit inspections, test and control article characterization, testing of mixtures of test and control articles with carriers, and an overall interpretation of nonclinical laboratory studies. The GLP regulations also require written records pertaining to: (1) Personnel job descriptions and summaries of training and experience; (2) master schedules, protocols and amendments thereto, inspection reports, and SOPs; (3) equipment inspection, maintenance, calibration, and testing records; (4) documentation of feed and water analyses, and animal treatments; (5) test article accountability records; and (6) study documentation and raw data.

Recordkeeping is necessary to document the conduct of nonclinical laboratory studies of FDA-regulated products to ensure the quality and integrity of the resulting final study report on which a regulatory decision may be based. Written SOPs and records of actions taken are essential for testing facilities to implement GLPs effectively. Further, they are essential for FDA to be able to determine a testing facility's compliance with the GLP regulations in part 58.

In a notice of proposed rulemaking published in the **Federal Register** of August 24, 2016 (81 FR 58342), we proposed changes in our GLP regulations, including some of those listed in tables 1 and 2 of this document. The document included

revised burden estimates for the proposed changes and solicited public comment. In response to requests, the comment period was extended to January 21, 2017 (81 FR 75351, October 31, 2016). In the interim, FDA is seeking an extension of OMB approval for the

current regulations so that we can continue to collect information while the proposal is pending.

Description of Respondents: The likely respondents collecting this information are contract laboratories, sponsors of FDA-regulated products, universities, or government agencies.

In the **Federal Register** of April 25, 2017 (82 FR 19054), FDA published a 60-day notice requesting public comment on the proposed collection of information. We received no comments.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN ¹

21 CFR section/activity	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
58.35(b)(7); Quality assurance unit	300	60.25	18,075	1	18,075
58.185; Reporting of nonclinical laboratory study results ...	300	60.25	18,075	27.65	499,774
Total					517,849

¹ There are no capital costs or operating maintenance costs associated with this collection of information.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN ¹

21 CFR section/activity	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping (in hours)	Total hours
58.29(b); Personnel	300	20	6,000	.21 (13 minutes)	1,260
58.35(b)(1)–(6), and (c); Quality assurance unit	300	270.76	81,228	3.36	272,926
58.63(b) and (c); Maintenance and calibration of equipment.	300	60	18,000	.09 (5 minutes)	1,620
58.81(a)–(c); SOPs	300	301.8	90,540	.14 (8 minutes)	12,676
58.90(c) and (g); Animal care	300	62.7	18,810	.13 (8 minutes)	2,445
58.105(a) and (b); Test and control article characterization.	300	5	1,500	11.8	17,700
58.107(d); Test and control article handling	300	1	300	4.25	1,275
58.113(a); Mixtures of articles with carriers	300	15.33	4,599	6.8	31,273
58.120; Protocol	300	15.38	4,614	32.7	150,878
58.195; Retention of records	300	251.5	75,450	3.9	294,255
Total					786,308

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

The annual burden for the information collection requirements in these regulations is estimated at 1,304,157 burden hours (517,849 + 786,308 = 1,304,157). The hours per response estimates are based on our experience with similar programs and information received from industry.

Dated: December 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27255 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-D-6535]

Standards Development and the Use of Standards in Regulatory Submissions Reviewed in the Center for Biologics Evaluation and Research; Draft Guidance for Industry and Food and Drug Administration Staff; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft document entitled “Standards Development and the Use of Standards in Regulatory Submissions Reviewed in the Center for Biologics Evaluation and Research; Draft Guidance for Industry and Food and Drug Administration Staff.” The draft guidance document

recognizes the value of standards and encourages the use of appropriate standards to facilitate the evaluation of products regulated by the Center for Biologics Evaluation and Research (CBER). The guidance describes CBER’s recommendations on the use of standards in product development and the use of such standards in CBER’s managed review process. The draft guidance does not endorse the activities of specific Standards Development Organizations or recommend specific standards for use in regulatory submissions.

DATES: Submit either electronic or written comments on the draft guidance by March 19, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

• *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

• If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

• *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

• For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-D-6535 for "Standards Development and the Use of Standards in Regulatory Submissions Reviewed in the Center for Biologics Evaluation and Research; Draft Guidance for Industry and Food and Drug Administration Staff." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

• *Confidential Submissions*—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states

"THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Office of Communication, Outreach and Development, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 3128, Silver Spring, MD 20993-0002. Send one self-addressed adhesive label to assist the office in processing your requests. The draft guidance may also be obtained by mail by calling CBER at 1-800-835-4709 or 240-402-8010. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT:

Angela Moy, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993-0002, 240-402-7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft document entitled "Standards

Development and the Use of Standards in Regulatory Submissions Reviewed in the Center for Biologics Evaluation and Research; Draft Guidance for Industry and Food and Drug Administration Staff." The Federal Government's policies on the use of standards developed by voluntary consensus standard bodies are described in the Office of Management and Budget Circular A-119, "Federal Participation in the Development and Use of Voluntary Consensus Standards and in Conformity Assessment Activities." The policies outlined in Circular A-119 were codified in the National Technology Transfer and Advancement Act of 1995 (NTTAA). The NTTAA authorizes the National Institute of Standards and Technology to coordinate standards activities for Federal Agencies.

CBER recognizes the value of standards and encourages the use of appropriate standards in the development of CBER-regulated medical products. Sponsors' use of standards can facilitate product development and a more efficient evaluation of regulatory submissions. The draft guidance describes CBER's recommendations on the use of standards in product development and the use of such standards in CBER's managed review process. It describes how standards are developed, the benefits of using standards, and CBER's policy on accepting standards used in regulatory submissions. CBER's use of, and CBER's acceptance of sponsors' use of, voluntary consensus standards do not constitute a delegation of CBER's regulatory responsibilities. Whether or not standards are used, CBER retains the ability to set, and the responsibility for setting, appropriate regulatory criteria for CBER-regulated products.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on standards development and the use of standards in regulatory submissions reviewed in CBER. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Electronic Access

Persons with access to the internet may obtain the draft guidance at either <https://www.fda.gov/Biologics/BloodVaccines/GuidanceCompliance/RegulatoryInformation/Guidances/>

[default.htm](#) or <https://www.regulations.gov>.

Dated: December 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27275 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2017-N-4678]

Modified Risk Tobacco Product Applications: Applications for Six Camel Snus Smokeless Tobacco Products Submitted by R.J. Reynolds Tobacco Company; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability for public comment of modified risk tobacco product applications (MRTPAs) for six Camel Snus smokeless tobacco products submitted by R.J. Reynolds Tobacco Co.

DATES: Electronic or written comments on the applications may be submitted until June 18, 2018; however, FDA may modify the comment period by providing notice as described in section I.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal:* <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the

public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2017-N-4678 for "Modified Risk Tobacco Product Applications: Applications for Six Camel Snus Smokeless Tobacco Products Submitted by R.J. Reynolds Tobacco Company." Received comments will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions**—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as "confidential." Any information marked as "confidential" will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/>

[fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf](https://www.fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf).

Docket: For access to the docket to read the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the "Search" box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Paul Hart, Center for Tobacco Products, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. G335, Silver Spring, MD 20993-0002, 1-877-287-1373, email: AskCTP@fda.hhs.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 911 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 387k) addresses the marketing and distribution of modified risk tobacco products (MRTPs). MRTPs are tobacco products that are sold or distributed for use to reduce harm or the risk of tobacco-related disease associated with commercially marketed tobacco products. Section 911(a) of the FD&C Act prohibits the introduction or delivery for introduction into interstate commerce of any MRTP unless an order issued by FDA under section 911(g) of the FD&C Act is effective with respect to such product.

Section 911(d) of the FD&C Act describes the information that must be included in an MRTPA, which must be filed and evaluated by FDA before an applicant can receive an order from FDA. FDA is required by section 911(e) of the FD&C Act to make an MRTPA available to the public (except for matters in the application that are trade secrets or otherwise confidential commercial information) and to request comments by interested persons on the information contained in the application and on the label, labeling, and advertising accompanying the application. The determination of whether an order is appropriate under section 911(g) of the FD&C Act is based on the scientific information submitted by the applicant as well as the scientific evidence and other information that is made available to the Agency, including through public comments.

Section 911(g) of the FD&C Act describes the demonstrations applicants must make to obtain an order from FDA under either section 911(g)(1) or (2). The applicant, R.J. Reynolds Tobacco Co., is seeking orders under section 911(g)(1) for each of the 6 products that are the subject of the submitted MRTPAs. A

person seeking an order under section 911(g)(1) of the FD&C Act must show that the tobacco product, as it is actually used by consumers, will significantly reduce harm and the risk of tobacco-related disease to individual tobacco users and will benefit the health of the population as a whole taking into account both users of tobacco products and persons who do not currently use tobacco products. Section 911(g)(4) of the FD&C Act describes factors that FDA must take into account in evaluating whether a tobacco product benefits the health of individuals and the population as a whole.

FDA is issuing this notice to inform the public that the MRTPAs for the following products submitted by R.J. Reynolds Tobacco Co. have been filed and are being made available for public comment:

- MR0000068: Camel Snus Frost
- MR0000069: Camel Snus Frost Large
- MR0000070: Camel Snus Mellow
- MR0000071: Camel Snus Mint
- MR0000072: Camel Snus Robust
- MR0000073: Camel Snus Winterchill

In this document, FDA is announcing the availability of the applications for public comment. FDA will make any amendments submitted by the applicant available for public comment on a rolling basis. The applications will be available for public comment for 180 days from the date this notice is published; however, in the event that fewer than 30 days remain in the 180-day comment period when an amendment is posted, FDA will extend or reopen the comment period to allow for at least 30 days of public comment on the amendment. FDA believes that this comment period is appropriate given the volume and complexity of the applications being posted. FDA will notify the public about the availability of amendments to these applications and changes to related comment periods via the Agency's website and other means of public communication. To encourage public participation consistent with section 911(e) of the FD&C Act, FDA is making the redacted MRTPAs that are the subject of this notice available electronically (see section II).

II. Electronic Access

Persons with access to the internet may obtain the documents at: <https://www.fda.gov/TobaccoProducts/Labeling/MarketingandAdvertising/UCM564399.htm>.

Dated: December 13, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27246 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA-2011-N-0672]

Agency Information Collection Activities; Proposed Collection; Comment Request; Prominent and Conspicuous Mark of Manufacturers on Single-Use Devices

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on reprocessed, single-use device labeling.

DATES: Submit either electronic or written comments on the collection of information by February 20, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 20, 2018. The <https://www.regulations.gov> electronic filing system will accept comments until midnight Eastern Time at the end of February 20, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- **Federal eRulemaking Portal:** <https://www.regulations.gov>. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to <https://www.regulations.gov> will be posted to the docket unchanged. Because your comment will be made public, you are

solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on <https://www.regulations.gov>.

- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see "Written/Paper Submissions" and "Instructions").

Written/Paper Submissions

Submit written/paper submissions as follows:

- **Mail/Hand delivery/Courier (for written/paper submissions):** Dockets Management Staff (HFA-305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in "Instructions."

Instructions: All submissions received must include the Docket No. FDA-2011-N-0672 for "Agency Information Collection Activities; Proposed Collection; Comment Request; Prominent and Conspicuous Mark of Manufacturers on Single-Use Devices." Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as "Confidential Submissions," publicly viewable at <https://www.regulations.gov> or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- **Confidential Submissions—**To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states "THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION." The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available

for public viewing and posted on <https://www.regulations.gov>. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as “confidential.” Any information marked as “confidential” will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA’s posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: <https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf>.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to <https://www.regulations.gov> and insert the docket number, found in brackets in the heading of this document, into the “Search” box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Amber Sanford, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–8867, PRAStaff@fda.hhs.gov.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. “Collection of information” is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the

public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA’s functions, including whether the information will have practical utility; (2) the accuracy of FDA’s estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Prominent and Conspicuous Mark of Manufacturers on Single-Use Devices

OMB Control Number 0910–0577—Extension

Section 502 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 352), among other things, establishes requirements that the label or labeling of a medical device must meet so that it is not misbranded and subject to regulatory action. Section 301 of the Medical Device User Fee and Modernization Act of 2002 (Pub. L. 107–

250) amended section 502 of the FD&C Act to add section 502(u) to require devices (both new and reprocessed) to bear prominently and conspicuously the name of the manufacturer, a generally recognized abbreviation of such name, or a unique and generally recognized symbol identifying the manufacturer.

Section 2(c) of the Medical Device User Fee Stabilization Act of 2005 (Pub. L. 109–43) amends section 502(u) of the FD&C Act by limiting the provision to reprocessed single-use devices (SUDs) and the manufacturers who reprocess them. Under the amended provision, if the original SUD or an attachment to it prominently and conspicuously bears the name of the manufacturer, then the reprocessor of the SUD is required to identify itself by name, abbreviation, or symbol in a prominent and conspicuous manner on the device or attachment to the device. If the original SUD does not prominently and conspicuously bear the name of the manufacturer, the manufacturer who reprocesses the SUD for reuse may identify itself using a detachable label that is intended to be affixed to the patient record.

The requirements of section 502(u) of the FD&C Act impose a minimal burden on industry. This section of the FD&C Act only requires the manufacturer, packer, or distributor of a device to include their name and address on the labeling of a device. This information is readily available to the establishment and easily supplied. From its registration and premarket submission database, FDA estimates that there are 67 establishments that distribute approximately 427 reprocessed SUDs. Each response is anticipated to take 0.1 hours (6 minutes) resulting in a total burden to industry of 43 hours.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL THIRD-PARTY DISCLOSURE BURDEN^{1 2}

Type of respondent	Number of respondents	Number of disclosures per respondent	Total annual disclosures	Average burden per disclosure	Total hours
Establishments listing fewer than 10 SUDs	58	2	116	0.1 (6 minutes)	12
Establishments listing 10 or more SUDs	9	34	306	0.1 (6 minutes)	31
Total					43

¹ There are no capital costs or operating and maintenance costs associated with this collection of information.

² Numbers have been rounded.

The burden for this information collection has not changed since the last OMB approval.

Dated: December 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017-27276 Filed 12-18-17; 8:45 am]

BILLING CODE 4164-01-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

[Document Identifier: HHS-OS-0990-0281-30D]

Agency Information Collection Request. 30-Day Public Comment Request

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995, the Office of the Secretary (OS), Department of Health and Human Services, is publishing the following summary of a proposed collection for public comment.

DATES: Comments on the ICR must be received on or before January 18, 2018.

ADDRESSES: Submit your comments to *OIRA_submission@omb.eop.gov* or via facsimile to (202) 395-5806.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrette.Funn@hhs.gov* or (202) 795-7714. When submitting comments or requesting information, please include the document identifier

0990-New-30D and project title for reference.

SUPPLEMENTARY INFORMATION: Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Title of the Collection: Prevention Communication Formative Research—Revision—OMB No. 0990-0281.

Type of Collection: Revision. *OMB No.:* 0990-0281—Office of Disease Prevention and Health Promotion.

Abstract: The Office of Disease Prevention and Health Promotion (ODPHP) is focused on developing and disseminating health information to the public. ODPHP faces an increasingly urgent interest in finding effective ways to communicate health information to America's diverse population. ODPHP strives to be responsive to the needs of America's diverse audiences while simultaneously serving all Americans across a range of channels, from print to new communication technologies. To carry out prevention information efforts, ODPHP is committed to conducting formative and usability research to

provide guidance on the development and implementation of their communication and education efforts. The information collected will be used to improve communication, products, and services that support key office activities including: Healthy People, Dietary Guidelines for Americans, Physical Activity Guidelines for Americans, *healthfinder.gov*, and increasing health care quality and patient safety. ODPHP communicates through its websites (*www.healthfinder.gov*, *www.HealthyPeople.gov*, *www.health.gov*) and through other channels including social media, print materials, interactive training modules, and reports. This request builds on previous formative research approaches to place more emphasis on web-based data collection to allow greater geographical diversity among respondents, to decrease respondent burden, and to save government costs. Data collection will be qualitative and quantitative and may include in-depth interviews, focus groups, web-based surveys, omnibus surveys, card sorting, and various forms of usability testing of materials and interactive tools to assess the public's understanding of disease prevention and health promotion content, responses to prototype materials, and barriers to effective use.

The program is requesting a 3-year clearance.

Likely Respondents: Respondents are likely to be either consumers or health professionals.

TOTAL ESTIMATED ANNUALIZED BURDEN HOURS

Data collection task	Instrument/form name	Number of respondents	Number responses/respondent	Average burden/response (in hours)	Total response burden (in hours)
In-depth interviews	Screener	1,500	1	10/60	250
	Interview	500	1	1.00	500
Focus groups	Screener	2,925	1	10/60	487.5
	Focus Group	975	1	1.50	1,462.5
Intercept interviews	Interview	5,250	1	5/60	437.50
Cognitive testing of instruments	Screener	150	1	10/60	25
	Cognitive Test	50	1	2.00	100
Web-based surveys	Screener	30,000	1	5/60	2,500
	Survey	10,000	1	15/60	2,500
Omnibus surveys	Survey	2,100	1	10/60	350
Gatekeeper reviews	Review	325	1	30/60	162.5
Card sorting	Screener	600	1	10/60	100
	Card Sort	200	1	1.00	200
Usability and prototype testing of materials (print and web).	Screener	1,800	1	10/60	300
	Usability Test	600	1	1.00	600
Total					9,975.00

Darius Taylor,

*Dept. of Health and Human Service,
Paperwork Reduction Act Reports Clearance
Officer.*

[FR Doc. 2017-27251 Filed 12-18-17; 8:45 am]

BILLING CODE 4150-32-P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended, notice is hereby given of an Interagency Autism Coordinating Committee (IACC) meeting.

The purpose of the IACC meeting is to discuss business, agency updates, and issues related to autism spectrum disorder (ASD) research and services activities. The meeting will be open to the public and will be accessible by webcast and conference call.

Name of Committee: Interagency Autism Coordinating Committee.

Type of meeting: Open Meeting.

Date: Wednesday, January 17, 2018.

Time: 9:00 a.m. to 5:00 p.m.* Eastern Time * Approximate end time.

Agenda: To discuss business, updates, and issues related to ASD research and services activities.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, MD 20814.

Webcast Live: <https://videocast.nih.gov>.

Conference Call Access: Dial: 888-928-9527, Access code: 6435114.

Cost: The meeting is free and open to the public.

Registration: A registration web link will be posted on the IACC website (www.iacc.hhs.gov) prior to the meeting. Pre-registration is recommended to expedite check-in. Seating in the meeting room is limited to room capacity and on a first come, first served basis. Onsite registration will also be available.

Deadlines: Notification of intent to present oral comments: Friday, January 5, 2018 by 5:00 p.m. ET.

Submission of written/electronic statement for oral comments: Tuesday, January 9, 2018 by 5:00 p.m. ET.

Submission of written comments: Tuesday, January 9, 2018 by 5:00 p.m. ET.

For IACC Public Comment guidelines please see: <https://iacc.hhs.gov/meetings/public-comments/guidelines/>.

Access: Medical Center (Red Line Metro) in combination with a 26-minute walk or short taxi ride; parking available at the hotel.

Contact Person: Ms. Angelice Mitrakas, Office of Autism Research Coordination, National Institute of Mental Health, National Institutes of Health, 6001 Executive Boulevard, Room 6182A, Bethesda, MD 20892-9669, Phone: 301-435-9269, Email: IACCPublicInquiries@mail.nih.gov.

Public Comments: Any member of the public interested in presenting oral comments to the IACC must notify the Contact Person listed on this notice by 5:00 p.m. ET on Friday, January 5, 2018 with their request to present oral comments at the meeting, and a written/electronic copy of the oral presentation/statement must be submitted by 5:00 p.m. ET on Tuesday, January 9, 2018.

A limited number of slots for oral comment are available, and in order to ensure that as many different individuals are able to present throughout the year as possible, any given individual only will be permitted to present oral comments once per calendar year (2018). Only one representative of an organization will be allowed to present oral comments in any given meeting; other representatives of the same group may provide written comments. If the oral comment session is full, individuals who could not be accommodated are welcome to provide written comments instead. Comments to be read or presented in the meeting will be assigned a 3-5 minute time slot depending on the number of comments, but a longer version may be submitted in writing for the record. Commenters going beyond their allotted time in the meeting may be asked to conclude immediately in order to allow other comments and presentations to proceed on schedule.

Any interested person may submit written public comments to the IACC prior to the meeting by emailing the comments to IACCPublicInquiries@mail.nih.gov or by submitting comments at the web link: <https://iacc.hhs.gov/meetings/public-comments/submit/index.jsp> by 5:00 p.m. ET on Tuesday, January 9, 2018. The comments should include the name, address, telephone number, and when applicable, the business or professional affiliation of the interested person. NIMH anticipates written public comments received by 5:00 p.m. ET on Tuesday, January 9, 2018 will be presented to the Committee prior to the meeting for the Committee's consideration. Any written comments received after the 5:00 p.m. ET, January 9, 2018 deadline through January 16, 2018 will be provided to the Committee either before or after the meeting, depending on the volume of comments received and the time required to process them in accordance with

privacy regulations and other applicable Federal policies. All written public comments and oral public comment statements received by the deadlines for both oral and written public comments will be provided to the IACC for their consideration and will become part of the public record. Attachments of copyrighted publications are not permitted, but web links or citations for any copyrighted works cited may be provided.

In the 2009 IACC Strategic Plan, the IACC listed the "Spirit of Collaboration" as one of its core values, stating that, "We will treat others with respect, listen to diverse views with open minds, discuss submitted public comments, and foster discussions where participants can comfortably offer opposing opinions." In keeping with this core value, the IACC and the NIMH Office of Autism Research Coordination (OARC) ask that members of the public who provide public comments or participate in meetings of the IACC also seek to treat others with respect and consideration in their communications and actions, even when discussing issues of genuine concern or disagreement.

Remote Access: The meeting will be open to the public through a conference call phone number and webcast live on the internet. Members of the public who participate using the conference call phone number will be able to listen to the meeting but will not be heard. If you experience any technical problems with the webcast or conference call, please send an email to IACCPublicInquiries@mail.nih.gov or call 240-668-0302.

Individuals wishing to participate in person or by using these electronic services and who need special assistance, such as captioning of the conference call or other reasonable accommodations, should submit a request to the Contact Person listed on this notice at least five days prior to the meeting.

Security: Visitors will be asked to sign in and show one form of identification (for example, a government-issued photo ID, driver's license, or passport) at the meeting registration desk during the check-in process. Pre-registration is recommended. Seating will be limited to the room capacity and seats will be on a first come, first served basis, with expedited check-in for those who are pre-registered.

Meeting schedule subject to change. Information about the IACC is available on the website: <http://www.iacc.hhs.gov>.

Dated: December 13, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017-27225 Filed 12-18-17; 8:45 am]

BILLING CODE 4140-01-P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS-R6-ES-2017-0073; FF06E23000-178-FXES11140600000]

Endangered and Threatened Wildlife and Plants; Incidental Take Permit Application; Draft Range-Wide General Conservation Plan for Utah Prairie Dogs and Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the following documents for review and comment by the public and Federal, Tribal, State, and local governments:

- Draft Range-wide General Conservation Plan for Utah Prairie Dogs (GCP);
- Draft Implementing Agreement for the GCP; and
- Draft Environment Assessment of the GCP (EA).

We prepared the draft GCP to fulfill the requirements of the Endangered Species Act (ESA) for issuing permits to authorize take of Utah prairie dogs incidental to development activities within the range of the species in Utah. The draft GCP is designed to streamline incidental take permit authorization for many types of development activities while conserving the species. As required by the National Environmental Policy Act (NEPA), we also prepared a draft EA that analyzes the potential effects to the natural and human environment from issuing permits to Iron, Beaver, and Garfield Counties and from overall implementation of the GCP, including potential issuance of master or individual permits over the 10-year term of the proposed GCP.

DATES: *Comment submission:* To ensure consideration in our analyses, comments must be submitted or postmarked by January 18, 2018.

ADDRESSES: *Document availability:* The draft GCP, EA, and Implementing Agreement are available via the internet at the Federal eRulemaking Portal (www.regulations.gov) in Docket No. FWS-R6-ES-2017-0073. Information

regarding these documents is available in alternative formats upon request (see **FOR FURTHER INFORMATION CONTACT**). Documents will also be available for public inspection by appointment (call 801-975-3330) during normal business hours at the U.S. Fish and Wildlife Service, Utah Ecological Services Field Office, 2369 W. Orton Circle, #50, West Valley City, UT 84119.

Submitting comments: To send written comments, please use one of the following methods, and note that your information requests or comments are in reference to the draft GCP. Please specify which of the documents your comment addresses.

- *Internet:* Submit comments at <http://www.regulations.gov> to Docket Number FWS-R6-ES-2017-0073.
- *U.S. Mail:* Public Comments Processing, Attn: Docket No. FWS-R6-ES-2017-0073; U.S. Fish and Wildlife Service Headquarters, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041-3803.

FOR FURTHER INFORMATION CONTACT: Laura Romin, 801-975-3330, extension 142 (phone), or laura_romin@fws.gov (email). If you use a telecommunications device for the deaf, hard-of-hearing, or speech disabled, please call the Federal Relay Service at 800-877-8339.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the availability of the following documents for review and comment by the public and Federal, Tribal, State, and local governments:

- Draft Range-wide General Conservation Plan for Utah Prairie Dogs (GCP);
- Draft Implementing Agreement for the GCP; and
- Draft Environment Assessment of the GCP (EA).

We prepared the draft GCP to fulfill the requirements of the Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA) for issuing permits to authorize take of Utah prairie dogs incidental to development activities within the range of the species in Utah. The draft GCP is designed to streamline take authorization for many types of development activities while conserving the species. Iron, Beaver, and Garfield Counties, in Utah, are applying for master incidental take permits under the GCP for development activities in those counties. Under their master permits, each county would provide take authorization through certificates of inclusion to project proponents who agree to adhere to the conditions of the GCP and the relevant county's master permit. Project proponents in other counties within the GCP's plan area

would apply directly to the Service for their own incidental take permits. Other counties and municipalities may apply to the Service for a master permit for their area of jurisdiction.

The Utah prairie dog (*Cynomys parvidens*) is listed as threatened under the ESA and is the sole species covered by the GCP. The draft GCP incorporates elements of the Utah Division of Resources' Utah Prairie Dog Management Plan for Non-Federal Lands, as well as other conservation measures to meet ESA requirements for issuing incidental take permits.

As required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*; NEPA), we prepared a draft EA that analyzes the potential effects to the natural and human environment from issuing permits to Iron, Beaver, and Garfield Counties and overall implementation of the GCP, including potential issuance of other master or individual permits over the 10-year term of the proposed GCP. For future decisions to issue permits under the GCP, we would use the analysis in this EA, as appropriate, in accordance with NEPA and relevant case law. As required by the ESA, we would make any future master or individual permit applications under the GCP available for public comment. In the draft EA, we also analyze the potential impacts to the natural and human environment from issuing permits in the future for projects outside Iron, Beaver, and Garfield Counties, and from implementing two alternatives to the proposed action. The draft EA also identifies alternatives that we considered but eliminated from further analysis.

Background

Section 9 of the ESA prohibits take of fish and wildlife species listed as endangered (16 U.S.C. 1538). Under section 3 of the ESA, the term "take" means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect, or attempt to engage in any such conduct" (16 U.S.C. 1532(19)). The term "harm" is defined in title 50 of the Code of Federal Regulations as "an act which actually kills or injures wildlife. Such acts may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or sheltering" (50 CFR 17.3). The term "harass" is defined in the regulations as to carry out "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but

are not limited to, breeding, feeding, or sheltering” (50 CFR 17.3).

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. “Incidental take” is defined by the ESA as take that is incidental to, and not the purpose of, carrying out an otherwise lawful activity. Section 10(a)(1)(B) of the ESA contains provisions for issuing incidental take permits to non-Federal entities for the incidental take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental.
- The applicant will minimize and mitigate, to the maximum extent practicable, the impact of such taking.
- The applicant will develop an HCP and ensure that adequate funding for the plan will be provided.
- The taking will not appreciably reduce the likelihood of the survival and recovery of the species in the wild.
- The applicant will carry out any other measures that the Secretary of the Interior may require as being necessary or appropriate for the purposes of the HCP.

Regulations governing permits for threatened species are at 50 CFR 17.32.

The National Environmental Policy Act (NEPA; 42 U.S.C. 4321 *et seq.*) requires that Federal agencies conduct an environmental analysis of their proposed actions to determine whether the actions may significantly affect the human environment. Under NEPA and its implementing regulations (40 CFR 1500 *et seq.*; 43 CFR 46), Federal agencies must also compare effects of a reasonable range of alternatives to the proposed action. In these analyses, the Federal agency will identify potentially significant direct, indirect, and cumulative effects, as well as possible mitigation for any significant effects, on biological resources, land uses, and other human and environmental resources that could occur with the implementation of the proposed action and alternatives. In accordance with NEPA, we prepared a draft EA to analyze the impacts to the natural and human environment that may occur if the Service were to issue master permits to Iron, Beaver, and Garfield Counties and individual permits to project proponents outside these counties and from implementation of the GCP across the range of the Utah prairie dog.

Proposed Action

We propose to make the GCP available to non-Federal parties within the range of the Utah prairie dog for use when they are applying for incidental take permits for development activities.

We also propose, at this time, to issue 10-year master permits for incidental take of the Utah prairie dog to Iron, Beaver, and Garfield Counties, if applications from these counties demonstrate commitments to implement the requirements of the GCP to meet all the ESA section 10(a)(1)(B) permit issuance criteria. The master permits would authorize take of the Utah prairie dog incidental to activities associated with residential and commercial development and infrastructure construction, operations, and maintenance. Each county would convey take authorization under its permit to individual project proponents who apply for certificates of inclusion under the GCP. We also propose to issue individual permits to project proponents and master permits to other counties and municipalities as they submit applications over the 10-year term of the GCP.

The GCP’s plan area encompasses the entire current range of the Utah prairie dog, which includes all or parts of Iron, Garfield, Wayne, Beaver, Piute, Sevier, and Kane Counties. Individual permits we issue under the GCP would cover the area within which take is expected to occur from each project. The master permits for Iron, Beaver, and Garfield Counties would include any areas where take may occur from covered activities within those counties.

The GCP identifies two zones where take would be authorized for development activities: (1) Major development areas—Non-Federal lands that are already built out or adjacent to built-out areas, and (2) Minor Development Areas—Non-Federal lands that are less likely than the major development areas to have large-scale human development growth over the term of the GCP.

The GCP’s measures to minimize and mitigate the impacts of the take include prairie dog translocations, habitat and plague management at translocation sites, and the protection of occupied Utah prairie dog habitats, all of which are consistent with our recovery objectives for this species. The overall conservation goals include: (1) Establishing and augmenting prairie dog colonies on Federal and other protected lands through translocations, and (2) Establishing conservation easements or acquiring lands from willing sellers to protect existing prairie dog colonies on private other non-Federal lands to support connectivity and metapopulation viability. Implementation of the conservation measures would rely on a combination of efforts by the Utah Division of Wildlife, Bureau of Land Management,

U.S. Forest Service, and U.S. Fish and Wildlife Service. State funds and fees paid by developers obtaining a permit or certificate of inclusion would pay for implementation of the conservation measures.

Alternatives Analyzed in the Draft Environmental Assessment

In the draft EA, we evaluate the effects on the natural and human environment from two alternatives to the proposed action: (1) No action (*i.e.*, no GCP), and (2) Issuing a master permit to each county that prepares an HCP with a permit application.

The draft EA considers the direct, indirect, and cumulative effects of the two action alternatives, including measures intended to avoid, minimize, and mitigate such impacts.

Public Comments

We request information, views, and opinions from the public specifically on our proposed Federal action, including but not limited to any other aspects of the human environment not already identified in the draft EA. We also solicit information regarding the adequacy of the GCP in meeting the requirements of 50 CFR parts 13 and 17.

Written comments received become part of the public record associated with this action. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you may request in your comment that we withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. All submissions from organizations or businesses and from individuals identifying themselves as representatives or officials of organizations or businesses will be made available for public disclosure in their entirety.

Authority: We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations for incidental take permits (50 CFR 17.22) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6; 43 CFR part 46).

Dated: October 2, 2017.

Michael G. Thabault,

Assistant Regional Director—Ecological Services, Mountain-Prairie Region, U.S. Fish and Wildlife Service, Lakewood, Colorado.

[FR Doc. 2017–27250 Filed 12–18–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR**Bureau of Land Management**

[LLNML00000 L14400000.ET0000; NMNM 136149]

Public Notice of Legal Land Descriptions and Map Availability; White Sands Missile Range Withdrawal, New Mexico**AGENCY:** Bureau of Land Management, Interior.**ACTION:** Notice.

SUMMARY: This Notice provides official publication of the legal land description for the White Sands Missile Range/Fort Bliss addition in New Mexico, which is withdrawn and reserved for military training purposes. The fiscal year 2014 National Defense Authorization Act (NDAA) requires official publication of the legal land description and notification of availability of the White Sands Missile Range map.

DATES: The legal description became effective on December 26, 2013.

ADDRESSES: Copies of the map are available for public review at the Bureau of Land Management, New Mexico State Office, 301 Dinosaur Trail, Santa Fe, NM 87502, and the Bureau of Land Management, Las Cruces District Office, 1800 Marquess Street Las Cruces, NM 88001.

FOR FURTHER INFORMATION CONTACT: Jeanette Martinez, Bureau of Land Management, New Mexico State Office at 505-954-2196 or via email at jeanette@blm.gov. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1-800-877-8339 to contact the above individual during normal business hours. The FRS is available 24 hours a day, 7 days a week, to leave a message or question for the above individual. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: On December 26, 2013, the NDAA for 2014 was passed under Public Law 113-66. Pursuant to Section 2912, Subtitle A, of Title XXIX, Withdrawal, Reservation, and Transfer of Public Lands to Support Military Readiness and Security, this Notice informs the public of the official legal land description for the public lands reserved for use by the Secretary of the Army for military purposes in accordance with Public Land Order No. 833 and added to the exterior boundaries of the White Sands Missile Range by Public Law 113-66. The withdrawn and reserved lands are managed according to the provisions stated under Section 2951 and 2952,

Subtitle D of Title XXIX. The public lands withdrawn for the White Sands Missile Range are described as:

New Mexico Meridian, New Mexico

T. 20 S., R. 3 E.,

Sec. 28, S¹/₂; secs. 33 and 34.

T. 21 S., R. 3 E.,

Secs. 3, 4, 9, and 10;

Sec. 14, lots 7, 8, 15, 16, 19, 20, 22, 23, and 24, and NW¹/₄;Sec. 15, lots 1 and 3, N¹/₂, SW¹/₄, and N¹/₂ SE¹/₄.

The areas described aggregate 5,089.31 acres Dona Ana County.

(Authority: Public Law 113-66)

Melanie Barnes,*Deputy State Director, Lands and Resources.*

[FR Doc. 2017-27220 Filed 12-18-17; 8:45 am]

BILLING CODE 4310-FB-P**DEPARTMENT OF THE INTERIOR****National Park Service**

[NPS-NER-FIIS-DTS-23982; P0201786a.00.1]

Final Fire Island Wilderness Breach Management Plan/Environmental Impact Statement, Fire Island National Seashore, New York**AGENCY:** National Park Service, Department of the Interior.**ACTION:** Notice of availability.

SUMMARY: The National Park Service (NPS) announces the availability of the final Fire Island Wilderness Breach Management Plan/Environmental Impact Statement (final Breach Plan/EIS) for Fire Island National Seashore, New York. The final Breach Plan/EIS identifies Alternative 3, No Human Intervention unless Established Criteria are Exceeded, as the NPS preferred alternative. When approved, the management plan will guide the management of the breach that occurred in the Otis Pike Fire Island High Dune Wilderness during Hurricane Sandy.

DATES: The NPS will prepare a Record of Decision (ROD) no sooner than 30 days following publication by the Environmental Protection Agency of a Notice of Availability of the final Breach Plan/EIS in the **Federal Register**.

ADDRESSES: The final Breach Plan/EIS is available electronically at <http://parkplanning.nps.gov/FireIslandBreachManagementPlan>. A limited number of printed copies will be available upon request by contacting Fire Island National Seashore, 120 Laurel Street, Patchogue, NY 11772-3596, 631-687-4770.

FOR FURTHER INFORMATION CONTACT: Kaetlyn Jackson, Fire Island National

Seashore, 120 Laurel Street Patchogue, NY, 11772, 631-687-4770, kaetlyn_jackson@nps.gov.

SUPPLEMENTARY INFORMATION: Fire Island National Seashore (the Seashore), a unit of the NPS, is located along the south shore of Long Island in Suffolk County, New York. The Seashore encompasses 19,579 acres of upland, tidal, and submerged lands along a 26-mile stretch of the 32-mile barrier island—part of a much larger system of barrier islands and bluffs stretching from New York City to the very eastern end of Long Island at Montauk Point.

On October 29, 2012, Hurricane Sandy created three breaches in the barrier island system off the south shore of Long Island, New York, including one within the Otis Pike Fire Island High Dune Wilderness Area (Fire Island Wilderness) within the Seashore. Managing a breach in designated wilderness is different from managing breaches outside wilderness areas, as the NPS must manage federal wilderness to preserve wilderness character. The existing Breach Contingency Plan is the only guidance currently in effect to address breaches along coastal Long Island from Fire Island Inlet east to Montauk Point but it does not adequately address management of breaches in the Fire Island Wilderness. As a result, pursuant to the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), the Seashore prepared a draft Fire Island Wilderness Breach Management Plan and Environmental Impact Statement (draft Breach Plan/EIS) to develop a management strategy for the breach in the Fire Island Wilderness that would ensure the continued integrity of the wilderness character; protect the natural and cultural features of the Seashore and its surrounding ecosystems; protect human life; and manage the risk of economic and physical damage to the surrounding areas. The draft Breach Plan/EIS was prepared in cooperation with the US Army Corps of Engineers, New York District, and the New York Department of Environmental Conservation.

The NPS released the draft Breach Plan/EIS for public and agency review and comment beginning on October 27, 2016 and ending on December 12, 2016. The draft Breach Plan/EIS evaluated two action alternatives (1 and 3) and the no-action alternative (2). Each alternative presented a different management strategy to address the breach in the Fire Island Wilderness.

Alternative 1 (Closure Using Mechanical Processes) would

mechanically close the breach as soon as possible.

Alternative 2 (Status Determined Entirely by Natural Processes) is the no-action alternative and allows the management of the breach under natural processes, to include evolution and potential growth and/or natural closure.

Alternative 3 (No Human Intervention unless Established Criteria are Exceeded) is identified as the NPS preferred alternative. This alternative allows the evolution, growth, and/or closure of the breach to be determined by natural barrier island processes, and human intervention to close the breach would occur only “to prevent loss of life, flooding, and other severe economic and physical damage to the Great South Bay and surrounding areas,” as allowed by the *Otis Pike Fire Island High Dune Wilderness Act*. Monitoring data collected since 2012 and professional judgment of physical scientists studying the breach have been used to determine that the three criteria described below are the most logical indicators to alert Seashore staff to changes in the breach that could elevate the risk of severe storm damage in the form of loss of life, flooding, and other severe economic and physical damage, which could lead to a decision to close the breach under Alternative 3:

- *Criterion 1: Geologic Controls.*

Erosion-resistant clay to the east and west of the breach serve as geologic controls for the breach. If the breach migrates beyond these geologic controls, growth of the breach will be less predictable.

- *Criterion 2: Cross-Sectional Area.*

Originally, the cross-sectional area of the breach increased rapidly; however, the breach has reached a dynamic equilibrium in which the cross-sectional area has fluctuated between 300 and 600 square meters. A cross-sectional area within or below this range represents a condition in which the effects of the breach are understood. An increase in cross-sectional area above this range will indicate breach growth and a condition in which the evolution of the breach is less predictable and impacts to the surrounding areas may change.

After reviewing and considering all comments received on the draft Breach Plan/EIS, the NPS has prepared the final Breach Plan/EIS. The final Breach Plan/EIS identifies Alternative 3 as the NPS preferred alternative with one change from the draft Breach Plan/EIS. The description of alternative 3 was edited in the final Breach Plan/EIS to include one additional criterion suggested by commenters:

- *Criterion 3: Water Level as Measured by Tide Gauges.* Data from

tide gauges in Great South Bay will be reviewed to identify changes in the tidal prism, which could indicate a change in the breach conditions.

Other changes made as a result of comments consisted of clarifying text added to the final Breach Plan/EIS that did not substantively change the range of alternatives considered or the environmental consequences of implementing any of the alternatives. Appendix C of the final Breach Plan/EIS discusses the comments received on the draft Breach Plan/EIS and provides NPS responses to substantive comments.

Dated: August 7, 2017.

Cindy MacLeod,

Acting Regional Director, Northeast Region, National Park Service.

Editorial note: This document was received for publication by the Office of the Federal Register on December 13, 2017.

[FR Doc. 2017-27244 Filed 12-18-17; 8:45 am]

BILLING CODE 4312-52-P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701-TA-476 and 731-TA-1179 (Review)]

Multilayered Wood Flooring From China; Determinations

On the basis of the record¹ developed in the subject five-year reviews, the United States International Trade Commission (“Commission”) determines, pursuant to the Tariff Act of 1930 (“the Act”), that revocation of the antidumping and countervailing duty orders on multilayered wood flooring from China would be likely to lead to continuation or recurrence of material injury to an industry in the United States within a reasonably foreseeable time.

Background

The Commission, pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)), instituted these reviews on November 1, 2016 (81 FR 75854) and determined on February 6, 2017 that it would conduct full reviews (82 FR 10588, February 14, 2017). Notice of the scheduling of the Commission’s reviews and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on June 16, 2017 (82 FR 27722).

¹ The record is defined in sec. 207.2(f) of the Commission’s Rules of Practice and Procedure (19 CFR 207.2(f)).

The hearing was held in Washington, DC, on October 12, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 751(c) of the Act (19 U.S.C. 1675(c)). It completed and filed its determinations in these reviews on December 13, 2017. The views of the Commission are contained in USITC Publication 4746 (December 2017), entitled *Multilayered Wood Flooring from China: Investigation Nos. 701-TA-476 and 731-TA-1179 (Review)*.

By order of the Commission.

Issued: December 13, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-27242 Filed 12-18-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1045]

Certain Document Cameras and Software for Use Therewith; Commission’s Determination Not To Review an Initial Determination Terminating the Investigation Based on Withdrawal of the Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review the presiding administrative law judge’s (“ALJ”) initial determination (“ID”) (Order No. 20) terminating the investigation based on withdrawal of the complaint.

FOR FURTHER INFORMATION CONTACT:

Amanda Fisherow, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2737. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205-2000. General information concerning the Commission may also be obtained by accessing its internet server 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>. Hearing-impaired

persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205-1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 24, 2017, based on a complaint filed on behalf of Pathway Innovations and Technologies, Inc. ("Complainant") of San Diego, California. 82 FR 15069-70 (March 24, 2017). The complaint 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 document cameras and software for use therewith by reason of infringement of certain claims of U.S. Patent No. 8,508,751. The complaint named IPEVO, Inc. of Sunnyvale, California; AVer Information Inc. of Fremont, California; and Lumens Integrations Inc. ("Lumens") of Fremont, California as respondents. Lumens was previously terminated from the investigation.

On November 21, 2017, Complainant filed an unopposed motion to terminate the investigation based on withdrawal of the complaint.

On November 24, 2017, the ALJ issued an ID granting the unopposed motion. Order No. 20. The ALJ found that Complainant complied with Commission Rule 210.21. Specifically, the Complainant represented that there are no agreements, written or oral, express or implied concerning the subject matter of the investigation. The ALJ also found that termination of the investigation is not contrary to the public interest and there are no extraordinary circumstances that prevent termination of the investigation. No petitions for review were filed.

The Commission has determined not to review the subject ID.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in Part 210 of the Commission's Rules of Practice and Procedure (19 CFR part 210).

By order of the Commission.

Issued: December 14, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-27262 Filed 12-18-17; 8:45 am]

BILLING CODE 7020-02-P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337-TA-1090]

Certain Intraoral Scanners and Related Hardware and Software 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 November 14, 2017, under section 337 of the Tariff Act of 1930, as amended, on behalf of Align Technology, Inc. of San Jose, California. An amended complaint and supplement were filed on December 4, 2017. The amended complaint 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 intraoral scanners and related hardware and software by reason of infringement of one or more of U.S. Patent No. 9,615,901 ("the '901 patent"); U.S. Patent No. 8,638,448 ("the '448 patent"); U.S. Patent No. 8,638,447 ("the '447 patent"); U.S. Patent No. 6,845,175 ("the '175 patent"); and U.S. Patent No. 6,334,853 ("the '853 patent"). The amended complaint further alleges that an industry in the United States exists as required by the applicable Federal Statute.

The complainant requests that the Commission institute an investigation and, after the investigation, issue a limited exclusion order and cease and desist orders.

ADDRESSES: The complaint, 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: The Office of Docket Services, U.S. International Trade Commission, telephone (202) 205-1802.

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 complaint, the U.S. International Trade Commission, on December 13, 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 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 intraoral scanners and related hardware and software by reason of infringement of one or more of claims 1-7 and 15-20 of the '901 patent; claims 1-9 and 15-22 of the '448 patent; claims 1-7, 10, 12, and 17-24 of the '447 patent; claims 1-4, 14, 15, and 18-20 of the '175 patent; and claims 1, 3-7, and 9-13 of the '853 patent, 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: Align Technology, Inc., 2820 Orchard Parkway, San Jose, CA 95134.

(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: 3Shape A/S, Holmens Kanal 7, 1060 Copenhagen K, Denmark. 3Shape, Inc., 10 Independence Boulevard, Suite 150, Warren, NJ 07059.

(3) For the investigation so instituted, the Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding Administrative Law Judge.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

The Chief Administrative Law Judge is authorized to consolidate Inv. No. 337-TA-1090 with Inv. No. 337-TA-1091 if he deems appropriate.

Responses to the 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 complaint and the notice of investigation. Extensions of time for submitting responses to the 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 complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the 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 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: December 14, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017-27267 Filed 12-18-17; 8:45 am]

BILLING CODE 7020-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1110-0015]

Agency Information Collection Activities; Proposed eCollection; eComments Requested Cargo Theft Incident Report

AGENCY: Federal Bureau of Investigation, Department of Justice.

ACTION: 30-Day notice.

SUMMARY: Department of Justice (DOJ), Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for an additional 30 day until January 18, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time,

should be directed to Mrs. Amy Blasher, Unit Chief, Federal Bureau of Investigation, CJIS Division, Module E-3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625-3566. Written comments and/or suggestions can also be sent to the Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503 or sent to OIRA_submissions@omb.eop.gov.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the 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.

Overview of this Information Collection

(1) *Type of Information Collection:* Extension of a currently approved collection.

(2) *Title of the Form/Collection:* Cargo Theft Incident Report.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Agency form number: 1110-0048. Sponsoring component: Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, state, federal, and tribal law enforcement agencies. Abstract: This collection is needed to collect information on cargo theft incidents committed throughout the United States.

(5) *An estimate of the total number of respondents and the amount of time*

estimated for an average respondent to respond/reply: There are approximately 9,432 law enforcement agency respondents that submit monthly for a total of 217,860 responses with an estimated response time of 5 minutes per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 9,078 hours, annual burden, associated with this information collection.

If additional information is required contact: Melody Braswell, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Suite 3E.405B, Washington, DC 20530.

Dated: December 14, 2017

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017-27259 Filed 12-18-17; 8:45 am]

BILLING CODE 4410-02-P

DEPARTMENT OF JUSTICE

[OMB Number 1105-0052]

Agency Information Collection Activities; Proposed eCollection eComments Requested; Extension of a Currently Approved Collection Claims Under the Radiation Exposure Compensation Act

AGENCY: Civil Division, Department of Justice.

ACTION: 60-Day notice.

SUMMARY: The Department of Justice (DOJ), Civil Division, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995.

DATES: Comments are encouraged and will be accepted for 60 days until February 20, 2018.

FOR FURTHER INFORMATION CONTACT: Written comments concerning this information collection should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: DOJ Desk Officer. The best way to ensure your comments are received is to email them to oira_submission@omb.eop.gov or fax them to 202-395-5806. All comments should reference the 8 digit OMB number for the collection or the title of the collection. If you have questions concerning the collection, please contact the Radiation Exposure Compensation Program, Attn: Dianne

Spellberg, U.S. Department of Justice, P.O. Box 146, Ben Franklin Station, Washington, DC 20044–0146.

SUPPLEMENTARY INFORMATION: Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- 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.

Overview of This Information Collection

1. *Type of Information Collection:* Extension of a currently approved collection.
2. *The Title of the Form/Collection:* Claims Under the Radiation Exposure Compensation Act.
3. *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: N/A. DOJ Component: Civil Division.
4. *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: Individuals or households. Abstract: Information is collected to determine whether an individual is entitled to compensation under the Radiation Exposure Compensation Act.
5. *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that there will be 2,000 respondents annually, and each respondent will require 2.5 hours to complete the information collection.
6. *An estimate of the total public burden (in hours) associated with the collection:* An estimate of the total public burden (in hours) associated with the collection: There are an estimated 5,000 total annual burden hours associated with this collection.

If additional information is required contact: Jerri Murray, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Two Constitution Square, 145 N Street NE, Room 3E.405B, Washington, DC 20530.

Dated: December 14, 2017.

Melody Braswell,

Department Clearance Officer, PRA, U.S. Department of Justice.

[FR Doc. 2017–27278 Filed 12–18–17; 8:45 am]

BILLING CODE 4410–12–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decrees Under the Comprehensive Environmental Response, Compensation, and Liability Act and Notice of Availability and Request for Comments on Draft Restoration Plan and Environmental Assessment

On December 12, 2017, the Department of Justice lodged three proposed Consent Decrees with the United States District Court for the Eastern District of Wisconsin in the lawsuit entitled *United States and Wisconsin v. Tecumseh Products Co.; Thomas Industries, Inc.; and Wisconsin Public Service Corp.*, Civil Action No. 2:17–cv–01728. The Draft Restoration Plan/Environmental Assessment (“RP/EA”) is attached to each proposed Consent Decree.

The proposed Consent Decrees will resolve claims for natural resource damages at the Sheboygan River & Harbor Superfund Site (“Sheboygan River Site”) brought by the governments under the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. 9607. The Sheboygan River Site consists of the lower 14 river miles of the Sheboygan River and adjacent floodplain areas. The filed complaint alleges that the three Defendants are liable under CERCLA for historical industrial discharges of polychlorinated biphenyl (“PCB”) and/or polycyclic aromatic hydrocarbon (“PAH”) compounds at the Sheboygan River Site. PCBs and PAHs were identified in river sediments throughout the Site in sufficient concentrations to cause injury to many types of natural resources, including invertebrates, fish, amphibians, birds, and mammals. In addition, PCB and PAH-contaminated natural resources resulted in the loss of recreational fishing services.

Under CERCLA, federal and state natural resource trustees have authority

to seek compensation for natural resources harmed by hazardous industrial waste and by-products discharged into the Sheboygan River. The natural resource trustees here include the U.S. Department of the Interior, acting through the U.S. Fish and Wildlife Service; the U.S. Department of Commerce, acting through the National Oceanic and Atmospheric Administration; and the Wisconsin Department of Natural Resources (collectively, the “Trustees”).

Under the proposed Consent Decrees, the Defendants will pay a combined \$4,523,000, of which \$2,532,500 will fund Trustee-sponsored natural resource restoration projects in accordance with the RP/EA, \$1,295,500 will be paid to Sheboygan County as partial reimbursement for costs it incurred in acquiring the Amsterdam Dunes restoration project area, and \$695,000 will provide reimbursement for costs incurred by the Trustees in assessing the scope of natural resource damages incurred. The RP/EA presents the restoration projects proposed by the Trustees to restore natural resources and services injured by hazardous substances released in and around the Sheboygan River site.

Consistent with the CERCLA natural resource damages assessment and restoration (“NRDAR”) regulations, 43 CFR part 11, and the National Environmental Policy Act of 1969 (“NEPA”), as amended, 42 U.S.C. 4321 *et seq.*, and its implementing regulations at 40 CFR parts 1500–1508, the Trustees evaluated a suite of three alternatives for conducting the type and scale of restoration sufficient to compensate the public for natural resource injuries and service losses. Based on selection factors including location, technical feasibility, cost effectiveness, provision of natural resource services similar to those lost due to contamination, and net environmental consequences, the Trustees identified a preferred alternative.

Under the preferred alternative, the Trustees envision conducting wetland and riparian restoration; wetland, riparian, and ecologically-associated upland preservation; and recreational enhancement projects within the Sheboygan River Basin within Sheboygan County. This would include preservation and potential restoration of Amsterdam Dunes and Willow Creek.

The publication of this notice opens a period for public comment on the Consent Decree and RP/EA.

Comments on the Consent Decrees should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should

refer to *United States and Wisconsin v. Tecumseh Products Co.; Thomas Industries, Inc.; and Wisconsin Public*

Service Corp., D.J. Ref. No. 90–11–2–06440/1. All comments on the Consent Decrees must be submitted no later than

thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	pubcomment-ees.enrd@usdoj.gov .
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decrees may be examined and downloaded at this Justice Department website: <https://www.justice.gov/enrd/consent-decrees>. We will provide paper copies of the Consent Decrees and/or the RP/EA upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree

Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611. Please enclose a check or money order for \$46.75 (25 cents per page reproduction cost) payable to the United States Treasury. For paper copies of the Consent Decrees without the attached RP/EA, the cost is \$20.50. For a paper copy of only the RP/EA, the cost is \$26.25.

Comments on the RP/EA should be addressed to Betsy M. Galbraith, and reference “Sheboygan RP/EA” in the subject line. All comments on the RP/EA must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

<i>To submit comments:</i>	<i>Send them to:</i>
By email	betsy_galbraith@fws.gov .
By mail	Betsy M. Galbraith, Sheboygan River Natural Resource Trustee Coordinator, 2661 Scott Tower Drive, New Franken, WI 54228.

During the public comment period, the RP/EA may be examined and downloaded at this U.S. Fish and Wildlife Service Midwest Region Natural Resource Damage Assessment website: <https://www.fws.gov/midwest/es/ec/nrda/SheboyganHarbor.html>. As described above, a paper copy of the RP/EA may be obtained from the Department of Justice as part of the Consent Decree upon written request and payment of reproduction costs.

meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

- Evolution of the Earth Science Division Airborne Science Program
- Ensuring High Impact Research in the Earth Science Division

Randal M. Stone,
Acting Assistant Section Chief,
Environmental Enforcement Section,
Environment and Natural Resources Division.
[FR Doc. 2017–27224 Filed 12–18–17; 8:45 am]
BILLING CODE 4410–15–P

DATES: Wednesday, January 24, 2018, 8:30 a.m.–5:00 p.m., and Thursday, January 25, 2018, 8:30 a.m.–3:00 p.m., Local Time.

ADDRESSES: NASA Headquarters, Room 6H41, 300 E Street SW, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: KarShelia Henderson, Science Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2355, fax (202) 358–2779, or khenderson@nasa.gov.

Attendees will be requested to sign a register and to comply with NASA Headquarters security requirements, including the presentation of a valid picture ID to Security before access to NASA Headquarters. Foreign nationals attending this meeting will be required to provide a copy of their passport and visa in addition to providing the following information no less than 10 days prior to the meeting: Full name; gender; date/place of birth; citizenship; passport information (number, country, telephone); visa information (number, type, expiration date); employer/affiliation information (name of institution, address, country, telephone); title/position of attendee. To expedite admittance, attendees with U.S. citizens and Permanent Residents (green card holders) are asked to provide full name and citizenship status no less than 3 working days in advance by contacting KarShelia Henderson via email at khenderson@nasa.gov or by fax at (202) 358–2779. It is imperative that the meeting be held on this date to accommodate the scheduling priorities of the key participants.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–089)]

Earth Science Advisory Committee Meeting.

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Earth Science Advisory Committee. This Committee reports to the Director, Earth Science Division, Science Mission Directorate, NASA Headquarters. The

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the meeting room. This meeting is also available telephonically and by WebEx. You must use a touch-tone phone to participate in this meeting. Any interested person may dial the USA toll free number 1–888–677–3055 or toll number 1–517–623–4737, passcode 2652931, for both days. The WebEx link is <https://nasa.webex.com/>; the meeting number on January 24 is 993 357 092, password is Z5PHUHx* (case sensitive); and the meeting number on January 25 is 993 289 715, password is 7Ysvs4S* (case sensitive). The agenda for the meeting includes the following topics:
—Earth Science Division Update
—Earth Science Decadal Survey
—Earth Science Division Approaches for International Coordination

Patricia D. Rausch,
Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 2017–27291 Filed 12–18–17; 8:45 am]

BILLING CODE 7510–13–P

**NATIONAL CREDIT UNION
ADMINISTRATION****Agency Information Collection
Activities: Proposed Collections;
Comment Request****AGENCY:** National Credit Union
Administration (NCUA).**ACTION:** Notice and request for comment.**SUMMARY:** The National Credit Union Administration (NCUA), as part of a continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the following renewals of currently approved collections, as required by the Paperwork Reduction Act of 1995.**DATES:** Written comments should be received on or before February 20, 2018 to be assured consideration.**ADDRESSES:** Interested persons are invited to submit written comments on the information collections to Dawn Wolfgang, National Credit Union Administration, 1775 Duke Street, Suite 5080, Alexandria, Virginia 22314; Fax No. 703-519-8579; or Email at PRAComments@NCUA.gov.**FOR FURTHER INFORMATION CONTACT:** Requests for additional information should be directed to the address above or telephone 703-548-2279.**SUPPLEMENTARY INFORMATION:***OMB Number:* 3133-0183.*Title:* Golden Parachute and Indemnification Payments, 12 CFR part 750.*Abstract:* This rule prohibits, in certain circumstances, a federally insured credit union (FICU) from making golden parachute and indemnification payments to an institution-affiliated party (IAP). Section 750.6 requires requests by a troubled FICU to make a severance or golden parachute payment to an IAP, to be submitted in writing to NCUA. The information will be used by the NCUA to determine whether an exception to the general prohibition on golden parachute payments should be approved.*Type of Review:* Extension of a currently approved collection.*Affected Public:* Private Sector: Not-for-profit institutions.*Estimated Number of Respondents:* 5.*Estimated Annual Frequency:* 1.2.*Estimated Annual Number of Responses:* 6.*Estimated Burden Hours per Response:* 3.42.*Estimated Total Annual Burden Hours:* 21.*Reason for Change:* Adjustments are attributed to updated data since the previous submission.*OMB Number:* 3133-0184.*Title:* Requirements for Insurance—Interest Rate Risk Policy.*Abstract:* Section 741.3(b)(5) of NCUA's rules and regulations requires federally-insured credit unions (FICUs) with assets of more than \$50 million to develop, as a prerequisites for insurability of its member deposits, a written interest rate risk management policy and a program to effectively implement the policy. The need for FICU to have a written policy to establish responsibilities and procedures for identifying, measuring, monitoring, controlling, and reporting, and establishing risk limits are essential components of safe and sound credit union operations and to ensure the security of the National Credit Union Share Insurance Fund (NCUSIF).*Type of Review:* Extension of a currently approved collection.*Affected Public:* Private Sector: Not-for-profit institutions.*Estimated Number of Respondents:* 2,308.*Estimated Annual Frequency:* 1.*Estimated Annual Number of Responses:* 2,308.*Estimated Burden Hours per Response:* 0.32.*Estimated Total Annual Burden Hours:* 735.*Reason for Change:* Since the promulgation of the rule, FICUs have an established policy and program in place. The majority of the burden is attributed to recordkeeping requirements of affected FICU. Additional adjustments have been made to reflect the current number of credit unions complying with this rule.*Request for Comments:* Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. The public is invited to submit comments concerning: (a) Whether the collection of information is necessary for the proper execution of the function of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of the information on the respondents, including the use of automated

collection techniques or other forms of information technology.

By Gerard Poliquin, Secretary of the Board, the National Credit Union Administration, on December 14, 2017.

Dated: December 14, 2017.

Dawn D. Wolfgang,*NCUA PRA Clearance Officer.*

[FR Doc. 2017-27254 Filed 12-18-17; 8:45 am]

BILLING CODE 7535-01-P**NUCLEAR REGULATORY
COMMISSION****[Docket No. 70-1113; License No. SNM-1097; EA-17-090; NRC-2017-0234]****Global Nuclear Fuels—Americas,
L.L.C.****AGENCY:** Nuclear Regulatory
Commission.**ACTION:** Confirmatory order; issuance.**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) issued a confirmatory order (Order) to Global Nuclear Fuels—Americas, L.L.C., (the licensee), confirming the agreement reached in an Alternative Dispute Resolution mediation session held on October 25, 2017. This Order will ensure the licensee restores compliance with NRC's regulations.**DATES:** The Order was issued on December 14, 2017.**ADDRESSES:** Please refer to Docket ID NRC-2017-0234 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 website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0234. 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.

• *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: Scott Sparks, Region II, U.S. Nuclear Regulatory Commission, Atlanta, Georgia 30303-1257; telephone: 404-997-4422; email: *Scott.Sparks@nrc.gov*.

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Dated at Atlanta, Georgia, this 14th day of December 2017.

For the Nuclear Regulatory Commission.

Catherine Haney,

Regional Administrator.

NUCLEAR REGULATORY COMMISSION

[Docket No. 70-1113; License No. SNM-1097; EA-17-090; NRC-2017-0234]

Global Nuclear Fuels—Americas, L.L.C.

In the Matter of Global Nuclear Fuels—Americas, L.L.C.

Confirmatory Order (Effective Upon Issuance)

I

Global Nuclear Fuels—Americas, L.L.C. (GNF-A, or the licensee) is the holder of NRC License No. SNM-1097, issued by the U.S. Nuclear Regulatory Commission (NRC or Commission) pursuant to Part 70 of Title 10 of the *Code of Federal Regulations* (10 CFR), on May 19, 2009. The primary purpose of the GNF-A facility is the manufacture of fuel assemblies for commercial nuclear reactors. Nuclear materials enriched to less than or equal to 5 weight percent Uranium-235 are utilized in the product manufacturing operations authorized by the license. The facility is located on the licensee's site in Wilmington, North Carolina.

This Confirmatory Order (CO) is the result of an agreement reached during an alternative dispute resolution (ADR) mediation session conducted on October 25, 2017.

II

NRC Inspection Report (IR) 70-1113/2017-003, dated July 25, 2017, documented a transportation incident occurring in September of 2016, when GNF-A made arrangements with a private industrial contractor to ship a dumpster of scrap metal piping to a local metal recycling facility. On September 29, 2016, the dumpster was loaded onto a truck and shipped offsite to a scrap metal recycling facility,

located approximately 15 minutes from GNF-A. Prior to entering the recycling facility, the shipment was checked by a radiation portal monitor as part of the normal receipt process of the scrap metal recycling facility. The dumpster of scrap metal piping from GNF-A caused the radiation portal monitor to alarm. The shipment was not allowed to enter the scrap metal facility, and was returned to GNF-A's facility soon thereafter that same day.

The NRC's IR documented five apparent violations (AVs). Three AVs were considered for escalated enforcement:

1. Failure to make or cause to be made surveys of scrap metal piping prior to its release and transportation as required by 10 CFR 20.1501(a).

2. Failure to comply with applicable Department of Transportation (DOT) regulations appropriate to the mode of transport of contaminated materials as required per 10 CFR 71.5(a).

3. Failure to notify the NRC as required by 10 CFR 20.1906(d)(1) when removable radioactive surface contamination exceeds the limits of 10 CFR 71.87(i).

Two additional non-escalated AVs were also documented in the IR:

4. Failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c).

5. Failure to maintain records of surveys as required by 10 CFR 20.2103(a).

In response to the NRC's inspection report of July 25, 2017, GNF-A advised the NRC of its desire to participate in the Agency's ADR program to resolve the enforcement aspects of this matter.

III

On October 25, 2017, the NRC and GNF-A met in an ADR session mediated by a professional mediator, arranged through Cornell University's Institute on Conflict Resolution. The ADR is a process in which a neutral mediator with no decision-making authority assists the parties in reaching an agreement or resolving any differences regarding their dispute. This CO is issued pursuant to the agreement reached during the ADR process. The elements of the agreement consist of the following:

1. During the ADR, GNF-A expressed agreement with the following four AVs: (1) Failure to make or cause to be made surveys of scrap metal piping prior to its release and transportation as required by 10 CFR 20.1501(a); (2) Failure to comply with applicable Department of Transportation (DOT) regulations appropriate to the mode of transport of

contaminated materials as required per 10 CFR 71.5(a); (3) Failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c); (4) Failure to maintain records of surveys as required by 10 CFR 20.2103(a).

GNF-A raised reservations regarding the AV associated with notifying the NRC as required by 10 CFR 20.1906(d)(1). In particular, GNF-A questioned whether the circumstances of the contaminated scrap metal required NRC notification per 10 CFR 20.1906(d)(1).

The NRC continues to conclude that this issue represents a violation of 10 CFR 20.1906(d)(1).

At the ADR, the NRC and GNF-A agreed to disagree regarding whether this issue represents a violation of 10 CFR 20.1906(d)(1).

Consequently, within 30 days after the issuance of the CO, GNF-A will make a report to the NRC Operations Center, pursuant to 10 CFR 20.1906(d)(1), stating that the NRC has concluded that GNF-A received a package on September 29, 2016, which had removable radioactive surface contamination on its external surfaces that exceeded the applicable limits set forth in 10 CFR 71.87(i). GNF-A will make this report solely for the purposes of reaching resolution at ADR because it maintains that the removable radioactive surface contamination on the external surfaces of the package (an open metal dumpster) and the removable surface contamination on the scrap pipes contained in the dumpster did not exceed the applicable limits set forth in 10 CFR 71.87(i).

2. The NRC views the safety significance of three violations (i.e., failure to make surveys as required by 10 CFR 20.1501(a), failure to comply with DOT regulations as required by 10 CFR 71.5(a), and failure to notify the NRC as required by 10 CFR 20.1906(d)(1)) as interrelated to one incident and consistent with a Severity Level III problem in accordance with the NRC Enforcement Policy.

The NRC views the safety significance of two additional violations (i.e., failure to perform the monitoring within 3 hours after receiving the shipment back at the site as required by 10 CFR 20.1906(c), and failure to maintain records of surveys as required by 10 CFR 20.2103(a)) as consistent with Severity Level IV violations in accordance with the NRC Enforcement Policy.

Based on GNF-A's view of the low actual and potential safety significance of the shipment, GNF-A does not

believe the violations merited escalated enforcement action.

3. Based on a review of the incident, GNF-A completed a number of corrective actions and enhancements to preclude recurrence of the violations, including but not limited to the following:

a. GNF-A revised its procedures, including, among others:

i. WI-27-105-05 "Control of Radioactive Material," to clarify survey requirements for the release of radioactive material; and

ii. WI-27-105-08 "Contamination Measurement and Control," to provide clear instructions on contamination surveys required.

b. GNF-A provided enhanced training to the Radiation Protection Monitors to include:

i. historical knowledge of facility operations; and

ii. survey practices and the need to select the proper survey instrument for the type of contamination expected.

c. GNF-A revised the Senior Radiological Engineer's and the Radiation Protection Manager's qualification cards to require training on historical knowledge of facility operations.

d. GNF-A augmented its recordkeeping process to ensure radiation protection survey records are properly documented and maintained.

e. Senior management communicated lessons learned from this event to the GNF-A and Hitachi Nuclear Energy—Americas, LLC (GEH-A) organizations.

f. GNF-A conducted a Root Cause Analysis of the transportation incident.

g. GEH-A initiated a Nuclear Safety Culture (NSC) assessment of the Wilmington site. The assessment included a survey, interviews, and data trending to include a review of relevant entries into the corrective action program.

4. Based on GNF-A's review of the incident and NRC's concerns with respect to precluding recurrence of the violations, GNF-A agreed to implement the corrective actions and enhancements delineated in Section V of this CO.

5. Within 3 months of completion of the terms of the CO, GNF-A shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.

6. In consideration of GNF-A's completed corrective actions and enhancements, and GNF-A's commitments delineated herein, the NRC agrees to refrain from proposing a civil penalty or issuing a Notice of Violation for all AVs identified in NRC

Inspection Report 70-1113/2017-003 (EA-17-090).

7. The NRC and GNF-A agree that the above elements shall be incorporated into a CO.

8. This agreement is binding upon successors and assigns of GNF-A.

On December 7, 2017, GNF-A consented to issuance of this CO with the commitments, as described in Section V below. GNF-A further agreed that this CO is to be effective upon issuance and that it has waived its right to a hearing.

IV

Because GNF-A has taken corrective actions to address NRC concerns, as set forth in Section III above, and has agreed to take additional corrective actions as set forth in Section V below, the NRC has concluded that its concerns can be resolved through issuance of this CO.

I find that GNF-A's commitments as set forth in Section V are acceptable and necessary and conclude that with these commitments, the public health and safety are reasonably assured. In view of the foregoing, I have determined that public health and safety require that GNF-A's commitments be confirmed by this CO. Based on the above and GNF-A's consent, this CO is effective upon issuance.

V

Accordingly, pursuant to Sections 104b., 161b., 161i., 161o., 182, and 186 of the Atomic Energy Act of 1954, as amended, and the Commission's regulations in 10 CFR 2.202 and 10 CFR part 70, *it is hereby ordered*, that license No. SNM-1097 be modified as follows:

1. Consistent with paragraph III (1) above, within thirty (30) days after the issuance of the CO, GNF-A will make a report to the NRC Operations Center, pursuant to 10 CFR 20.1906(d)(1), stating that the NRC has concluded that GNF-A received a package on September 29, 2016, which had removable radioactive surface contamination on its external surfaces that exceeded the applicable limits set forth in 10 CFR 71.87(i).

2. Within one (1) year after issuance of the CO, GNF-A shall install a vehicle portal monitor with a sensitivity to detect vehicle surface radiation levels specified in 10 CFR 20.1301(a)(2). GNF-A agrees to continue to perform surveys for unrestricted release in accordance with the License Application Section 1.3.2. Procedures shall be developed and implemented to ensure that all non-manifested vehicle shipments from the Controlled Access Area are monitored and to validate, investigate, and to

respond to alarms prior to releasing shipments off-site. Once installed, if for any reason the vehicle portal monitor is not available, compensatory measures shall be taken by GNF-A to detect non-manifested vehicle shipments in excess of radiation levels of 10 CFR 20.1301(a)(2).

3. Within sixty (60) days of issuance of the CO, or within 60 days of completion of the NSC assessment referenced in Section III.3.g, whichever is later, GNF-A shall make the results of the assessment available to the NRC for review.

4. Approximately two (2) years (+/- 6 months) after issuance of the CO, GNF-A shall conduct a NSC assessment of the GNF-A organization by a third party independent of GNF-A who is experienced with NRC nuclear safety culture and safety conscious work environment policies. GNF-A shall compare the results of this assessment to the results of the assessment performed under Section III.3.g of this CO in an effort to identify trends. Corrective actions arising from the assessment and comparison will be entered into the corrective action program and tracked to completion. GNF-A shall make results of the final assessment and comparison available to the NRC for review.

5. Within nine (9) months of issuance of the CO, GNF-A shall augment, with the assistance of an individual independent of GNF-A who is experienced with NRC nuclear safety culture and safety conscious work environment policies, its existing training for all workers with unescorted access to the GNF-A Controlled Access Area, that reinforces nuclear safety culture traits emphasizing questioning attitude, problem identification, effective corrective actions, and effective self-assessment. Training records shall be retained consistent with applicable GNF-A record retention policies and shall be made available to the NRC upon request. New employees shall complete the training prior to the granting of unescorted access to GNF-A. This training shall be provided on an annual basis, for at least three years after issuance of the CO.

6. Within one (1) year after the issuance of the CO, GNF-A shall conduct a benchmark assessment of the GNF-A Radiation Protection Program (RPP) with at least two external RPP organizations in the Fuel Cycle industry, to identify and implement, as GNF-A deems appropriate, best practices and enhancements to increase the effectiveness of its RP program. The benchmark assessment shall be performed by an individual or entity

experienced in Institute of Nuclear Power Operations (INPO) radiation protection standards, and the assessment shall be made available for NRC review.

7. Within one (1) year after issuance of the CO, GNF-A shall expand its Difference of Professional Opinion process to include all technical safety matters related to GNF-A licensed activities.

8. Within one (1) year of issuance of the CO, existing GNF-A supervisors engaged in licensed facility (SNM-1097) activities, as of the date of issuance of the CO, will complete initial Front Line Supervisor Nuclear Safety Leadership training, which will be informed by INPO 04-003, Guidelines for Effective Nuclear Supervisor Performance. For a period of 3 years after issuance of the CO, new GNF-A frontline supervisors engaged in licensed facility (SNM-1097) activities shall complete this training within 6 months of assuming supervisory responsibilities. GNF-A shall make the training materials available to the NRC for review.

9. Within three (3) months of completion of the terms of the CO, GNF-A shall provide the NRC with a letter discussing its basis for concluding that the CO has been satisfied.

The Regional Administrator, Region II, may relax or rescind, in writing, any of the above conditions upon a showing by GNF-A of good cause.

VI

In accordance with 10 CFR 2.202 and 10 CFR 2.309, any person adversely affected by this CO, other than GNF-A, may request a hearing within 30 calendar days of the date of issuance of this CO. Where good cause is shown, consideration will be given to extending the time to request a hearing. A request for extension of time must be made in writing to the Director, Office of Enforcement, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and include a statement of good cause for the extension.

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory

documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by e-mail at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore,

applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where

you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

If a person (other than GNF-A) requests a hearing, that person shall set forth with particularity the manner in which his interest is adversely affected by this CO and shall address the criteria set forth in 10 CFR 2.309(d) and (f).

If a hearing is requested by a person whose interest is adversely affected, the Commission will issue an order designating the time and place of any hearing. If a hearing is held, the issue to be considered at such hearing shall be whether this CO should be sustained.

In the absence of any request for hearing, or written approval of an extension of time in which to request a hearing, the provisions specified in Section V above shall be final 30 days from the date of this CO without further order or proceedings. If an extension of time for requesting a hearing has been approved, the provisions specified in Section V shall be final when the extension expires if a hearing request has not been received.

Dated at Atlanta, Georgia, this 14th day of December, 2017.

For the Nuclear Regulatory Commission.

Catherine Haney,
Regional Administrator.

[FR Doc. 2017-27294 Filed 12-18-17; 8:45 am]

BILLING CODE 7590-01-P

NUCLEAR REGULATORY COMMISSION

[NRC-2017-0232]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from November 18, 2017, to December 4, 2017. The last biweekly notice was published on December 5, 2017.

DATES: Comments must be filed by January 18, 2018. A request for a hearing must be filed by February 20, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0232. 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.

- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN-2-A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

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: Janet Burkhardt, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001; telephone: 301-415-1384, email: Janet.Burkhardt@nrc.gov.

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2017-0232, facility name, unit number(s), plant docket number, application date,

and subject 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 website:* Go to <http://www.regulations.gov> and search for Docket ID NRC-2017-0232.

- *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-2017-0232, facility name, unit number(s), plant docket number, application date, and subject 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. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the

action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity

to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within

its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be

submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper

filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing

information related to this document, see the “Obtaining Information and Submitting Comments” section of this document.

Duke Energy Carolinas, LLC, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2 (McGuire), Mecklenburg County, North Carolina

Date of amendment request:

September 14, 2017. A publicly-available version is in ADAMS under Accession No. ML17262A090.

Description of amendment request:

The amendments would modify Technical Specifications (TSs) to allow temporary changes to TSs 3.5.2, “ECCS [Emergency Core Cooling System]—Operating,” 3.6.6, “Containment Spray System” (CSS), 3.7.5, “Auxiliary Feedwater (AFW) System,” 3.7.6, “Component Cooling Water (CCW) System,” 3.7.7, “Nuclear Service Water System (NSWS),” 3.7.9, “Control Room Area Ventilation System (CRAVS),” 3.7.11, “Auxiliary Building Filtered Ventilation Exhaust System (ABFVES),” and 3.8.1, “AC [Alternating Current] Sources—Operating,” to permit the “A” Train NSWS to be inoperable for a total of 14 days to address a non-conforming condition on the “A” Train supply piping from the Standby Nuclear Service Water Pond (SNSWP).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The ‘B’ Train NSWS and supported equipment will remain fully operable during the 14 day CT [completion time]. The alignment of the ‘A’ Train NSWS will remain consistent with the NSWS normal and ESFAS [engineered safety features actuation system] alignment. Although not fully operable the ‘A’ Train NSWS and its supported equipment will be capable of performing their functions during the 14 day CT.

The ‘A’ NSWS and supported equipment function as accident mitigators. Removing ‘A’ Train SNSWP supply piping from service for a limited period of time does not affect any accident initiator and therefore cannot change the probability of an accident. The proposed changes and the ‘A’ Train NSWS repair evolution have been evaluated to assess their impact on the systems affected and ensure design basis safety functions are preserved.

The risk analysis for the proposed [NSWS] alignment during the 14 day CT shows no

delta risk for any ESF [engineered safety feature] actuation event that does not involve an earthquake. The most significant risk contributor is a seismic event with a magnitude great enough to cause the failure of Cowan’s Ford dam and subsequent loss of Lake Norman or LLI [low level intake] during the 14 day CT. The estimated Incremental Conditional Core Damage Probability (ICCDP) due to the seismic event is much less than the limits associated with Regulatory Guide 1.177.

In addition, as previously stated, a Seismic Fragility Assessment of the McGuire Low Level Intake Water Pipeline in December of 2011 indicates that the dam and water supply would withstand a SSE [safe shutdown earthquake]. Therefore for the short duration of this proposed alignment the increase in risk is deemed to be negligible.

Risk associated with tornado/high winds was assessed. The months of November through February have been the seasonal low for tornado frequency. This evolution is currently scheduled for the spring February 2018 time frame. The risk contribution from tornado and high wind events is negligible during the proposed NSWS configuration described in this LAR [license amendment request] and therefore, the calculated Core Damage Frequency (CDF) or the Large Early Release [Frequency] (LERF) contribution due to high wind and tornado events is negligible with respect to overall risk. The activities covered by this LAR also include a defense-in-depth action to cease activities and close the personnel access opening in the event of a tornado warning. Weather patterns will be monitored and this activity will be modified if tornado/high wind conditions become imminent.

The overall increase in risk for the 14 day CT is solely due to the seismic event which results in a loss of Lake Norman or LLI. However, this risk is reduced by the defense in depth strategy described in the LAR that provides a contingency for the loss of a ‘B’ Train NSWS pump after the loss of the Lake Norman water supply. This defense in depth contingency effectively offsets the unavailability of the ‘A’ Train NSWS SNSWP supply.

In addition, pre-aligning the ‘B’ Train NSWS to the SNSWP water supply in advance of the proposed activities prevents the introduction of potential equipment failures during an ESFAS demanded transfer. This action also eliminates the time it would take operators to perform the transfer following a seismic event.

The quantified impact of defense in depth measures and compensatory actions on CDF/ LERF cannot be precisely determined, yet it is agreed that the implementation of these actions would only serve to improve these risk parameters.

Not included in the overall risk evaluation is the additional margin identified by the Fragility Assessment discussed previously that concluded that the Lake Norman Dam and LLI would survive a SSE.

As stated in NRC Generic Letter 80–30, “Clarification of the Term ‘Operable’ as it Applies to Single Failure Criterion for Safety Systems Required by TS,” there is no requirement to assume a single failure while

operating under a Technical Specification (TS) required action. Therefore, there will be no effect on the analysis of any accident or the progression of the accident since the operable [nuclear service water (NSW)] ‘B’ train is capable of serving 100 percent of all the required heat loads. As such, there is no impact on consequence mitigation for any transient or accident.

In light of the above discussion, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment is the one time extension of the required CTs from 72 hours for the ECCS, CSS, NSWS, AFW, CCW and the EDG [emergency diesel generator] systems and from 168 hours for the CRAVS and ABFVES systems to 336 hours. The requested change does not involve the addition or removal of any plant system, structure, or component.

The proposed temporary TS changes do not affect the basic design, operation, or function of any of the systems associated with the TS impacted by the amendment. Implementation of the proposed amendment will not create the possibility of a new or different kind of accident from that previously evaluated.

McGuire intends to isolate, inspect, and repair the ‘A’ Train NSWS supply from the SNSWP. This activity will require that ‘A’ Train NSW be aligned to Lake Norman until the system is ready for post maintenance testing. This action maintains the NSW ‘A’ Train’s normal and automatic alignment to Lake Norman but will result in the inability to manually align the ‘A’ Train NSWS to the SNSWP subsequent to a seismic event that results in damage to the supply piping from Lake Norman or the highly improbable loss of Lake Norman.

Although considered inoperable, the ‘A’ Train NSWS and supported systems will be technically capable of performing their intended functions. Throughout the repair project, compensatory measures will be in place to provide additional assurance that the affected systems will continue to be capable of performing their intended safety functions.

No new accident causal mechanisms are created as a result of the requested changes creating the possibility of a new or different kind of accident from any accident previously evaluated.

In conclusion, this proposed LAR does not impact any plant systems that are accident initiators and does not impact any safety analysis.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission

product barriers to perform their design functions during and following an accident situation. These barriers include the fuel cladding, the reactor coolant system, and the containment system. The performance of the fuel cladding, reactor coolant and containment systems will not be impacted by the proposed LAR.

Additionally, the proposed amendment does not involve a change in the design or operation of the plant. The activity only extends the amount of time the 'A' NSW system is allowed to be inoperable to correct the non-conforming condition on the 'A' NSW supply piping from the SNSWP. As stated previously, the 'A' Train NSW and supported equipment will remain in its Normal and ESFAS alignment during the extended CT and be functionally capable for all postulated events except a seismic event that results in loss of the Lake Norman water supply.

Defense-in-depth measures involving use of the Main Supply Crossover piping to supply suction to affected unit's 'A' Train NSW pump from the 'B' train SNSWP suction piping and the ability to implement the FLEX strategy on both units provide additional safety margin for this event. Use of the Main Supply Crossover line is only needed in the unlikely event that one unit's 'B' Train NSW pump fails after loss of 'A' Train NSW due to an earthquake.

The estimated ICCDP during the 14 day CT extension is much less than the limits associated with Regulatory Guide 1.177.

Therefore, it is concluded that the proposed changes do not involve a significant reduction in the margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kate B. Nolan, Deputy General Counsel, Duke Energy Carolinas, LLC, 550 South Tryon Street—DEC45A Charlotte, NC 28202—1802.

NRC Branch Chief: Michael T. Markley.

Exelon Generation Company, LLC, Docket No. 50–461, Clinton Power Station, Unit No. 1, DeWitt County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–373 and 50–374, LaSalle County Station, Units 1 and 2, LaSalle County, Illinois

Exelon Generation Company, LLC, Docket Nos. 50–352 and 50–353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: November 8, 2017. A publicly-available version is in ADAMS under Accession No. ML17312A364.

Description of amendment request: The amendments would revise the technical specifications requirements for secondary containment. The proposed changes are based in part on Technical Specifications Task Force (TSTF) Traveler TSTF–551, "Revise Secondary Containment Surveillance Requirements [SRs]," Revision 3 (ADAMS Accession No. ML16277A226).

The application also included similar requests for Dresden Nuclear Power Station, Units 2 and 3, and Quad Cities Nuclear Power Station, Units 1 and 2. However, these requests are being reviewed separately and are not within the scope of this notice.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change addresses conditions during which the secondary containment SRs are not met. The secondary containment is not an initiator of any accident previously evaluated. As a result, the probability of any accident previously evaluated is not increased. The consequences of an accident previously evaluated while utilizing the proposed changes are no different than the consequences of an accident while utilizing the existing four-hour Completion Time (*i.e.*, allowed outage time) for an inoperable secondary containment. In addition, the proposed change provides an alternative means to ensure the secondary containment safety function is met. As a result, the consequences of an accident previously evaluated are not significantly increased.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the protection system design, create new failure modes, or change any modes of operation. The proposed change does not involve a physical alteration of the plant; and no new or different kind of equipment will be installed. Consequently, there are no new initiators that could result in a new or different kind of accident.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change addresses conditions during which the secondary containment SRs are not met. Conditions in which the secondary containment vacuum is less than the required vacuum are acceptable provided the conditions do not affect the ability of the SGT [standby gas treatment] System to establish the required secondary containment vacuum under post-accident conditions within the time assumed in the accident analysis. This condition is incorporated in the proposed change by requiring an analysis of actual environmental and secondary containment pressure conditions to confirm the capability of the SGT System is maintained within the assumptions of the accident analysis.

Therefore, the safety function of the secondary containment is not affected.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the requested amendments involve no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: David J. Wrona.

Exelon Generation Company, LLC, Docket No. 50–410, Nine Mile Point Nuclear Station, Unit 2, Oswego County, New York

Date of amendment request: August 22, 2017. A publicly-available version is in ADAMS under Accession No. ML17234A025.

Description of amendment request: The amendment would remove the note associated with Technical Specification Surveillance Requirement Section

3.5.1.2. The note allows the low pressure coolant injection subsystems to be considered operable in MODE 3 under certain conditions.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

No physical changes to the facility will occur as a result of this proposed amendment. The proposed change will not alter the physical design. The current Note in Technical Specification (TS) Surveillance Requirement (SR) 3.5.1.2 could make Low Pressure Coolant Injection (LPCI) susceptible to potential water hammer in the Residual Heat Removal (RHR) system if in the Shutdown Cooling (SDC) Mode of RHR in Mode 3 when swapping from the SDC to LPCI mode of RHR.

The proposed change will remove the TS Note and eliminate the risk for pump cavitation, water hammer through voiding in the suction piping, and potential damage to the RHR system.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant. Accordingly, the change does not introduce any new accident initiators, nor does it reduce or adversely affect the capabilities of any plant structure, system, or component to perform their safety function. Deletion of the TS Note is appropriate because current TSs could put the plant at risk for potential pump cavitation and voiding in the suction piping, resulting in water hammer and potential damage to the RHR system.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change conforms to NRC regulatory guidance regarding the content of plant Technical Specifications. The proposed change does not alter the physical design, safety limits, or safety analysis assumptions associated with the operation of the plant.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this

review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.
NRC Branch Chief: James G. Danna.

Northern States Power Company—Minnesota, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: October 20, 2017. A publicly-available version is in ADAMS under Accession No. ML17293A280.

Description of amendment request: The proposed amendment would adopt Technical Specifications Task Force (TSTF) Traveler TSTF–542, “Reactor Pressure Vessel Water Inventory Control.” The proposed amendment would replace existing technical specification (TS) requirements related to operations with a potential for draining the reactor vessel with new requirements on Reactor Pressure Vessel (RPV) Water Inventory Control (WIC) to protect Safety Limit 2.1.1.4. Safety Limit 2.1.1.4 requires the reactor vessel water level to be greater than the top of active irradiated fuel.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs [operation with a potential for draining the reactor vessels] with new requirements on RPV WIC that will protect Safety Limit 2.1.1.4. Draining of Reactor Pressure Vessel (RPV) water inventory in Mode 4 (cold shutdown) and Mode 5 (refueling) is not an accident previously evaluated and, therefore, replacing the existing TS controls to prevent or mitigate such an event with a new set of controls has no effect on any accident previously evaluated. RPV water inventory control in Mode 4 or Mode 5 is not an initiator of any accident previously evaluated. The existing OPDRV controls or the proposed RPV WIC controls are not mitigating actions assumed in any accident previously evaluated.

The proposed change reduces the probability of an unexpected draining event (which is not a previously evaluated accident) by imposing new requirements on

the limiting time in which an unexpected draining event could result in the reactor vessel water level dropping to the top of the active fuel (TAF). These controls require cognizance of the plant configuration and control of configurations with unacceptably short drain times. These requirements reduce the probability of an unexpected draining event. The current TS requirements are only mitigating actions and impose no requirements that reduce the probability of an unexpected draining event.

The proposed change reduces the consequences of an unexpected draining event (which is not a previously evaluated accident) by requiring an Emergency Core Cooling System (ECCS) subsystem to be operable at all times in Modes 4 and 5. The current TS requirements do not require any water injection systems, ECCS or otherwise, to be operable in certain conditions in Mode 5. The change in requirement from two ECCS subsystems to one ECCS subsystem in Modes 4 and 5 does not significantly affect the consequences of an unexpected draining event because the proposed Actions ensure equipment is available within the limiting drain time that is as capable of mitigating the event as the current requirements. The proposed controls provide escalating compensatory measures to be established as calculated drain times decrease, such as verification of a second method of water injection and additional confirmations that containment and/or filtration would be available if needed.

The proposed change reduces or eliminates some requirements that were determined to be unnecessary to manage the consequences of an unexpected draining event, such as automatic initiation of an ECCS subsystem and control room ventilation. These changes do not affect the consequences of any accident previously evaluated since a draining event in Modes 4 and 5 is not a previously evaluated accident and the requirements are not needed to adequately respond to a draining event.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs with new requirements on RPV WIC that will protect Safety Limit 2.1.1.4. The proposed change will not alter the design function of the equipment involved. Under the proposed change, some systems that are currently required to be operable during OPDRVs would be required to be available within the limiting drain time or to be in service depending on the limiting drain time. Should those systems be unable to be placed into service, the consequences are no different than if those systems were unable to perform their function under the current TS requirements.

The event of concern under the current requirements and the proposed change is an unexpected draining event. The proposed change does not create new failure

mechanisms, malfunctions, or accident initiators that would cause a draining event or a new or different kind of accident not previously evaluated or included in the design and licensing bases.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change replaces existing TS requirements related to OPDRVs with new requirements on RPV WIC. The current requirements do not have a stated safety basis and no margin of safety is established in the licensing basis. The safety basis for the new requirements is to protect Safety Limit 2.1.1.4. New requirements are added to determine the limiting time in which the RPV water inventory could drain to the TAF in the reactor vessel should an unexpected draining event occur. Plant configurations that could result in lowering the RPV water level to the TAF within one hour are now prohibited. New escalating compensatory measures based on the limiting drain time replace the current controls. The proposed TS establish a safety margin by providing defense-in-depth to ensure that the Safety Limit is protected and to protect the public health and safety. While some less restrictive requirements are proposed for plant configurations with long calculated drain times, the overall effect of the change is to improve plant safety and to add safety margin.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Peter M. Glass, Assistant General Counsel, Xcel Energy Services, Inc., 414 Nicollet Mall, Minneapolis, MN 55401.

NRC Branch Chief: David J. Wrona.

Southern Nuclear Operating Company, Docket Nos. 52-025 and 52-026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: September 25, 2017. A publicly-available version is in ADAMS under Accession No. ML17268A188.

Description of amendment request: The amendment request proposes changes to combined license (COL) Appendix A, Technical Specifications (TS) and plant-specific Design Control Document (DCD) Tier 2 information and departures from plant-specific Tier 1 information (and associated COL Appendix C information). Pursuant to

the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, appendix D, design certification rule is also requested for the plant-specific DCD Tier 1 material departures.

Specifically, the requested amendment proposes changes to TS to allow Reactor Coolant System vacuum fill operations in cold shutdown (*i.e.*, MODE 5) conditions, and conforming consistency changes to plant-specific DCD information in the form of departures from DCD Tier 2 information, as incorporated into the Updated Final Safety Analysis Report (UFSAR). Other proposed TS changes address corrections to TS Actions and Applicability for consistency within the TS.

Additionally, the requested amendment proposes to depart from plant-specific AP1000 DCD Tier 2 information, as incorporated into the UFSAR, and also involves departure from Tier 1 Design Descriptions and Inspections, Tests, Analyses, and Acceptance Criteria related to inspecting the volume in the containment that allows for floodup to support long-term core cooling for postulated loss-of-coolant accidents.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not adversely affect the operation of any systems or equipment that initiate an analyzed accident or alter any structures, systems, and components (SSCs) accident initiator or initiating sequence of events.

The proposed changes do not affect the physical design and operation of the CMTs [Core Makeup Tanks], ADS [Automatic Depressurization System] valves, or ESFAS [Engineered Safety Features Actuation System] as described in the UFSAR. Inadvertent operation or failure of the ADS valves are considered as accident initiators or part of an initiating sequence of events for an accident previously evaluated. However, the proposed changes do not adversely affect the probability of inadvertent operation or failure. Therefore, the probabilities of the accidents previously evaluated in the UFSAR are not affected.

The proposed changes do not affect the ability of the CMTs, ADS valves, or ESFAS to perform their design functions. The designs of the CMTs, ADS valves, and ESFAS continue to meet the same regulatory acceptance criteria, codes, and standards as

required by the UFSAR. In addition, the proposed changes maintain the capabilities of the CMTs, ADS valves, and ESFAS to mitigate the consequences of an accident and to meet the applicable regulatory acceptance criteria.

The proposed changes do not affect the prevention and mitigation of other abnormal events (*e.g.*, anticipated operational occurrences, earthquakes, floods and turbine missiles), or their safety or design analyses. Therefore, the consequences of the accidents evaluated in the UFSAR are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the operation of any systems or equipment that may initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created.

The proposed changes do not affect any other SSC design functions or methods of operation in a manner that results in a new failure mode, malfunction, or sequence of events that affect safety-related or nonsafety related equipment. Therefore, this activity does not allow for a new fission product release path, result in a new fission product barrier failure mode, or create a new sequence of events that result in significant fuel cladding failures.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes maintain existing safety margins. The proposed changes verify and maintain the capabilities of the CMTs, ADS valves, or ESFAS to perform their design functions. Therefore, the proposed changes satisfy the same design functions in accordance with the same codes and standards as stated in the UFSAR. These changes do not affect any design code, function, design analysis, safety analysis input or result, or design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the proposed changes, and no margin of safety is reduced.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710

Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request:

November 3, 2017. A publicly-available version is in ADAMS under Accession No. ML17307A201.

Description of amendment request:

The requested amendment proposes to depart from Tier 2 information in the Updated Final Safety Analysis Report (which includes the plant-specific design control document (DCD) Tier 2 information) and involves related changes to plant-specific Tier 1 information, with corresponding changes to the associated combined license (COL) Appendix C information.

The proposed changes would revise the licensing basis description of an administrative program to manage a limited quantity of unqualified inorganic zinc coatings in Service Level I areas of the containment. The requested amendment also involves related changes to plant-specific Tier 1 Table 2.2.3–4, inspections, tests, analyses, and acceptance criteria information, with corresponding changes to the associated COL Appendix C information.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes do not affect the operation or reliability of any system, structure or component (SSC) required to maintain a normal power operating condition or to mitigate anticipated transients without safety-related systems. The existence or failure of an unqualified coating in a Service Level I area could not initiate an accident previously evaluated. Safe shutdown using nonsafety-related systems is achieved without significant containment steaming, and does not rely on containment heat transfer or containment recirculation. The proposed changes do not affect the operation of equipment whose failure could initiate an accident previously analyzed. The existence or failure of unqualified coatings in Service Level I areas does not affect normal equipment operation. Therefore, the proposed amendment does not involve a significant increase in the probability of an accident previously evaluated.

The proposed changes do not adversely affect the reliability or function of an SSC relied upon to mitigate an accident previously analyzed. A coating nonconformance that could adversely affect the reliability or function of the containment vessel would not be accepted under the quality assurance (QA) program arrangements. The existence of unqualified coatings in Service Level I areas will not adversely affect the heat transfer through the containment vessel. The existence or failure of unqualified coatings in Service Level I areas will not adversely affect passive core cooling system (PXS) performance during containment recirculation because the total allowable amount of unqualified coating is restricted to within analyzed limits. Therefore, the requested amendment does not involve a significant increase in the consequences of an accident previously evaluated.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not affect the operation of systems or equipment that could initiate a new or different kind of accident, or alter any SSC such that a new accident initiator or initiating sequence of events is created. Under the existing quality assurance arrangements (procedures, policies, processes, etc.), nonconformances that adversely affect reliability or function of a safety-related SSC would not be accepted. The proposed changes do not affect the physical design and operation of the containment vessel or the PXS. The existence or failure of an unqualified coating in a Service Level I area as controlled by the quality assurance program nonconformance disposition process for managing unqualified coatings could not create new failure modes, new malfunctions, or change a sequence of events such that a new or different kind of accident is created.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not affect existing safety margins. The heat transfer capabilities and structural integrity of the containment vessel are maintained with the proposed changes. The safety injection and containment recirculation functions of the PXS and containment vessel are maintained with the proposed changes. Management of coatings continues to comply with recommended industry standards and with NRC Regulatory Guide 1.54. The existence of unqualified coatings in Service Level I areas will not require revision to any safety analysis or safety margin. Because the quantity of unqualified coatings will be restricted to within analyzed limits, no safety analysis or design basis acceptance criterion

is challenged or exceeded due to the proposed changes.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of 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 combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, 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. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the "Obtaining Information and

Submitting Comments” section of this document.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: July 25, 2016, as supplemented by letter dated August 15, 2017.

Brief description of amendment: The amendment eliminated the Technical Specification (TS) Section 5.5.6, “Inservice Testing and Inspection Program,” to remove requirements duplicated in American Society of Mechanical Engineers (ASME) Code for Operations and Maintenance of Nuclear Power Plants and ASME Boiler and Pressure Vessel Code, Section XI. The amendment also added a new defined term, “INSERVICE TESTING PROGRAM,” to TS Section 1.1, “Definitions.” The elimination of TS 5.5.6 and the addition of the new defined term “INSERVICE TESTING PROGRAM” is consistent with TSTF–545, Revision 3, “TS Inservice Testing Program Removal & Clarify SR Usage Rule Application to Section 5.5 Testing.” In addition, the amendment modified TS 5.5.4, “Radioactive Effluent Control Program,” to clarify that Surveillance Requirements 3.0.2 and 3.0.3 are applicable to the requirement for that program contained in Offsite Dose Calculation Manual.

Date of issuance: November 29, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment No.: 207. A publicly-available version is in ADAMS under Accession No. ML17128A316; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–43: This amendment revised the renewed facility operating license and TSs.

Date of initial notice in Federal Register: November 22, 2016 (81 FR 83874). The supplemental letter dated August 15, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated November 29, 2017.

No significant hazards consideration comments received: No.

Duke Energy Carolinas, LLC, Docket Nos. 50–269, 50–270, and 50–287, Oconee Nuclear Station, Units 1, 2, and 3, Oconee County, South Carolina

Date of amendment request: February 26, 2016, as supplemented by letters dated January 30, June 1, and October 13, 2017.

Brief description of amendments: The amendments revised Technical Specification 3.8.1, “AC [Alternating Current] Sources—Operating,” to allow sufficient time to replace the stator of each Keowee Hydro Unit.

Date of issuance: November 20, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment Nos.: 406 (Unit 1), 408 (Unit 2), and 407 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML17124A608; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–38, DPR–47, and DPR–55: Amendments revised the Facility Operating Licenses and Technical Specifications.

Date of initial notice in Federal Register: July 5, 2016 (81 FR 43650). The supplemental letters dated January 30, June 1, and October 13, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated November 20, 2017.

No significant hazards consideration comments received: No.

Exelon Generation Company, LLC, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant (FitzPatrick), Oswego County, New York

Date of amendment request: July 24, 2017.

Brief description of amendment: The amendment revised the renewed facility operating license to reflect the transfer of the direct ownership of FitzPatrick and the FitzPatrick Independent Spent Fuel Storage Installation General License from Exelon Generation Company, LLC, to Exelon FitzPatrick, LLC.

Date of issuance: November 30, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 317. A publicly-available version is in ADAMS under

Accession No. ML17313A077; documents related to this amendment are listed in the Safety Evaluation enclosed in a letter dated November 7, 2017 (ADAMS Accession No. ML17240A069).

Renewed Facility Operating License No. DPR–59: The amendment revised the renewed facility operating license.

Date of initial notice in Federal Register: August 17, 2017 (82 FR 39139).

The Commission’s related evaluation of the amendment is contained in the Safety Evaluation dated November 7, 2017.

Exelon Generation Company, LLC, Docket Nos. 50–254 and 50–265, Quad Cities Nuclear Power Station, Units 1 and 2, Rock Island County, Illinois

Date of amendment request: April 27, 2017, as supplemented by letters dated July 27 and September 28, 2017.

Brief description of amendments: The amendments revised Technical Specification (TS) 5.5.12, “Primary Containment Leakage Rate Testing Program,” to allow for the permanent extension of the Type A integrated leak rate testing and Type C leak rate testing frequencies. The amendments also deleted a Type A test extension that expired in 2009 for Unit 1, and 2008 for Unit 2, from TS 5.5.12.a.

Date of issuance: December 1, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment Nos.: Unit 1—269; Unit 2—264. A publicly-available version is in ADAMS under Accession No. ML17311A162; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–29 and DPR–30: Amendments revised the TSs and licenses.

Date of initial notice in Federal Register: June 19, 2017 (82 FR 27888).

The supplemental letters dated July 27 and September 28, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission’s related evaluation of the amendments is contained in a Safety Evaluation dated December 1, 2017.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–263, 50–282, and 50–306, Monticello Nuclear Generating Plant (MNGP), and Prairie Island Nuclear Generating Plant (PINGP), Units 1 and 2, Wright County and Goodhue County, Minnesota

Date of amendment request: March 31, 2017.

Brief description of amendments: The amendments revised the PINGP, Units 1 and 2, Technical Specification (TS) Section 5.3, “Plant Staff Qualifications,” and MNGP, TS 5.3, “Unit Staff Qualifications,” subsections 5.3.1 to add an exception for licensed operators from the education and experience eligibility requirements of American National Standards Institute (ANSI) N18.1–1971, “Selection and Training of Nuclear Power Plant Personnel,” by requiring that licensed operators comply only with the requirements of 10 CFR 55, “Operators’ Licenses.” The amendment also revised the PINGP, Units 1 and 2, and MNGP TS 5.0, “Administrative Controls,” subsections 5.1–5.3 by making changes to standardize and align formatting to the extent possible between the TSs.

Date of issuance: November 28, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days of issuance.

Amendment Nos.: 195—MNGP; 221—PINGP Unit 1; and 208—PINGP Unit 2. A publicly-available version is in ADAMS under Accession No. ML17310B239; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–22, DPR–42, and DPR–60: The amendments revised the renewed facility operating licenses and TSs.

Date of initial notice in Federal Register: June 6, 2017 (82 FR 26133).

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated November 28, 2017.

No significant hazards consideration comments received: No.

Northern States Power Company—Minnesota, Docket Nos. 50–282 and 50–306, Prairie Island Nuclear Generating Plant, Units 1 and 2, Goodhue County, Minnesota

Date of amendment request: November 17, 2015, as supplemented by letters dated May 23, 2016, February 16, 2017, and October 4, 2017.

Brief description of amendments: The amendments revised the Technical Specification (TS) 3.7.16, “Spent Fuel Storage Pool Boron Concentration,” and

TS 4.3.1, “Fuel Storage Criticality,” to allow spent fuel pool storage of fresh and spent nuclear fuel containing a boron-based neutron absorber in the form of zirconium diboride integral fuel burnable absorber.

Date of issuance: November 30, 2017.

Effective date: As of the date of issuance and shall be implemented within 120 days of issuance.

Amendment Nos.: 222—Unit 1; 209—Unit 2. A publicly-available version is in ADAMS under Accession No. ML17334A178; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–42 and DPR–60: The amendments revised the renewed facility operating licenses and TSs.

Date of initial notice in Federal Register: April 5, 2016 (81 FR 19648). The supplemental letters dated May 23, 2016, February 16, 2017, and October 4, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated November 30, 2017.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1 (FCS), Washington County, Nebraska

Date of amendment request: March 24, 2017.

Brief description of amendment: The amendment revised the renewed facility operating license Paragraph 3.C, “Security and Safeguards Contingency Plans.” The amendment revised the FCS Cyber Security Plan implementation schedule for the Milestone 8 full implementation date from December 31, 2017, to December 28, 2018.

Date of issuance: November 22, 2017.

Effective date: As of the date of issuance and shall be implemented by December 31, 2017.

Amendment No.: 294. A publicly-available version is in ADAMS under Accession No. ML17289A060; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the renewed facility operating license.

Date of initial notice in Federal Register: June 6, 2017 (82 FR 26134).

The Commission’s related evaluation of the amendment is contained in a Safety Evaluation dated November 22, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50–321 and 50–366, Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: July 1, 2016, as supplemented by letters dated August 24, 2016; February 10, June 1, and July 12, 2017.

Brief description of amendments: The amendments revised the requirements of Technical Specification 5.5.12, “Primary Containment Leakage Rate Testing Program,” for Hatch Nuclear Plant, Unit Nos. 1 and 2. Specifically, the amendments allowed an increase in the existing testing intervals for the Type A integrated leakage rate test program, and for the Type C containment isolation valve leakage testing of selected components.

Date of issuance: November 30, 2017.

Effective date: As of the date of issuance and shall be implemented within 6 months of issuance.

Amendment Nos.: Unit 1–288; Unit 2–233. A publicly-available version is in ADAMS under Accession No. ML17271A307; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR–57 and NPF–5: Amendments revised the renewed facility operating licenses and Technical Specifications.

Date of initial notice in Federal Register: September 13, 2016 (81 FR 62930). The supplemental letters dated August 24, 2016; and February 10, June 1, and July 12, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff’s original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission’s related evaluation of the amendments is contained in a Safety Evaluation dated November 30, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: August 31, 2016.

Description of amendments: The amendments authorized changes to the VEGP, Units 3 and 4, Updated Final Safety Analysis Report to eliminate pressurizer spray line monitoring during pressurizer surge line testing for the first plant testing only. In addition, these changes correct inconsistencies in testing purpose, testing duration, and the ability to leave equipment in place following the data collection period.

Date of issuance: August 22, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 83 (Unit 3) and 82 (Unit 4). A publicly-available version is in ADAMS under Accession No. ML17159A485; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses Nos. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in Federal Register: February 14, 2017 (82 FR 10590).

The Commission's related evaluation of the amendments is contained in the Safety Evaluation dated August 22, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: January 31, 2017.

Description of amendments: The amendments authorized changes to the VEGP, Units 3 and 4, Updated Final Safety Analysis Report (UFSAR) in the form of departures from the incorporated plant-specific Design Control Document Tier 2 information and involves changes to the Facility Combined License Appendix A to modify engineered safety features logic for containment vacuum relief actuation.

Date of issuance: October 12, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 90 (Unit 3) and 89 (Unit 4). A publicly-available version is in ADAMS under Accession No. ML17241A101; documents related to these amendments are listed in the

Safety Evaluation enclosed with the amendments.

Facility Combined Licenses Nos. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in Federal Register: March 28, 2017 (82 FR 15386).

The Commission's related evaluation of the amendments is contained in the Safety Evaluation dated October 12, 2017.

No significant hazards consideration comments received: No.

IV. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendment. The Commission has determined for this amendment that the application for the amendment 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.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for

example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, 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. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the "Obtaining Information and Submitting Comments" section of this document.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

The Commission is also offering an opportunity for a hearing with respect to

the issuance of the amendment. Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's "Agency Rules of Practice and Procedure" in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at <http://www.nrc.gov/reading-rm/doc-collections/cfr/>. Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1-F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10

CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the "Electronic Submissions (E-Filing)" section of this document, and should meet the requirements for petitions set

forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at <http://www.nrc.gov/site-help/e-submittals.html>. Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at hearing.docket@nrc.gov, or by telephone at 301-415-1677, to (1) request a digital

identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals/getting-started.html>. Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at <http://www.nrc.gov/site-help/electronic-sub-ref-mat.html>. A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the "Contact Us" link located on the NRC's public website at <http://www.nrc.gov/site-help/e-submittals.html>, by email to MSHD.Resource@nrc.gov, or by a toll-free call at 1-866-672-7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern

Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland, 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at <https://adams.nrc.gov/ehd>, unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include

copyrighted materials in their submission.

Duke Energy Progress, LLC, Docket Nos. 50-325 and 50-324, Brunswick Steam Electric Plant, Units 1 and 2, Brunswick County, North Carolina

Date of amendment request: November 22, 2017, as supplemented by letter dated November 24, 2017.

Description of amendments: The licensee requested a one-time, deterministic emergency license amendment to revise the Technical Specifications (TSs) for an extension of the emergency diesel generator (EDG) No. 4 completion time (CT) from 14 days to 30 days. A commensurate change would extend the maximum CT of Required Action D.5 associated with discovery of failure to meet Limiting Condition for Operation (LCO) 3.8.1.a or b (*i.e.*, from 17 days to 33 days). In addition, the licensee has requested to suspend monthly testing of EDGs 1, 2, and 3 per Surveillance Requirement (SR) 3.8.1.2, SR 3.8.1.3, and SR 3.8.1.6 during the proposed extended CTs, if applicable. The license removed EDG No. 4 from service for a planned maintenance to repair a suspected bearing degradation on November 13, 2017. On November 19, 2017, the licensee identified that an increase in the original work scope would extend the EDG 4 maintenance outage beyond the current TS 3.8.1, Required Action D.5, CT of 0745 EST on November 27, 2017, at which time TS 3.8.1, Condition H would be entered requiring both units to be in Mode 3 (hot stand by) within 12 hours. Therefore, the emergency situation could not have been avoided.

Date of issuance: November 26, 2017.

Effective date: November 27, 2017, at 7:45 a.m. Eastern Standard Time.

Amendment Nos.: 282 (Unit 1) and 310 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML17328B072; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Renewed Facility Operating License Nos. DPR-71 and DPR-62: Amendments revised the TSs and additional conditions of the licenses.

Public comments requested as to proposed no significant hazards consideration (NSHC): No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated November 26, 2017.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, 550

South Tryon Street, M/C DEC45A,
Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Dated at Rockville, Maryland, this 12th day
of December, 2017.

For the Nuclear Regulatory Commission.

Greg A. Casto,

*Acting Deputy Director, Division of Operating
Reactor Licensing, Office of Nuclear Reactor
Regulation.*

[FR Doc. 2017-27087 Filed 12-18-17; 8:45 am]

BILLING CODE 7590-01-P

POSTAL REGULATORY COMMISSION

[Docket No. CP2018-84; Order No. 4275]

Inbound Parcel Post (at UPU Rates)

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently filed Postal Service notice of intention to change prices not of general applicability to be effective January 1, 2018. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 21, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

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- I. Introduction
- II. Contents of Filing
- III. Commission Action
- IV. Ordering Paragraphs

I. Introduction

On December 12, 2017, the Postal Service filed notice announcing its intention to change prices not of general applicability for Inbound Parcel Post (at Universal Postal Union (UPU) Rates) effective January 1, 2018.¹

II. Contents of Filing

To accompany its Notice, the Postal Service filed: A redacted copy of the UPU International Bureau (IB) Circular

¹ Notice of the United States Postal Service of Filing Changes in Rates Not of General Applicability for Inbound Parcel Post (at UPU Rates), and Application for Non-Public Treatment, December 12, 2017, at 1-2 (Notice).

that contains the new prices; a copy of the certification required under 39 CFR 3015.5(c)(2); documentation in support of inflation-linked adjustment for the new prices; and redacted copies of Governors' Decisions 14-04 and 11-6. *Id.* at 2-3; *see id.* Attachments 2-7. The Postal Service also filed redacted financial workpapers. Notice at 3.

The Postal Service also filed unredacted copies of Governors' Decisions 14-04 and 11-6, an unredacted copy of the new prices, and related financial information under seal. *See* Notice at 4. The Postal Service filed an application for non-public treatment of materials filed under seal. *Id.* Attachment 1.

The Postal Service states that it has provided supporting documentation as required by Order Nos. 2102 and 2310.² In addition, the Postal Service states that it provided citations and copies of relevant UPU IB Circulars and updates to inflation-linked adjustments as required by Order No. 3716.³

III. Commission Action

The Commission establishes Docket No. CP2018-84 for consideration of matters raised by the Notice.

The Commission invites comments on whether the Postal Service's filing is consistent with 39 U.S.C. 3632, 3633, and 39 CFR part 3015. Comments are due no later than December 21, 2017. The public portions of the filing can be accessed via the Commission's website (<http://www.prc.gov>).

The Commission appoints Katalin K. Clendenin to serve as Public Representative in this docket.

IV. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2018-84 for consideration of the matters raised by the Postal Service's Notice.

2. Pursuant to 39 U.S.C. 505, Katalin K. Clendenin is appointed to serve as an officer of the Commission to represent the interests of the general public in this proceeding (Public Representative).

3. Comments are due no later than December 21, 2017.

² Notice at 4-5. *See* Docket No. CP2014-52, Order Accepting Price Changes for Inbound Air Parcel Post (at UPU Rates), June 26, 2014, at 6 (Order No. 2102); Docket No. CP2015-24, Order Accepting Changes in Rates for Inbound Parcel Post (at UPU Rates), December 29, 2014, at 4 (Order No. 2310).

³ Notice at 5-6. *See* Docket Nos. MC2017-58 and CP2017-86, Order Acknowledging Changes in Rates for Inbound Parcel Post (at UPU Rates), December 30, 2016, at 5 (Order No. 3716).

4. The Secretary shall arrange for publication of this order in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017-27240 Filed 12-18-17; 8:45 am]

BILLING CODE 7710-FW-P

POSTAL REGULATORY COMMISSION

[Docket Nos. MC2018-53 and CP2018-86;
MC2018-54 and CP2018-87]

New Postal Product

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recent Postal Service filing for the Commission's consideration concerning a negotiated service agreement. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* December 21, 2017.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at <http://www.prc.gov>. Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202-789-6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

- I. Introduction
- II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505

(Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (<http://www.prc.gov>). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s)*: MC2018–53 and CP2018–86; *Filing Title*: USPS Request to Add Priority Mail Contract 388 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 13, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Jennaca D. Upperman; *Comments Due*: December 21, 2017.

2. *Docket No(s)*: MC2018–54 and CP2018–87; *Filing Title*: USPS Request to Add Priority Mail Contract 389 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date*: December 13, 2017; *Filing Authority*: 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.*; *Public Representative*: Jennaca D. Upperman; *Comments Due*: December 21, 2017.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,
Secretary.

[FR Doc. 2017–27260 Filed 12–18–17; 8:45 am]

BILLING CODE 7710-FW-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82314; File No. SR–Phlx–2017–100]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Chapter VIII of the Phlx Pricing Schedule To Waive Port Fees for New PSX Participants for a Limited Time

December 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”)¹, and Rule 19b–4 thereunder,² notice is hereby given that on November 29, 2017, Nasdaq PHLX LLC (“Phlx” 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 amend the Exchange's connectivity fees at Chapter VIII of the Phlx Pricing Schedule to provide a waiver of all connectivity fees to new PSX Participants for a limited time

The text of the proposed rule change is available on the Exchange's website at <http://nasdaqphlx.cchwallstreet.com/>, at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend the Exchange's connectivity fees under “Port Fees” at Chapter VIII of the Nasdaq PHLX LLC Pricing Schedule to provide a waiver of all such fees to new PSX Participants for a limited time. Port fees include the choices for connecting to PSX and receipt of data therefrom, together with the fees assessed for that connectivity. Specifically, the Exchange is proposing to waive all Port Fees for every Participant that is a “new PSX Participant” through December 31, 2018. The Exchange is defining a “new PSX Participant” as a Participant that was not a Participant before September 1, 2017. The Exchange believes that the proposed fee waiver will make PSX a more attractive venue for prospective Participants. The Exchange notes that its proposal is similar to one that it implemented previously to attract new Participants.³

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,⁴ in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,⁵ in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed change is reasonable because it will limit the overall costs incurred by new Participants in connecting to the Exchange, which may as a consequence attract new Participants. Attracting new Participants will benefit all market participants on PSX by ensuring that PSX remains deep and liquid. The Exchange believes that the proposed change is an equitable allocation and is not unfairly discriminatory because the Exchange will uniformly apply the same fee to all similarly situated Participants. In this regard, the Exchange is proposing to apply the fee waiver to new PSX Participants, which the Exchange proposes to define as a

³ See Securities Exchange Act Release No. 34–78665 (Aug. 24, 2016), 81 FR 59693 (Aug. 30, 2016) (SR–Phlx–2016–85) (waiving port fees through August 1, 2017 for those who were not Participants after July 1, 2016).

⁴ 15 U.S.C. 78f(b).

⁵ 15 U.S.C. 78f(b)(4) and (5).

Participant that was not a Participant prior to September 1, 2017.

Limiting eligibility for the fee waiver, as described, will ensure that the waiver is tailored to and effective in its purpose of attracting new Participants. Waiving the fees for new Participants will ease the burden of participating on PSX, which may be a significant reason that such market participants have historically declined to become Participants. Thus, to the extent this waiver is successful, the proposed change will broaden participation on PSX, which will benefit all Participants by providing more liquidity.

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. 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 and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to 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 changes generally reduce the fee burdens on Participants in an effort to attract and retain Participants, which benefits all market participants on PSX to the extent the incentives are effective.

The Exchange notes that participation on PSX is completely voluntary and subject to extensive competition both from other exchanges and from off-exchange venues. Thus, to the extent that the proposed changes to the connectivity fees proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share and Participants as a result. 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.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.⁶

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-Phlx-2017-100 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090. All submissions should refer to File Number SR-Phlx-2017-100. 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 website (<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 website 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-Phlx-2017-100 and should be submitted on or before January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.⁷

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-27233 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82317; File No. SR-LCH SA-2017-013]

Self-Regulatory Organizations; LCH SA; Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to LCH SA's Wind Down Plan

December 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on December 7, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

⁷ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

⁶ 15 U.S.C. 78s(b)(3)(A)(ii).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to adopt an updated wind down plan (the "WDP") in accordance with Rule 17Ad-22(e)(3)(ii). The text of the proposed rule change has been annexed as Exhibit 5. LCH SA has requested confidential treatment of the material submitted as Exhibit 5.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

1. Purpose

On September 28, 2016, the Securities and Exchange Commission (the "Commission") adopted amendments to Rule 17Ad-22³ pursuant to Section 17A of the Securities Exchange Act of 1934 (the "Act")⁴ and the Payment, Clearing and Settlement Supervision Act of 2010 ("Clearing Supervision Act")⁵ to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a "covered clearing agency," as defined by Rule 17Ad-22(a)(5)⁶ (collectively, the new and amended rules are herein referred to as "CCA rules").

LCH SA is a covered clearing agency under the CCA rules and therefore is subject to the requirements of the CCA rules, including Rule 17Ad-22(e)(3). The CCA rules require that covered clearing agencies, among other things: "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-

down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses."⁷

As a central counterparty recognized under the European Market Infrastructure Regulation ("EMIR"), LCH SA is also required to have in place relevant recovery and wind down mechanisms required under EMIR.⁸

As a credit institution based in the European Union, LCH SA is also subject to Directive 2014/59/EU, as supplemented, requiring institutions to draw up and maintain recovery plans setting forth options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position.

Accordingly, as described in more detail below, the purpose of the WDP is to ensure an orderly wind down of the CCP under extreme circumstances and to limit market impact as much as possible, should the recovery plan (the "RP")⁹ have failed.

The WDP sets out the steps that LCH SA would follow to close its clearing services and shut down the company. The plan demonstrates how LCH SA, as it exists today, can achieve this orderly wind down within six (6) months.

In addition, LCH SA holds capital, funded by equity, equal to the operating expenses for a six (6) month period. The WDP demonstrates that the wind down cost remains inferior to the necessary amount.

The WDP would first determine the triggers for winding down and the relationship between Recovery, Resolution and Wind down. In these extreme circumstances, the CCP would first trigger the recovery plan. The WDP would be triggered by LCH SA if, the recovery tools having been exhausted and having failed, the only solutions left for LCH SA would be to wind down its clearing services and close the company.

The triggers are only briefly presented in the WDP since they are described in detail in the RP. They consider Clearing Member Defaults losses well above the CCPs financial resources; Clearing Member Defaults creating large liquidity shortfalls and Non Clearing Members Defaults impacting capital adequacy or creating liquidity shortfalls. This could be caused by large risks such as operational events, custody and investment risks or large business risks. The WDP would be triggered by LCH SA if, the recovery tools having been

exhausted and having failed, the only solution for LCH SA would be to wind down its clearing services and close the company.

The WDP would not consider any other case such as a voluntary wind down not being triggered by one of the above extreme circumstances.

The WDP would then describe the governance for triggering the plan. The decision to wind down would be taken by the Board and ultimately the shareholders' meeting upon advice of the Executive Risk Committee ("ERCo") and Local Management Committee ("LMC"). The implementation of the WDP would be monitored by the LCH SA LMC or Default Crisis Management Team ("DCMT"), the executive committee in charge of the coordination of defaults.

The regulatory authorities would be consulted before such a decision is taken and the French *Autorité de Contrôle Prudentiel et de Résolution* (the "ACPR") would have to approve such a decision, unless all the clearing service have already been closed. They would be subsequently regularly informed of the implementation of the plan.

LCH SA being a credit institution, it could be subject to a resolution regime decided by the ACPR whilst conducting its recovery plan and before a wind down would be decided by the company. In that case, the decision to wind down as well the process to be followed would be decided by the resolution authority.

The plan would then define a certain number of assumptions. It would firstly assume that the CCP as it stands today would be wound down until its full closure, although it is likely that in the phases preceding the plan, some businesses would have been either closed or scaled down. It also makes other assumptions that allows continuation of business for some time and proper closing such as the fact that LCH SA would keep its banking license and continue to have full access to the central bank or that suppliers, which would continue to be paid, would continue to offer a service.

In line with the RP, the WDP would present a mapping of the functions and particularly distinguishes between the clearing functions, which are all considered as critical, the critical supporting functions and the other non-critical functions.

The plan would then describe the closure of the clearing services. The closure of CDS Clear is covered in Article 2.4.3.1 of CDS Clearing Rule book and in the Clause 8 of Appendix 1. It specifies that LCH SA would

³ 17 CFR 240.17Ad-22.

⁴ 15 U.S.C. 78q-1.

⁵ 12 U.S.C. 5461 *et seq.*

⁶ 17 CFR 240.17Ad-22(a)(5).

⁷ 17 CFR 240.17Ad-22(e)(3)(ii).

⁸ Regulation (EU) No. 152/2013 of 19 December 2012, Article 2.

⁹ See Filing N° SR-LCH SA-2017-012.

publish a notice to clearing members notifying that a wind down event has occurred and to the extent possible the date on which transactions shall cease to be accepted on the CDS Clearing service. LCH SA would publish the clearing notice as far in advance of the Early Termination Trigger Date as it is reasonably possible. The plan would indicate that, in a non-default situation and more generally in a situation where the corresponding business line is not suffering, LCH would give some time for a maximum of trades to settle naturally and for the clearing members to close their longer positions and switch to another CCP.

The closing of the business would be done through cash settlement and the repayments amounts would be paid by LCH SA and the clearing members on the business following notification.

The WDP would then describe how critical supporting functions would be closed. The treasury function would close once all clearing services have been terminated and all monies paid by LCH SA and/or the clearing members. Once wind down is decided, cash would not be invested anymore but deposited at the central bank or possibly invested in same day repos. Operations, IT production, and Risk teams would be kept until all positions are closed. At that moment, the majority of staff in these areas would not be required any more.

It has to be noted that the WDP would list all contracts with external providers, including venues and IT companies to which LCH SA has outsourced services. They contain wind down provisions, enabling LCH SA to exit these contracts under specific conditions.

Non critical support functions such as Finance, Compliance, Audit etc. would start being scaled down immediately after the decision is taken to wind down. The path at which each department is expected to reduce its workforce is specified in the plan. Consultation with the LCH SA's staff representatives (works council) would start immediately in order to ensure a proper departure of permanent staff in line with French law and regulations and those of the countries in which LCH SA has branches/representative offices. Staff approach for winding down would be described in more detail in the WDP.

The WDP would contain an overall timeline of the full wind down process. This plan shows that LCH SA would be in a position to close the company within six (6) months as required by applicable regulations.

The WDP would also contain an appendix describing into more details the communication processes that

would be followed both internal and external. It specifies that the wind down notice would be published on the LCH SA website and the teams within LCH SA and the LSEG group that would be responsible for each type of communications.

Separately from the WDP, but in line with the processes and timeline described in the WDP, LCH SA calculates the costs required for a wind down. It encompasses staff salaries, indemnities for staff departure, cost to be paid to suppliers during notice periods and more generally all foreseeable costs that would be due in case of a wind down event. The final figure is reported in the WDP and shows that overall costs is significantly below the liquid assets held by LCH SA for that purpose and corresponding to six (6) months of operational expenses.

The first version of the WDP was adopted in 2014 and is reviewed on an annual basis. It is approved by the LCH SA Risk Committee, LMC and the Board.

The WDP, which was approved by the Board on November 22nd 2017, has been annexed as Exhibit 5. LCH SA has requested confidential treatment of the plan as Exhibit 5, however the main characteristics are described above and a self comprehensive disclosure, as required by SEC Rule 17AD-22(e)(23), has been published on the LCH website in April 2017.

2. Statutory Basis

LCH SA believes that the proposed rule change is consistent with the requirements of Section 17A of the Securities Exchange Act of 1934¹⁰ (the "Act") and the regulations thereunder.

Specifically, in accordance with the requirement in Rule 17Ad-22(e)(3)(ii), LCH SA has established a WDP which describes the scenarios and events that may threaten its ability to continue to provide critical¹¹ clearing services and the processes that LCH SA would follow to manage an orderly wind down of the CCP.

LCH SA has an obligation to guarantee the continuous performance of critical service towards the market and, as such, will not request to enact a wind down without an important triggering event that would cause a failed recovery or a resolution situation. Scenarios have been categorised into the following for the purposes of assessing

¹⁰ 15 U.S.C. 78q-1.

¹¹ The CPSS-IOSCO Report states that 'Critical' refers to the importance of the services to the Financial Market Infrastructures (FMIs) participants, other FMIs, and to the smooth functioning of the markets the FMI serves and in particular, the maintenance of financial stability.

the effectiveness of the recovery tools and to identify the actions required for the WDP:

- Member default losses resulting in uncovered credit losses or liquidity shortfalls;
- Non-default losses that threaten LCH SA's solvency, arising from general business risks, custody and investment risks, any other large operational risks caused by a human or system failure and
- Uncovered liquidity shortfall associated to these risks.

LCH SA has adopted a Recovery Plan ("RP") with an updated version submitted separately to the SEC.¹² The WDP assumes that all recovery and resolution tools have been exhausted, have failed, and thus require LCH SA to wind down its clearing services. The reasons for these losses are described in more detail in the RP.

The plan describes the governance for triggering the wind down and the approval steps required. The triggering of the plan will have to be decided by LCH SA and LCH Group Boards as well as by a shareholders' meeting. It will have to be approved by ACPR unless LCH SA has already closed down all its clearing activities.

It is to be noted that the plan could be also triggered by the resolution authorities as part of the resolution toolkit if LCH SA has been put into resolution.

From a legal point of view, the WDP would be supported by the Article 2.4.3.1 of the CDS Clearing Rule Book, clause 8 and 8.7 of Appendix 1 of the CDS Clearing Rule Book. It is also supported by similar clauses in the Fixed Income and Cash and Derivatives RuleBook for these business lines. All agreements concluded by LCH SA, particularly with its suppliers and trading venue include wind down clauses.

From an operational point of view, the WDP is supported by detailed procedures where required. They have however not been attached to the plan as they are not specific to wind down. They are tested during default fire drills, to verify their applicability and ensure regular training of staff.

From a financial point of view, the WDP is supported by highly liquid assets equivalent to 6 months' worth of Operational expenses. The plan would show that the cost of closure is inferior to that amount.

The plan would take into account the fact that a closure of the CCP could be very disruptive for the market, therefore, in a non member default situation and

¹² See Supra note 9.

more generally in a situation where the Business line is not suffering clearing losses, a notice will be given to clearing members in order to give them time to terminate their trades before reaching the early termination trigger.

Moreover, Rule 17Ad-22(e)(15)(i) requires a covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to determine the amount of liquid net assets funded by equity based upon its general business risk profile and the length of time required to achieve a recovery or orderly wind-down, as appropriate, of its critical operations and services if such action is taken.

LCH SA believes that the proposed rule change is consistent with this requirement as the plan demonstrates how LCH can achieve an orderly wind down within six (6) months. LCH holds capital, funded by equity, equal to the operating expenses for the six month period required to wind down. The capital is invested in cash or highly liquid securities which could be easily mobilised, even in extreme circumstances. LCH bases its calculation on the latest audited expenses.

The cost to wind down is inferior to this amount. It would take into account the salaries to be paid to staff until they leave the company and include termination costs. Similarly, it takes into account the costs that would have to be paid to external service providers until the service is no longer required. Each contract contains wind down clauses which limit the exit costs that SA would have to pay. Where they exist, they are included in the overall wind down costs. Legal costs that LCH would face in such extreme circumstances cannot be evaluated and have not been included. However, the current overall cost of winding down is very significantly under the 6 months equivalent of Operational Expenses and therefore could accommodate unforeseen costs.

Rule 17Ad-22(e)(15)(ii) requires a clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide for holding liquid net assets funded by equity equal to the greater of either six months of its current operating expenses or the amount determined by the board of directors to be sufficient to ensure a recovery or orderly wind-down of critical operations and services of the covered clearing agency, as contemplated by the plans established under Rule 17Ad-22(e)(3)(ii).

LCH SA believes that its proposed WDP meet this requirement given the

demonstration that LCH SA can achieve an orderly wind down within six (6) months and at a cost lower than the six (6) months of Operational expenses that it holds in cash or highly liquid securities.

Reviews of the WDP take place annually and where appropriate are aligned to existing annual market exercise regimes (e.g., annual fire drills) in order to simulate the implications of executing the Recovery and/or Wind Down Plans to ensure they remain relevant. Additionally, where the underlying business model of LCH SA is amended, the change framework in place ensures the implication of the change to the business model is considered with reference to the WDP and the necessary updates made. The WDP is approved by LCH SA ERCo, Risk Committee and Board.

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹³ LCH SA does not believe that the proposed rule change would impose burdens on competition.

The proposed rule change would establish and maintain LCH SA's WDP in accordance with and for the purposes of the CCA rules. The Plan would not affect clearing member's access to services offered by LCH SA or impose any direct burden on clearing members.

In the extreme case in which LCH SA would have to wind down, and the business line is not suffering clearing losses, the same amount of time would be given to all the Clearing Members to close their positions at LCH SA. In addition, the plan determines that the clearing services would be closed globally, all members being treated identically.

Accordingly, the proposed rule change would not unfairly inhibit market participant's access to LCH SA's services or disadvantage or favor any particular user in relationship to another user.

Therefore, LCH SA does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-LCH SA-2017-013 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-LCH SA-2017-013. 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 website (<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

¹³ 15 U.S.C. 78q-1(b)(3)(I).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website 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 LCH SA and on LCH SA's website at <http://www.lch.com/asset-classes/cdsclear>.

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-LCH SA-2017-013 and should be submitted on or before January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁴

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27236 Filed 12-18-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82312; File No. SR-OCC-2017-009]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Relating to The Options Clearing Corporation's Counterparty Credit Risk Management Policy

December 13, 2017.

On October 12, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2017-009 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on November 1, 2017.³ The Commission did not receive any comment letters on the proposed rule

change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

This proposed rule change by OCC will formalize OCC's Counterparty Credit Risk Management Policy ("CCRM Policy"). The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules.⁴

OCC stated that, as a central counterparty ("CCP") providing clearance, settlement, and risk management services, it is exposed to and must manage a range of risks, including credit risk. According to OCC, the purpose of the CCRM Policy is to outline OCC's overall approach to identify, measure, monitor, and manage its exposures to direct and indirect participants, Liquidity Providers,⁵ asset custodians, settlement banks, letter of credit issuers, investment counterparties, other clearing agencies, and financial market utilities ("FMUs")⁶ (each a "Counterparty") arising from its payment, clearing, and settlement processes. OCC noted that the CCRM Policy is part of a broader framework used by OCC to manage credit risk, including OCC's By-Laws, Rules, and other policies and procedures that are designed collectively to ensure that OCC appropriately manages counterparty credit risk.

The CCRM Policy outlines the key components of OCC's framework for identifying, measuring, monitoring, and managing OCC's exposures to its Counterparties. This framework includes: (1) The identification of credit risk, (2) Counterparty access and participation standards, (3) the measurement of Counterparty exposures, (4) the monitoring and managing of Counterparty exposures, and (5) voluntary termination of Counterparty relationships. Each of these components is described in more detail below.

A. Identification of Credit Risk

The CCRM Policy identifies various ways in which credit risk originates

⁴ All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.

⁵ Under the CCRM Policy, "Liquidity Provider" is defined as a Commercial Bank or a non-banking institution—generally a pension fund—that provides a committed liquidity facility to OCC.

⁶ Under the CCRM Policy, "Financial Market Utility" is defined as a derivatives clearing organization partnering with OCC to provide a cross-margin program; a clearing agency providing settlement services of securities arising from the exercise, assignment or maturity of options or futures; or the Depository providing book-entry securities transfers and asset custodian services.

from the failure of a Counterparty to perform. With respect to a Clearing Member, the CCRM Policy details a number of different ways in which OCC may be exposed to credit risk. This includes the potential failure of a Clearing Member to pay for purchased options, to meet expiration-related settlement obligations, or to make certain mark-to-market variation payments or initial margin deposits. It also includes the potential insufficiency of a defaulting Clearing Member's margin and Clearing Fund deposits in a liquidation scenario. Other sources of credit risk identified in the CCRM Policy include the inability of OCC to access collateral (e.g., cash or securities) from a custodian or investment counterparty that is needed to facilitate a liquidation, or a failure by an issuer of a letter of credit to honor its corresponding obligations. The CCRM Policy also identifies that certain relationships with other FMUs, such as cross-margining programs and cash market settlement services, represent critical linkages that may present certain degrees of credit exposure based on the terms and design of the linkage. The CCRM Policy also notes that OCC may face additional risks from Counterparties, such as the potential failure of a Liquidity Provider to honor a borrowing request.

B. Counterparty Access and Participation Standards

Under the CCRM Policy, OCC's management of Counterparty credit risks begins with an initial evaluation process intended to ascertain that Counterparties meet certain minimum financial and operational standards and are considered as having a low probability of defaulting on their obligations prior to engaging or effecting any new transactions or expansion of business with OCC. To accomplish this objective, OCC evaluates each Counterparty against established minimum standards of creditworthiness, overall financial condition, and operational capabilities. Pursuant to the Policy, the standards used to evaluate Counterparties shall be objective, risk-based, and publicly-disclosed to permit fair and open access. These standards shall be developed independently for Clearing Members, Commercial and Central Banks, investment counterparties, Liquidity Providers and FMUs, accounting for differences in their regulatory reporting and overall business operations.

Clearing Membership Standards

OCC's minimum participation standards for Clearing Member are

¹⁴ 17 CFR 200.30-3(a)(12).

¹⁵ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-81949 (Oct. 26, 2017), 82 FR 50719 (Nov. 1, 2017) (File No. SR-OCC-2017-009).

found in Article V of OCC's By-Laws, Chapters II and III of OCC's Rules, and other publicly-disclosed supplemental documentation (together, "Participation Standards Documentation"). Under the Policy, OCC's Credit Risk Management and Member Services Departments shall evaluate each Clearing Member applicant against the minimum standards of creditworthiness and for its overall financial condition and operational capabilities as provided in the Participation Standards Documentation. Such evaluation shall also consider the Counterparty's aggregation of exposure on an individual and related-entities level, as applicable, as well as any material exposure that may arise from tiered participation arrangements. The Credit Risk Management and Member Services Departments shall document the results of this evaluation in a memorandum, including the Clearing Member applicant's ability to meet relevant participation standards, and report those results to OCC's Executive Chairman, Chief Operating Officer, or Chief Administrative Officer for review and approval, where appropriate, or for recommendation to the Risk Committee or Board of Directors.⁷

Commercial and Central Banks

OCC's minimum standards for asset custodians, settlement banks, letter of credit issuers, and investment counterparties are found in OCC Rule 604 and relevant OCC procedures. The Credit Risk Management Department shall coordinate with various departments (such as Collateral Services or Treasury) to evaluate each bank against the minimum standards of creditworthiness and for its overall financial condition and operational capabilities as provided in OCC Rule

⁷ Pursuant to Article V, Section 2 of OCC's By-Laws, the Executive Chairman, Chief Operating Officer and Chief Administrative Officer each have delegated authority to approve Clearing Member applicants provided that (1) there is no recommendation to impose additional membership criteria in accordance with Article V of the By-Laws and (2) the Risk Committee is given not less than five days to determine the application should be reviewed at a meeting of the Risk Committee. Pursuant to Interpretation and Policy .06 to Article V, Section 1 of OCC's By-Laws, the Risk Committee has the authority to impose additional requirements on Clearing Member applicants, such as increased capital or margin requirements as well as restrictions on clearing activities. The Risk Committee also has the authority to approve waivers of certain clearing membership requirements under Article V, Section 1 of the By-Laws. Approvals of a Clearing Member business expansion by the Executive Chairman, Chief Operating Officer or Chief Administrative Officer are subsequently presented to the Risk Committee for ratification, except in limited circumstances detailed in Article V, Section 1.03(e) of OCC's By-Laws.

604 and related OCC procedures. Such evaluation shall also consider the Counterparty's aggregation of exposure on an individual and related-entities level, as applicable, as well as whether OCC would be able to structure its custodial relationships in a manner that allows prompt access to its own and its Clearing Members' assets. The latter shall include holding assets at supervised and regulated institutions that adhere to generally accepted accounting practices, maintain safekeeping procedures, and have internal controls that fully protect these assets. Under the Policy, Credit Risk Management and either the Collateral Services or Treasury Department, as applicable, shall document the results of its evaluation in a memorandum, including the bank's ability to meet relevant participation standards, and report those results to OCC's Executive Chairman, Chief Operating Officer or Chief Administrative Officer, each of which shall have the authority to approve new and expanded relationships with asset custodians, settlement banks, letter of credit issuers, investment counterparties, and Liquidity Providers.

Liquidity Providers

Under the Policy, OCC maintains internal procedures outlining the minimum standards for Commercial Banks⁸ and non-bank institutions acting as Liquidity Providers. OCC's Credit Risk Management and Treasury Departments would be responsible for evaluating each Liquidity Provider against the minimum standards of creditworthiness and for its overall financial condition and operational capabilities as provided in the procedures. Because Liquidity Providers present both credit and liquidity risk to OCC, the due diligence around such institutions shall include a review of each lender's ability to perform their commitments as well as understand and manage their liquidity risks. Pursuant to the Policy, Credit Risk Management and Treasury shall document the results of the evaluation in a memorandum, including the Liquidity Provider's ability to meet relevant participation standards, and report those results to the Executive Chairman, Chief Operating Officer or Chief

⁸ Under the Policy, "Commercial Bank" is defined as a banking or depository institution that is not an operating arm of a Central Bank. Commercial Bank relationships shall be governed by this Policy and all supporting bank-related procedures. Commercial Banks act as Liquidity Providers, asset custodians, settlement banks, letter of credit issuers, and investment counterparties on behalf of OCC.

Administrative Officer, each of which shall have the authority to approve new and expanded relationships with Liquidity Providers.

FMUs

Under the Policy, OCC maintains internal procedures outlining minimum standards for FMUs. OCC's Business Operations and Credit Risk Management Departments shall evaluate each FMU for its overall financial condition and operational capabilities as provided in the procedure. Pursuant to the CCRM Policy, before entering into a link with any FMU, the Legal Department shall assist the aforementioned business units to identify legal risks relating to rights and interests, collateral arrangements, settlement finality and netting arrangements, and financial and custody risks. The Business Operations, Credit Risk Management, and Legal Departments shall document the results of its evaluation in a memorandum, including the FMU's ability to meet relevant standards. All new and expanded FMU relationships shall be reviewed and approved by the Risk Committee and subsequently recommended for approval to the Board of Directors.

C. Measuring Counterparty Credit Risk

The CCRM Policy describes various ways in which OCC measures the credit risk posed by different Counterparties. With respect to Clearing Members, the CCRM Policy provides that OCC measures its credit exposures to Clearing Members under normal market conditions through the calculation of margin requirements and under extreme but plausible conditions through stress testing and the calculation of Clearing Fund requirements, in accordance with applicable OCC policies. Margin, Clearing Fund, and stress test results may be used by OCC's Financial Risk Management Department ("FRM") to evaluate OCC's counterparty credit risk framework and inform Clearing Member surveillance processes.

With respect to Commercial Banks, Central Banks,⁹ Liquidity Providers, and investment counterparties, OCC shall measure its credit exposures to these

⁹ Under the Policy, "Central Bank" is defined as a bank serving as a bank for both depository institutions and a government, a regulator for financial institutions, and/or a nation's money manager. Central Banks act as asset custodians on behalf of OCC, and OCC uses access to accounts and services at a Central Bank, when available and where determined to be practical by the Board of Directors, to enhance its management of liquidity risk. Due to the inherently low credit risk presented by Central Banks, only limited monitoring activities would be performed pursuant to relevant OCC procedures.

Counterparties by the balances generated from the various activities provided by these institutions in accordance with relevant internal procedures.

FMUs provide a range of services to OCC, including the Depository Trust Company (“DTC”) as collateral custodian and provider of book-entry recordkeeping of securities transfers, Chicago Mercantile Exchange Inc. (“CME”) and ICE Clear U.S. as cross-margin clearing organizations, and the National Securities Clearing Corporation (“NSCC”) as a provider of securities settlement. Under the CCRM Policy, DTC credit exposures shall be measured by the collateral balances held and the value of securities lending/borrowing transactions facilitated. CME and ICE Clear U.S. credit exposures shall be measured by the projected margin impact in the event of suspension of a cross-margin program and, therefore, the absence of risk reducing positions cleared away from OCC. NSCC exposure shall be measured by the value of securities and cash to be settled in connection with the delivery obligations settled through NSCC.

D. Monitoring and Managing Counterparty Credit Risk

The CCRM Policy also describes the manner in which OCC monitors and manages credit risk from its Counterparties. Under the Policy, OCC’s monitoring and management of such risks is comprised of “Watch Level Reporting” processes in conjunction with other tools including margin adjustments, internal credit ratings, risk examinations, and monitoring of tiered participation arrangements and dormant Counterparties.

Watch Level Reporting Overview

Under the Policy, Counterparties are monitored by OCC’s FRM, Business Operations, and Treasury Departments for ongoing compliance with the minimum participation standards described above to identify any trends that might signal the deterioration of a Counterparty’s ability to timely meet its obligations. When these trends are identified, Credit Risk Management shall report on a Counterparty through OCC’s Watch Level Reporting processes, which are described in further detail below. As a Counterparty approaches, or no longer meets minimum standards, FRM’s monitoring heightens and, in the case of Commercial Banks and Clearing Members, increasingly rigorous protective measures may be imposed to limit or eliminate OCC’s credit exposure.

Pursuant to the Policy, the Watch Level Reporting process shall be administered by OCC’s Management Committee, which maintains approval authority of Watch Level parameter changes. The Watch Level Reporting process provides each of the Executive Chairman, Chief Operating Officer, and Chief Administrative Officer with authority to take action to protect OCC given the facts and circumstances of the exposure presented by a Clearing Member or Commercial Bank. Under the Policy, Credit Risk Management shall provide monthly internal reporting to FRM summarizing the circumstances relating to (i) a violation; (ii) additional risks observed and any corrective measure taken by any Clearing Member, Commercial Bank, or FMU at or above Watch Level II (described below); and (iii) monthly reporting to OCC’s Credit and Liquidity Risk Working Group, Management Committee, and the Risk Committee of any Clearing Member or Commercial Bank at or above Watch Level III (described below).

Clearing Member Watch Level Reporting and Bank Watch Level Reporting

Pursuant to the CCRM Policy, the Clearing Member Watch Level Reporting process and Bank Watch Level Reporting process shall support initial and on-going participation standards by allowing OCC’s Credit Risk Management Department, with the support of other FRM business units, Business Operations and Treasury, to detect business-related concerns and/or financial or operational deterioration of a Counterparty to protect OCC and its Clearing Members against the potential default of a Clearing Member or Commercial Bank. Pursuant to the CCRM Policy, the Clearing Member Watch Level Reporting process and Bank Watch Level Reporting process shall be organized into a four-tiered surveillance structure.

- *Watch Level I.* Watch Level I is the lowest tier of severity and shall be used to categorize Clearing Members and Commercial Banks presenting minimal to very low credit risk. This level of violation shall be identified but not reported.

- *Watch Level II.* This tier shall be used to categorize Clearing Members and Commercial Banks presenting low to lower moderate credit risk. This level of violation shall be identified and reported to internal personnel pursuant to FRM procedures.

- *Watch Level III.* This tier shall be used to categorize Clearing Members and Commercial Banks potentially presenting upper moderate to substantial credit risk. Violations in this

tier may indicate a Clearing Member or Commercial Bank that is below early warning participation thresholds and may soon become non-compliant with OCC’s minimum participation standards, as specified in Article V of OCC’s By-Laws, Chapters II and III of OCC’s Rules, and internal OCC procedures. This level of violation shall be identified and reported to the Executive Chairman, Chief Operating Officer, or Chief Administrative Officer, who shall have the authority to approve the imposition or waiver of protective measures. The Risk Committee shall be informed of these violations on a monthly basis.

- *Watch Level IV.* Watch Level IV is the highest tier of severity and shall be used to categorize Clearing Members and Commercial Banks potentially presenting high to very high credit risk with a heightened probability of default. Violations in this tier may indicate a Clearing Member or Commercial Bank may imminently become or has already become non-compliant with OCC’s minimum participation standards, as specified in Article V of OCC’s By-Laws, Chapters II and III of OCC’s Rules, and internal OCC procedures. This level of violation shall be identified and reported to OCC’s Credit and Liquidity Risk Working Group, with subsequent reporting to the Executive Chairman, Chief Operating Officer, or Chief Administrative Officer, who shall have the authority to approve the imposition or waiver of protective measures, including the option to restrict business of or suspend the Clearing Member or Commercial Bank. The Risk Committee shall be promptly informed of these violations, and a meeting of the Risk Committee may occur to discuss the event.

In addition, under the Policy, if a Clearing Member is reporting that its aggregate uncollateralized stress test exposure under normal market conditions, minus the sum of base expected shortfall and stress test charges as computed under OCC’s margin methodology, exceeds 75% of the Clearing Member’s excess net capital, then the Clearing Member shall be identified and reported on Watch Level II. When this exposure exceeds 100% of net capital, a Clearing Member shall be identified and reported on Watch Level III and shall be subject to a margin call for the amount of exposure exceeding net capital. A margin call shall be the standard form of protective measures for position risk monitoring and shall not require officer approval or further prompt escalation. However, Clearing Members may be reported to the Executive Chairman, Chief Operating

Officer, or Chief Administrative Officer for consideration of additional protective measures.

FMU Watch Level Reporting

The FMU Watch Level Reporting process allows Credit Risk Management, with the support of other FRM business units and Business Operations, to detect business-related concerns and/or financial or operational deterioration of a FMU. Pursuant to the CCRM Policy, the FMU Watch Level Reporting process is organized into a two-tiered surveillance structure.

- *Watch Level I.* Watch Level I is the lowest tier of severity and shall be used to categorize FMUs presenting minimal to very low credit risk. This level of violation shall be identified but not reported.
- *Watch Level II.* Watch Level II is the highest tier of severity and shall be used to categorize FMUs presenting low to lower moderate credit risk. This level of violation shall be identified and reported.

Other Tools for Monitoring and Managing Credit Risk

In addition to the Watch Level Reporting processes discussed above, the CCRM Policy discusses other tools and processes used by OCC to monitor and manage credit risks arising from its Counterparties. For example, in cases where ongoing monitoring of Clearing Members identifies circumstances impacting margin levels due to changing portfolio characteristics, market conditions, elevated Clearing Fund stress test results, upcoming holidays where trading is allowed but OCC is unable to call for additional margin deposits, and certain other situations, OCC shall have the authority to call for additional margin deposits or otherwise adjust margin requirements as further detailed in OCC's margin and Clearing Fund-related policies.

Under the Policy, OCC's Credit Risk Management department also maintains Internal Credit Ratings ("ICRs") which shall be incorporated into the Watch Level Reporting process and shall be designed to identify quarterly creditworthiness scores of Clearing Members and Commercial Banks. ICR reporting shall summarize the underlying cause of the ICR score, recent scoring trend, and exposure introduced by a Clearing Member or Commercial Bank.

In addition, the CCRM Policy provides that Credit Risk Management shall perform examinations of the risk management frameworks, policies, procedures, and practices of each Clearing Member no less than once in a

three calendar year period, focusing on the risks posed to OCC. For certain exams, Credit Risk Management may coordinate with external parties to realize operational efficiencies for both the Clearing Member and OCC.

The CCRM Policy also provides that OCC's Counterparty monitoring includes managing the material risks that arise from indirect participants through tiered participation arrangements. In particular, Credit Risk Management, supported by other FRM business units and Business Operations, shall monitor the material risks that arise from indirect participants through tiered participation arrangements. Credit Risk Management (or other FRM business units, as appropriate) shall identify these tiered participation arrangements through standard monitoring processes when they present elevated risk to the Clearing Member or OCC. Furthermore, Clearing Member risk examinations shall seek to understand how direct participants identify, measure, and manage the risks posed to OCC from indirect participants.

Additionally, under the CCRM Policy, OCC shall monitor Clearing Members, Commercial Banks, and investment counterparties during prolonged periods of inactivity, and Clearing Members shall be allowed to voluntarily enter a dormant state to reduce credit risk originating from unexpected trading activity. A dormant Clearing Member shall continuously adhere to all operational and financial standards and may reactivate its membership after submitting to an operational and financial review. OCC shall maintain sole discretion to terminate inactive Commercial Banks and investment counterparties to reduce credit risk.

E. Counterparty Credit Risk Termination

Finally, the CCRM Policy addresses the voluntary off-boarding of Counterparties. Under the Policy, voluntary off-boarding shall be performed in a manner designed to wind down all credit exposures in an orderly fashion before a relationship is terminated.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act¹⁰ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission finds that the proposal is

consistent with Section 17A(b)(3)(F) of the Act¹¹ and Rules 17Ad-22(e)(3), (e)(4), (e)(16), (e)(18), (e)(19), and (e)(20)¹² thereunder, as described in detail below.

A. Consistency With Section 17A(b)(3)(F) of the Act

The Commission finds OCC's proposed changes to be consistent with Section 17A(b)(3)(F) of the Act,¹³ which requires, among other things, that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in its custody or control of for which it is responsible, in general, to protect investors and the public interest. As noted above, one of the risks OCC faces as a CCP is credit risk. OCC states that the CCRM Policy provides a framework that is designed to enable it to identify, evaluate, measure, monitor, and manage potential credit risks posed by its Counterparties. That framework includes: (1) The identification of credit risk, (2) Counterparty access and participation standards, (3) the measurement of Counterparty exposures, (4) the monitoring and managing of Counterparty exposures, and (5) voluntary termination of Counterparty relationships. Furthermore, OCC also noted that the CCRM Policy is part of a broader framework used by OCC to manage credit risk, including OCC's By-Laws, Rules, and other policies and procedures that are designed collectively to ensure that OCC appropriately manages counterparty credit risk. By formalizing the components of the CCRM Policy, OCC has taken measures to provide that its the rules are designed to assure the safeguarding of securities and funds which are in its custody or control of for which it is responsible, and, in general, to protect investors and the public interest.

B. Consistency With Rules 17Ad-22(e)(3) and (e)(4)

Rules 17Ad-22(e)(3) and (e)(4)¹⁴ require each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things, (i) maintain a sound risk management framework for addressing credit risk and (ii) effectively identify, measure, monitor, and manage its credit exposures to participants and those arising from its payment, clearing, and

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

¹² 17 CFR 240.17Ad-22(e)(1), (e)(4), (e)(16), (e)(18), (e)(19), (e)(20).

¹³ 15 U.S.C. 78q-1(b)(3)(A).

¹⁴ 17 CFR 240.17Ad-22(e)(3), (e)(4).

¹⁰ 15 U.S.C. 78s(b)(2)(C).

settlement processes. As noted above, by formalizing the CCRM Policy, OCC is organizing and describing in a central location the policies and procedures that compose its framework for the comprehensive management of credit risk. The CCRM Policy specifically describes the various processes by which OCC identifies, measures, monitors, and manages its credit exposures arising from its payment, clearing, and settlement processes. Accordingly, the Commission finds that the proposed changes are consistent with Rules 17Ad-22(e)(3) and (e)(4).¹⁵

C. Consistency With Rule 17Ad-22(e)(16)

Rule 17Ad-22(e)(16)¹⁶ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to among other things, safeguard the covered clearing agency's own and its participants' assets and minimize the risk of loss and delay in access to these assets. According to OCC, the access and participation requirements for Commercial and Central Banks outlined in the CCRM Policy enable it to appropriately evaluate each bank against relevant minimum standards of creditworthiness and for its overall financial condition and operational capabilities, and are therefore designed to minimize the risk of loss and delay in access to OCC's assets and its participants' assets. Accordingly, the Commission finds that these policies and procedures are consistent with the requirements in Rule 17Ad-22(e)(16).¹⁷

D. Consistency With Rule 17Ad-22(e)(18)

Rule 17Ad-22(e)(18)¹⁸ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to among other things, establish objective, risk-based, and publicly disclosed criteria for participation, which permit fair and open access and require participants to have sufficient financial resources and robust operational capacity to meet obligations arising from participation in the clearing agency, and monitor compliance with such participation requirements on an ongoing basis. OCC stated that the CCRM Policy ensures that OCC has objective, risk-based, and publicly disclosed criteria for participation and requiring Clearing

Members to have sufficient financial resources to meet their obligations to OCC. Moreover, the CCRM Policy outlines the Watch Level Reporting process used by OCC to monitor compliance with such participation requirements on an ongoing basis. Accordingly, the Commission finds that these policies and procedures are consistent with the requirements in Rule 17Ad-22(e)(18).¹⁹

E. Consistency With Rule 17Ad-22(e)(19)

Rule 17Ad-22(e)(19)²⁰ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to identify, monitor, and manage the material risks to the covered clearing agency arising from arrangements in which firms that are indirect participants in the covered clearing agency rely on the services provided by direct participants to access the covered clearing agency's payment, clearing, or settlement facilities. OCC represented that the CCRM Policy outlines the process by which OCC identifies and monitors the material risks arising from indirect participants through tiered participation arrangements, including through the use of risk examinations of its Clearing Members. Accordingly, the Commission finds that these policies and procedures are consistent with the requirements in Rule 17Ad-22(e)(19).²¹

F. Consistency With Rule 17Ad-22(e)(20)

Rule 17Ad-22(e)(20)²² requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to among other things, identify, monitor, and manage risks related to any link the covered clearing agency establishes with one or more other clearing agencies or FMUs. OCC represented that the CCRM Policy outlines the standards OCC uses to evaluate FMU Counterparties prior to entering into any link arrangement (including the evaluations OCC would perform relating to rights and interests, collateral arrangements, settlement finality and netting arrangements, and financial and custody risks that may arise due to such link arrangement) and the processes by which OCC measures and monitors the risks arising from such FMU Counterparties (including its FMU Watch Level Reporting process).

Accordingly, the Commission finds that these policies and procedures are consistent with the requirements in Rule 17Ad-22(e)(20).²³

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act²⁴ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,²⁵ that the proposed rule change (SR-OCC-2017-009) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁶

Eduardo A. Aleman,

Assistant Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82316; File No. SR-LCH SA-2017-012]

Self-Regulatory Organizations; LCH SA; Notice of Proposed Rule Change, Security-Based Swap Submission, or Advance Notice Relating to LCH SA's Recovery Plan

December 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder² notice is hereby given that on November 30, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA ("LCH SA"), filed with the Securities and Exchange Commission ("Commission") the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

²³ *Id.*

²⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁵ 15 U.S.C. 78s(b)(2).

²⁶ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

¹⁵ *Id.*

¹⁶ 17 CFR 240.17Ad-22(e)(16).

¹⁷ *Id.*

¹⁸ 17 CFR 240.17Ad-22(e)(18).

¹⁹ *Id.*

²⁰ 17 CFR 240.17Ad-22(e)(19).

²¹ *Id.*

²² 17 CFR 240.17Ad-22(e)(20).

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

LCH SA is proposing to adopt an updated recovery plan (the "RP") in accordance with Rule 17Ad-22(e)(3)(ii). The text of the proposed rule change has been annexed as Exhibit 5. LCH SA has requested confidential treatment of the material submitted as Exhibit 5.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA 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. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On September 28, 2016, the Securities and Exchange Commission (the "Commission") adopted amendments to Rule 17Ad-22³ pursuant to Section 17A of the Securities Exchange Act of 1934 (the "Act")⁴ and the Payment, Clearing and Settlement Supervision Act of 2010 ("Clearing Supervision Act")⁵ to establish enhanced standards for the operation and governance of those clearing agencies registered with the Commission that meet the definition of a "covered clearing agency," as defined by Rule 17Ad-22(a)(5)⁶ (collectively, the new and amended rules are herein referred to as "CCA rules").

LCH SA is a covered clearing agency under the CCA rules and therefore is subject to the requirements of the CCA rules, including Rule 17Ad-22(e)(3). The CCA rules require that covered clearing agencies, among other things, "establish, implement, maintain and enforce written policies and procedures reasonably designed to . . . maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which . . . includes plans for the recovery and orderly wind-down of the covered clearing agency

necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses".⁷ As a central counterparty recognized under the European Market Infrastructure Regulation ("EMIR")⁸, LCH SA is also subject to prudential requirements, as well as requirements regarding its operations and oversight. As a credit institution based in the European Union, LCH SA is also subject to Directive 2014/59/EU, as supplemented, requiring institutions to draw up and maintain recovery plans setting forth options for measures to be taken by the institution to restore its financial position following a significant deterioration of its financial position.

Specific guidance has been given on Recovery for CCP by CPMI IOSCO. Within the CPMI IOSCO principles for financial market infrastructures (PFMI) it is outlined that all systemically important FMIs should have a comprehensive and effective recovery plan. For this purpose it has issued the report "recovery of financial market infrastructures" containing guidance on recovery plans, content of a recovery plan in October 2014 and a guidance relating resilience and recovery in 2017.

Furthermore, regulations are under preparation on a European level outlining the Recovery and Resolution measures for CCPs.

As described in more detail below, the purpose of the RP is to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA agency. Among other things, the RP seeks to: (i) Identify if and to what level LCH SA's service are critical for the market and what internal or external services/systems are critical for the continuity of LCH SA's activity; (ii) outline the scenario under which recovery of the LCH SA might be necessary; (iii) define the early warning indicators and triggers for initiating the recovery measures under the RP, including the market conditions or events that could trigger it; (iv) define the governance framework to trigger these recovery measures; (v) identify the available recovery tools to manage crisis situations and to restore business as usual; and (vi) Perform a quantitative and qualitative assessment if the recovery tools meet the CPMI IOSCO criteria for recovery instruments.

The RP also includes a detailed summary of the overall business and regulatory framework that LCH SA operates in, including identification of

applicable regulations, company structure, detail regarding the LCH SA business lines and geographical spread, and information regarding the interaction between LCH SA and its parent entity (the "Parent").

The RP also contains an FMI analysis which analyses LCH SA relationship with other financial market infrastructure (e.g. settlement platforms, trade repositories, etc) and institutions used by LCH SA or its clearing members such a payment and settlement agents.

The RP covers all scenarios which may potentially prevent LCH SA from providing its critical services:

- The default of one or multiple Clearing Member(s) on one or several of its markets, where LCH SA has to re-establish the matched book and may have allocate any uncovered credit losses to its own capital or to surviving clearing members.
- Potential and actual liquidity shortfalls as result of a clearing member or allied clearing house default.
- The default of an investment counterparty of LCH SA or any other investment losses resulting from changes in the market value on the investments.
- A loss resulting from an operational risk event or any other event which impacts the critical services provided by LCH SA (e.g., failure in the provision of service by a third party).
- Poor business performance or loss of critical contracts with Exchanges.
- Operational or financial failure of an FMI (e.g., allied clearing house/ (I)CSD/Trades Repository).

1. Identification of Critical Services and Operations

With respect to the critical services that might impact the continuity of LCH SA's operations, the proposed RP provides that an assessment has been done in accordance with guidance by the Financial Stability Board ("FSB") on identification of critical functions and shared services. LCH SA has assessed that the clearing services LCH SA provides to participants with respect to the markets identified in the RP are deemed critical for purposes of the RP. Overall the services provided in respect of all markets are critical because: (1) The volume of the activity on certain markets may be very significant, (2) most of the business on the relevant market is cleared through LCH SA or (3) the suspension of the clearing service could impact materially the functioning of the market; the level of global market share with respect to certain products is high; and LCH SA's service are used by significant clearing firms. Moreover, a

³ 17 CFR 240.17Ad-22.

⁴ 15 U.S.C. 78q.

⁵ 12 U.S.C. 5461 *et seq.*

⁶ 17 CFR 240.17Ad-22(a)(5).

⁷ 17 CFR 240.17Ad-22(e)(3)(ii).

⁸ Regulation (EU) No 648/2012 of 4 July 2012 on OTC derivatives, central counterparties and trade repositories

transfer of the clearing activity to another CCP is technically and organizationally complex to perform on short notice.

The RP also identifies those shared operations which LCH SA depends on to perform critical services to members, including those critical departments and services and systems within its corporate group and those provided by others. The RP identifies the main operating units within LCH SA that play a critical role in providing services as well as those enterprise systems that are critical for LCH SA's ongoing operations. Such systems are categorized as (i) Tier 1 Enterprise Critical (which is the most important category and where a failure may have direct impact on the continued functioning of LCH SA); (ii) Tier 2 Business Critical (which is a category of systems where business may not be able to proceed as usual in the event of a failure); and (iii) Tier 3 Business Support (which are non-critical systems). In addition, the RP identifies those services provided by its affiliates (including its Parent) and third-party service providers that are essential to LCH SA's operations as well as the agreements governing such relationships.

The RP describes that LCH SA maintains comprehensive exit management plans should its Parent initiate its own recovery and wind-down plan, cease to operate, or notify LCH SA of its termination of services. The RP also describes the business continuity procedures and exit management plans that LCH SA would initiate upon the failure of a critical third-party service provider.

2. Identification of Possible Stress and Recovery Scenarios

The RP categorizes potential stress scenarios in two ways as a result of either: (i) Clearing member defaults and (ii) non-clearing member events. Clearing member defaults are identified as those losses that threaten LCH SA's ability to operate as a going concern through either uncovered credit losses or liquidity shortfalls created as a result of a default by one or more members. Non-clearing member defaults are defined as losses impacting capital adequacy arising from risks, including, without limitation, general business risks, operational events, custody and investment risks, or risks on the interoperability link.

The RP then identifies, prior to implementing any of the recovery strategies described therein, the day-to-day risk measures in place to assure provision of the critical services

performed where these are insufficient the recovery plan will be triggered.

With respect to clearing member defaults, the LCH SA risk framework provides mitigations for uncovered credit losses due to a member default. LCH SA follows high standards to assess financial resources against member portfolios, including initial margin model covering the potential loss from any member default to a 99.7% confidence level over the applicable holding period, margin add-ons to deal with specific member portfolios risks such as concentration, liquidity risk and sovereign risk, and default fund sizing to cover simultaneous default of the 2 members having the largest stress testing losses beyond the 99.7% confidence level. Stress tests are applied by LCH SA in order to assess whether financial resources are calibrated to handle systemic risks. In addition, a reverse stress testing procedure is used to ascertain adequacy of financial resources held against member positions. The stress testing framework is reviewed on an annual basis.

Further, reverse stress testing exercise is conducted at least quarterly for each default fund and is subject to review by LCH Executive Risk Committee. Risk monitoring mechanisms have been established in order to anticipate and identify any credit or market risks with respect to a clearing member, including daily monitoring of credit watch lists by LCH SA's credit risk department.

The RP covers the default of one or multiple Clearing Member(s) on one or several of its markets, where LCH SA has to re-establish the matched book and may have allocate any uncovered credit losses to its own capital or to surviving clearing members.

With respect to liquidity shortfalls as a result of the clearing member default, the existing liquidity risk management framework seeks to manage liquidity risk by requiring certain minimum liquidity coverage ratio and using reserve stress testing to identify plausible scenarios where the liquidity coverage ratio falls below 100%, as well as considering the liquidity impact as a result of the default of its liquidity line provider.

LCH SA would leverage on the reserve stress testing scenarios and the liquidity line provider's default to define the liquidity recovery scenarios.

In addition, the RP provides that LCH SA uses a set of early warning indicators and management actions to mitigate liquidity risk prior to implementing RP. To the extent a clearing member default has occurred, LCH SA would perform increased risk monitoring, including

preparation of liquidity risk reports that would be produced several times a day.

The RP covers the potential and actual liquidity shortfalls as result of a clearing member or allied clearing house default.

For operational risks, the RP provides that on a quarterly basis, control assessments, incident and audit recommendations are reviewed and adjusted as appropriate. On a yearly basis, a risk and control self-assessment is performed whereby all risks are reassessed. The operational risk department performs second line challenge on all these activities. In addition, all "major" or "high" incidents are processed through a detailed incident review to identify actions to further improve the control environment.

LCH SA also performs a business impact analysis where it identifies all critical systems and departments and has in place a global business continuity strategy which outlines the strategy to maintain critical services in case of a disaster. The RP further identifies events, including cyber-attacks, failure of a critical service provider, failure of data providers and exchanges, failure of LCH SA's Parent, and reputational events as potential operational risks that could threaten its continued functioning.

The RP covers both a loss resulting from an operational risk event or any other event which impacts the critical services provided by LCH SA (e.g., failure in the provision of service by a third party).

Business risk is managed by the relevant individual business lines and requires frequent monitoring of results against budget and financial plans, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available for applicable business risks. In addition, LCH SA conducts a yearly review of business risk scenarios to define potential loss scenarios under foreseeable conditions and the LCH SA finance department monitors key metrics, including revenues and quarterly financial information. Investment risk and second line monitoring is also conducted with respect to interest rate risk, aggregate credit risk exposure, daily mark-to-market limits, and internal credit scores for investment counterparties.

The RP also considers that LCH SA is connected to a broad range of financial market infrastructures, including central securities depositories, settlement platforms and interoperating central counterparties and identifies the types of operational or financial failures that

could restrict LCH SA's ability to operate.

Finally, the RP identifies a series of scenarios which, taken together, could also impact the continued functioning of critical services.

3. Triggers for RP

The RP includes a detailed list of events which if they were to occur would trigger the implementation of a specific action identified in the RP.

The RP provides that a clearing member default will be identified through credit risk monitoring and review of external information indicating a default. Each LCH SA business line then applies its own default management process under which a default management group identifies and manages the phases of the default management process and the application of the default waterfall. The possible triggers for the RP include: (i) A clearing member default, in which case the default procedures will be initiated to reestablish the matched book; (ii) several default events may lead to more than one replenishment of Skin in the Game (iii) mutualized default fund contributions per specific default have been consumed, in which case unfunded resources will be used to keep LCH SA appropriately funded.

Each LCH SA business lines maintain its own default management process and waterfall, but, in general, the RP describes the tools used in the event of a clearing member default. The default management process is used to re-establish the matched book of LCH SA and return back to business as usual and therefore considered as a recovery tool. The relevant governance for the management of a default is followed as described in the paragraph 5.

When covering the relevant credit losses related to a default event. First, LCH SA looks to the defaulting clearing member's margin. These amounts are already held by LCH SA and are available to manage the default of a clearing member and, as such, are not considered to be a trigger of the RP. Second, LCH SA looks to the defaulting clearing member's default fund contribution, which may be allocated to the defaulting clearing member's shortfalls. Again, this action is within the control of LCH SA and does not impact the capital adequacy of LCH SA, so is also not considered a trigger for the RP. Third, in line with requirements under EMIR, LCH SA is required to hold capital equivalent to 25 percent of LCH SA's minimum net capital requirement against which default losses can be applied against liquid available capital. In addition, excess capital is held to

replenish such amount within the relevant EMIR deadline. Where multiple defaults occur over a longer time period and lead to multiple replenishments of Skin in the Game, this may lead to start up of the recovery plan and application of capital conservation measures. Fourth, should losses arising from a clearing member default be consumed by the defaulter's margin and default fund contribution and subsequently LCH SA's contribution from capital, LCH SA may look to non-defaulting member default fund contributions. Those amounts are pre-funded by members and held and controlled by LCH SA for the purposes of managing a default and, thus, the utilization of those amounts is not considered an application of the RP. However, LCH SA has the right to trigger an assessment of the defaults as to reestablish the fund to its original size, and such an assessment is considered to be a recovery measure under the RP. Finally, when it is no longer possible for LCH SA to make assessments and all pre-funded default fund contributions have been used, recovery measures under the RP, as described below, will be implemented.

With respect to liquidity shortfall triggers, LCH SA runs a daily liquidity assessment and monitors key liquidity drivers. In the event that these fall below a specific level, the RP will be triggered. In addition, the occurrence of a clearing member default or the failure of a third-party providing settlement and payment services to clearing member may also result in increased monitoring, and in the event that LCH SA does not have sufficient liquid resources to meet liquidity needs, the RP would be triggered.

With respect to non-clearing member default events, the RP identifies those events with more particularity and identifies the specific triggers for the RP with respect to such events. For investment losses, which are defined as losses related to the default of an investment counterparty or losses incurred as a result of extreme market conditions, the RP is triggered if losses are greater than the maximum regulatory capital allocated to this activity. For operational risk events, the RP is triggered upon any operational losses that consume the regulatory capital LCH SA holds against the relevant risks; failure of a third party which impacts the provision of LCH SA's services; and reputational events impacting LCH SA's reputation with clearing members and partners. With respect to business risks, the RP is triggered upon a loss that consumes the regulatory capital LCH SA holds against the relevant risks. The RP may also be

triggered upon the failure of other financial market infrastructures.

4. Identification and Assessment of Recovery Tools

The RP identifies the various recovery tools that may be applied by LCH SA upon the triggering of the RP, using again the same distinction between clearing member default events and non-clearing member events.

For clearing member default scenarios, the existing stages of the LCH SA default management process have been used as the framework for identifying and confirming the appropriate tools to use in the event of a clearing member default. The RP describes that the default management process in detail and summarizes the actions to be taken at each phase, including, as mentioned above, (i) reestablishing the matched book, (ii) default fund assessments, (iii) service continuity charges, and (iv) voluntary payments. To the extent that the default fund and assessments cannot manage the losses accumulated from the clearing member default and any service continuity or voluntary service continuity contributions received are not sufficient to cover the relevant losses, the service closure phase of the default management process is triggered and all outstanding contracts will be closed out as of the clearing day following such determination and all relevant losses are allocated to the clearing members. If the RP is triggered as a result of a liquidity shortfall, the RP provides that LCH SA may use its central bank credit line to deposited securities received on behalf of defaulting clearing member(s).

Other potential tools to manage liquidity stress situation are limits with respect to illiquid collateral or, if necessary apply increased haircuts on certain types of collateral to incentivize the use of more liquid collateral as well or apply specific liquidity margins.

The measures should assure that LCH SA has sufficient liquid resources at all times. As a last resort, under its rulebook, LCH SA could defer funding for the settlement platform for a limited period of time.

As to non-clearing member events, the tool that is used under the RP will depend on the nature of the event, but for most investment, business, and operational risks, LCH SA has its capital surplus that it can allocate losses against. Further, LCH SA can put in place several measures for capital conservation and LCH SA also maintains insurance coverage for specific operational risk events. As a last resort, LCH SA may also initiate a

capital raising strategy in order to obtain an injection of capital to replenish any consumed capital.

If an event resulted in a major disruption of its activities, LCH SA would initiate its business continuity strategy, which establishes an enterprise wide RP and response proportionate to the event which aims to minimize the impact of a major disruption on LCH SA's critical business and resources. For any disruption or loss of key third-party service provider, LCH SA would be able to exercise several contractual rights and maintains exit plans which are intended to safeguard the continuity of services. LCH SA also maintains a backup procedures and protocols that would be initiated if there is an impact on critical services of FMIs, for example its ability to collect margin within T2 under an emergency platform. Finally, LCH SA maintains a crisis communication plan which outlines the procedure for communicating with clearing members and partners in the event of a disruption.

With respect to each recovery tool identified, the RP also seeks to assess that each tool possesses the following characteristics: Comprehensive; effective, including as to reliability, timeliness; transparent, provides appropriate incentives, and results in a minimum negative impact. To confirm that each recovery tool does, in fact, have these characteristics, the RP considers as to each: The barriers or constraints within the tool itself; the steps and time to implement (if not already available as a tool); the likely effectiveness of the tool; any risk of execution; the potential impacts on participants and markets generally; the sequencing of the use of the tools where multiple tools may be required; and the legal basis of the tool. The RP also includes a qualitative and quantitative assessment to provide an indication of the likelihood and severity of a potential recovery situation and whether the tools included in the RP are adequate.

5. Governance Requirements

The creation of the RP and its approval is subject to a number of layers of governance approval. At a high level, the LCH SA Management Committee is responsible for the preparation of the RP and implementation of the monitoring and the recovery tools set forth in the RP. Before submission to the LCH SA Risk Committee, the RP is reviewed and validated by the Executive Risk Committee of LCH Group. The LCH SA Risk committee, which includes independent directors, then reviews, challenges (if needed), and recommends the RP for approval by the LCH SA

board. Final approval of the RP rests with the LCH SA Board.

At a more granular level, the RP identifies the groups and individuals within LCH SA that are responsible for the various aspects of the RP.

A clearing member default will be managed in accordance with the relevant procedures. The Default Management Group ("DMG") is responsible for the management of the default while all critical decisions are escalated and submitted to the LCH SA Default Crisis Management Team ("DCMT"). All decision which may lead to the triggering of recovery measures are subject to discussion in the DCMT and approval of the LCH SA CEO.

With respect to non-clearing member events, the management of those events will depend on the nature of the event. For example, investment losses and liquidity shortfalls are managed from a first line of defense, which attempts to control risks within the risk appetite parameters set by the Board, and then are escalated as appropriate. Operational risks are managed in accordance with the operational risk policy approved by the Board and reporting and second line challenges are performed by the operational risk department. Business risk is managed by individual business lines and requires frequent monitoring of results against budget and financial plans, with a second line challenge performed by the risk and finance departments to verify if sufficient capital buffers are available for the applicable business risks.

Upon the occurrence of a clearing member default, the recovery measures that will apply are clearly set forth in LCH SA's rulebook and LCH SA's CEO has the authority to trigger the different stages in the waterfall process, but will consult with DCMT and regulators prior to taking any action. In addition, the RP provides that the LCH SA will also activate an emergency board meeting for approval (if reasonably possible). Upon receipt of information relevant to a scenario causing non-default losses, the LCH SA management committee will consider whether a recommendation to formally invoke the RP should be made to the LCH SA Board. Upon receipt of a recommendation for action, the LCH SA Board will consider the information presented to determine if the RP should be formally invoked.

6. Plan Testing and Maintenance

The RP requires that LCH SA conduct testing and review of member default rules and associated procedures through the running of periodic "fire drills" which simulate member default

scenarios. According to the RP, the fire drills are intended to simulate all aspects of a member default, including the auctioning of the defaulting members portfolio to non-defaulting members (where appropriate) and involves the participation of members and relevant functions within the LCH SA organization. Further, because one of the main scenarios contemplated under the RP is a clearing member default, the testing of this element (*i.e.* the tools to recover from uncovered credit losses or liquidity shortfalls arising from a member default) will be incorporated into each relevant fire drill cycle. As noted in the RP, LCH SA performs an annual multi-service fire drill and service specific fire drills are performed at least annually and testing for non-default events are incorporated into the fire drill regime as well. Should either the periodic testing or other change within LCH SA result in the need to amend the RP, the RP will be revised in accordance with the governance requirements identified above.

2. Statutory Basis

LCH SA believes that the proposed rule change is consistent with the requirements of Section 17A of the Act and the regulations thereunder, including the standards under Rule 17Ad-22.⁹

Section 17A(b)(3)(F) of the Act¹⁰ requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions to assure safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible, and in general to protect investors and the public interest. LCH SA believes that the RP will permit it to initiate recovery upon the occurrence of certain trigger events to maintain continuity of critical services or orderly wind down in accordance with the applicable requirements of Rule 17Ad-22¹¹ and LCH SA's rules. The RP is designed to formalize and set out the risk framework and measures that LCH SA will use to ensure its stability and recovery in the event of a crisis in order to be able to maintain its critical business processes and operations. Specifically, the RP would describe the LCH SA risk framework and process applicable to identify, measure, monitor and manage the risks faced by LCH SA in the provision of clearing, settlement and risk management services when a crisis

⁹ 17 CFR 240.17Ad-22.

¹⁰ 15 U.S.C. 78q-1(b)(3)(F).

¹¹ 17 CFR 240.17Ad-22.

event occurs. The RP would serve as a means of addressing, credit risk, market risk, general business risk, operational risk, and other risks that may otherwise threaten the viability of LCH SA. The RP would also support the stability of LCH SA as a clearing house that is part of the broader financial markets and seeks to promote the protection of market participants from the risk of default by a clearing member of LCH SA or an unforeseen operational or business event that impacts LCH SA's continued functioning. In that regard, LCH SA believes that the RP supports the public interest, in line with Section 17A(b)(3)(F)¹² of the Act.

The RP would also be consistent with the specific relevant requirements of Rule 17Ad-22, including under 17Ad-22(e)(2) and (3).¹³ Rule 17Ad-22(e)(2)¹⁴ provides that a covered clearing agency shall have governance arrangements that are clear and transparent and clearly prioritize the safety and efficiency of the covered clearing agency, to support the public interest requirements in Section 17A of the Act applicable to clearing agencies, and the objectives of owners and participants. LCH SA believes that the RP is consistent with these requirements. The RP includes extensive governance requirements that clearly identify the lines of responsibility with respect to the RP. As described above, at a high level, the LCH SA Management Committee is responsible for the preparation of the RP and implementation of the monitoring and the recovery tools set forth in the RP. The LCH SA Risk committee, which includes clearing member representatives, then reviews, challenges (if needed), and recommends the RP for approval by the LCH SA board. Final approval of the RP rests with the LCH SA Board, which includes, among other categories, non-executive Chair, independent directors and user directors. At a more granular level, the RP identifies the groups and individuals within LCH SA that are responsible for the various aspects of the RP. Therefore, LCH SA believes that the RP contains governance arrangements that are clear and transparent and clearly prioritize the safety and efficiency of the covered clearing agency, to support the public interest requirements and the objectives of owners and participants, and is, therefore, consistent with the requirements of Rule 17Ad-22(e)(2).

Rule 17Ad-22(e)(3)¹⁵ requires that a covered clearing agency maintain a sound risk management framework for comprehensively managing legal, credit, liquidity, operational, general business, investment, custody, and other risks that arise in or are borne by the covered clearing agency, which must include plans for the recovery and orderly wind-down of the covered clearing agency necessitated by credit losses, liquidity shortfalls, losses from general business risk, or any other losses. The RP is designed to maintain the continuity of critical services in times of extreme stress and to facilitate the recovery of LCH SA in the event of extreme (loss) scenarios, as part of LCH SA's comprehensive risk management framework. As described above, the RP seeks to identify those services which could impact the continuity of LCH SA's operations, implement early warning indicators to identify potential recovery scenarios and define the triggers for initiating the RP, and clearly identify the recovery tools available under the RP. Accordingly, LCH SA believes the RP is consistent with Rule 17Ad-22(e)(3).¹⁶

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.¹⁷ LCH SA does not believe the proposed rule change would impact or impose any burden on competition. The proposed rule change would establish and maintain LCH SA's RP in accordance with the CCA rules. The RP would not affect clearing member's access to services offered by LCH SA or impose any direct burden on clearing members. To the contrary, the RP seeks to identify the key risks and to establish appropriate recovery measures to ensure LCH SA's ability to operate in the event of an extreme loss. Accordingly, the proposed rule change would not unfairly inhibit market participants' access to LCH SA's services or disadvantage or favor any particular user in relationship to another user. Therefore, LCH SA does not believe that the proposed rule change imposes any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

- (A) By order approve or disapprove such proposed rule change, or
- (B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-LCH SA-2017-012 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-LCH SA-2017-012. 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 website (<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

¹² 15 U.S.C. 78q-1(b)(3)(F).

¹³ 17 CFR 240.17Ad-22(e)(2) and (3).

¹⁴ 17 CFR 240.17Ad-22(e)(2).

¹⁵ 17 CFR 240.17Ad-22(e)(3).

¹⁶ 17 CFR 240.17Ad-22(e)(3).

¹⁷ 15 U.S.C. 78q-1(b)(3)(I).

those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website 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 LCH SA and on LCH SA's website at <http://www.lch.com/asset-classes/cdsclear>.

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-LCH SA-2017-012 and should be submitted on or before January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁸

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27235 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meetings

TIME AND DATE: 2:00 p.m. on Thursday, December 21, 2017.

PLACE: Closed Commission Hearing Room 10800.

STATUS: This meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552(b)(3), (5), (6), (7), (8), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(6), (a)(7), (a)(8), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Stein, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matters of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and
Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

CONTACT PERSON FOR MORE INFORMATION: For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551-5400.

Dated: December 14, 2017.

Brent J. Fields,
Secretary.

[FR Doc. 2017-27359 Filed 12-15-17; 11:15 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82311; File No. SR-OCC-2017-008]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Related to The Options Clearing Corporation's Collateral Risk Management Policy

December 13, 2017.

I. Introduction

On October 27, 2017, the Options Clearing Corporation ("OCC") 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 (SR-OCC-2017-008) to formalize and update OCC's Collateral Risk Management Policy. The proposed rule change was published for comment in the **Federal Register** on November 9, 2017.³ The Commission received one comment letter regarding the proposed change.⁴ For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

This proposed rule change would formalize and update OCC's Collateral

Risk Management Policy ("CRM Policy"). The CRM Policy describes the categories of risk that are considered by OCC in determining which asset classes should be acceptable forms of collateral as margin assets and Clearing Fund contributions. OCC's assessment of an asset class generally includes an evaluation of credit risk, liquidity risk, and market risk.⁵ With respect to credit risk, the CRM Policy requires OCC staff to evaluate the creditworthiness of counterparties, including custodial agents and settlement banks and to monitor the health of such counterparties on an ongoing basis.⁶ Regarding liquidity risk, OCC gives no value to a participant for its own (or its affiliate's) debt or equity securities, and limits the amount of a particular asset type that a participant may pledge under the CRM Policy.⁷ With respect to market risks, the CRM Policy provides that eligible asset classes are accepted after consideration of their liquidity, price transparency, price volatility, offset potential with contracts cleared by OCC, modeling implications and projected inventories.⁸

The CRM Policy describes OCC's approach to valuing collateral and setting and applying haircuts. OCC's pricing information, as described in the CRM Policy, feeds into OCC's processes for establishing haircuts, daily mark-to-market valuation of collateral, and intraday valuation of collateral. Given the importance of pricing data to inform these processes, OCC maintains redundant information feeds from multiple sources to help ensure accuracy and quality.⁹

The CRM Policy also summarizes OCC's two approaches for valuing collateral: Collateral in Margins ("CiM") and haircuts.¹⁰ Under the CiM approach, the current market value of margin assets is included as a positive asset value in the calculation of a portfolio's net asset value within OCC's System for Theoretical Analysis and Numerical Simulations ("STANS"). OCC then offsets this positive asset value based on, among other things, the expected shortfall and stress test charges associated with an account, resulting in a net excess or net deficit.¹¹ For collateral that is not managed using the CiM process, the CRM Policy provides that OCC subjects such collateral to percentage haircuts established at the

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 82009 (Nov. 3, 2017), 82 FR 52079 (Nov. 9, 2017) (SR-OCC-2017-008) ("Notice").

⁴ Letter from Michael Kitlas, dated November 3, 2017. See comments on the proposed rule change (SR-OCC-2017-008), <https://www.sec.gov/comments/sr-occ-2017-008/occ2017008.htm>.

⁵ Notice, 82 FR at 52080.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Notice, 82 FR at 52080-81.

¹⁰ Notice, 82 FR at 52081.

¹¹ Notice, 82 FR at 52081, note 23.

¹⁸ 17 CFR 200.30-3(a)(12).

time the collateral is accepted by OCC and that are monitored regularly to help ensure the haircuts remain adequate.¹²

Additionally, the CRM Policy provides that OCC's Credit and Liquidity Working Group must review the policy's performance and adequacy on at least an annual basis, including with respect to collateral eligibility, concentration limits, collateral haircuts and monitoring processes.¹³

III. Summary of Comment Received

The Commission received one comment letter in response to the proposed rule change.¹⁴ The commenter stated that the proposed rule change is consistent with the Act.¹⁵

IV. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹⁶ After carefully considering the proposed rule change and the comment letter, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to OCC. More specifically, the Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act and Rule 17Ad-22(e)(5) under the Act.

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires that the rules of a registered clearing agency be designed to do, among other things, the following: (1) Promote the prompt and accurate clearance and settlement of securities transactions; (2) 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 (3) in general protect investors and the public interest.¹⁷

The CRM Policy describes OCC's process for limiting the collateral that it accepts to assets with low credit, liquidity, and market risk. The acceptance of only low-risk collateral increases the likelihood that such collateral can be liquidated in a timely manner, thereby enhancing OCC's ability to continue to perform its critical

services for the financial markets while also managing a default. The CRM Policy also describes how OCC haircuts such collateral, and requires review of such haircuts at least annually. Ensuring that collateral haircuts are appropriately set and reviewed on a regular basis increases the likelihood that OCC will collect and hold collateral that can be liquidated at a value at or above the value attributed to it. This approach thereby increases the likelihood that OCC will be able to continue to meet its settlement obligations and manage the default of a clearing member by liquidating the defaulting clearing member's collateral in a timely and effective manner.

The timely liquidation of collateral at or above the expected value would, therefore, support OCC's ability to continue to meet settlement obligations on time, promoting the prompt and accurate clearance and settlement of securities transactions. In addition, being able to successfully liquidate collateral in a timely and effective manner would reduce the likelihood of OCC having to draw on mutualized resources, including Clearing Fund contributions. As such, the Commission believes that the proposal would help assure the safeguarding of securities and funds which are in the custody or control of OCC, or for which OCC is responsible. As a result, the Commission also finds that the proposed rule change, in general, protects investors and the public interest. Accordingly, the Commission finds that the proposed rule change is consistent with Section 17A of the Act.¹⁸

B. Consistency With Rule 17Ad-22(e)(3) of the Act

Rule 17Ad-22(e)(5) requires that a covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to limit the assets it accepts as collateral to those with low credit, liquidity, and market risks; set and enforce appropriately conservative haircuts and concentration limits if the covered clearing agency requires collateral to manage its or its participants' credit exposure; and, require a review of the sufficiency of its collateral haircuts and concentration limits to be performed not less than annually.¹⁹

As discussed above, the proposed CRM Policy would address each component of Rule 17Ad-22(e)(5).²⁰

First, the proposed CRM Policy requires that, in determining forms of collateral as margin assets and Clearing Fund contributions, OCC evaluates the market, credit, and liquidity risk of an asset class. Second, the CRM Policy provides for the maintenance of redundant pricing information feeds from multiple sources to ensure the availability of information that is critical to OCC's daily and intraday processes for collateral valuation. The CRM Policy further describes OCC's processes for setting haircuts either via the use of STANS or percentage-based haircuts. Third, the proposed CRM requires at least annual review of concentration limits and collateral haircuts. The Commission finds, therefore, that the proposed rule change is consistent with Rule 17Ad-22(e)(5).²¹

V. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act²² and the rules and regulations thereunder.

It is therefore ordered pursuant to Section 19(b)(2) of the Act that the proposed rule change (SR-OCC-2017-008) be, and hereby is, approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.²³

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27230 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-420, OMB Control No. 3235-0479]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:
Rule 15c2-7

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 ("PRA") (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission

²¹ 17 CFR 240.17Ad-22(e)(5).

²² In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²³ 17 CFR 200.30-3(a)(12).

¹² Notice, 82 FR at 52081.

¹³ *Id.*

¹⁴ See *supra* note 4.

¹⁵ *Id.*

¹⁶ 15 U.S.C. 78s(b)(2)(C).

¹⁷ 15 U.S.C. 78q-1(b)(3)(F).

¹⁸ 15 U.S.C. 78q-1.

¹⁹ 17 CFR 240.17Ad-22(e)(5).

²⁰ *Id.*

(“Commission”) has submitted to the Office of Management and Budget (“OMB”) a request for approval of extension of the previously approved collection of information provided for in Rule 15c2-7 (17 CFR 240.15c2-7) under the Securities Exchange Act of 1934 (15 U.S.C. 78a *et seq.*).

Rule 15c2-7 places disclosure requirements on broker-dealers who have correspondent relationships, or agreements identified in the rule, with other broker-dealers. Whenever any such broker-dealer enters a quotation for a security through an inter-dealer quotation system, Rule 15c2-7 requires the broker-dealer to disclose these relationships and agreements in the manner required by the rule. The inter-dealer quotation system must also be able to make these disclosures public in association with the quotation the broker-dealer is making.

When Rule 15c2-7 was adopted in 1964, the information it requires was necessary for execution of the Commission’s mandate under the Securities Exchange Act of 1934 to prevent fraudulent, manipulative and deceptive acts by broker-dealers. In the absence of the information collection required under Rule 15c2-7, investors and broker-dealers would have been unable to accurately determine the market depth of, and demand for, securities in an inter-dealer quotation system.

There are approximately 3,939 broker-dealers registered with the Commission. Any of these broker-dealers could be potential respondents for Rule 15c2-7, so the Commission is using that number as the number of respondents. Rule 15c2-7 applies only to quotations entered into an inter-dealer quotation system, such as the OTC Bulletin Board (“OTCBB”) or OTC Link (formerly “Pink Sheets”), operated by OTC Markets Group Inc. (“OTC Link”). According to representatives of both OTC Link and the OTCBB, neither entity has recently received, or anticipates receiving any Rule 15c2-7 notices. However, because such notices could be made, the Commission estimates that one filing is made annually pursuant to Rule 15c2-7.

Based on prior industry reports, the Commission estimates that the average time required to enter a disclosure pursuant to the rule is .75 minutes, or 45 seconds. The Commission sees no reason to change this estimate. We estimate that impacted respondents spend a total of .0125 hours per year to comply with the requirements of Rule 15c2-7 (1 notice (x) 45 seconds/notice).

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information under the PRA unless it displays a currently valid OMB control number.

The public may view background documentation for this information collection at the following website: www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: [Shagufta Ahmed@omb.eop.gov](mailto:Shagufta.Ahmed@omb.eop.gov); and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549, or by sending an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

Dated: December 14, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-27314 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82313; File No. SR-ICEEU-2017-013]

Self-Regulatory Organizations; ICE Clear Europe Limited; Order Approving Proposed Rule Change Relating to the ICE Clear Europe Procyclicality Framework

December 13, 2017.

I. Introduction

On October 23, 2017, ICE Clear Europe Limited (“ICE Clear Europe”) 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 (SR-ICEEU-2017-013) to adopt a new policy framework for addressing the procyclicality (“Procyclicality Framework”) associated with its risk management policies. Specifically, the Procyclicality Framework would establish the risk appetite, monitoring and assessment, and management of procyclicality in the risk models used by ICE Clear Europe to manage default risk. The proposed rule change was published for comment in the **Federal**

Register on November 7, 2017.³ The Commission did not receive comments on the proposed rule change. For the reasons discussed below, the Commission is approving the proposed rule change.

II. Description of the Proposed Rule Change

ICE Clear Europe proposed to adopt a Procyclicality Framework that is intended to set forth, generally, (1) the aspects of ICE Clear Europe’s risk policies that may exhibit procyclicality; (2) the manner in which ICE Clear Europe will assess procyclicality (using both qualitative and a quantitative metrics); and (3) how ICE Clear Europe will take procyclicality into account with respect to its consideration of and response to emerging risks. ICE Clear Europe proposed to define “procyclicality” as the extent to which changes in market conditions can have an effect on a clearing member’s ability to manage its liquidity to meet ICE Clear Europe’s changing margin requirements.⁴

ICE Clear Europe represented that although it has in place certain measures intended to mitigate procyclicality, as required by the European Market Infrastructure Regulation,⁵ it proposed to implement the Procyclicality Framework in order to establish a more defined approach to assessing procyclicality in its risk management policies and procedures.⁶ In particular, ICE Clear Europe proposed to identify the risk management policies that may introduce procyclical concerns, which includes margin models, stress testing, and collateral haircut policies. In addition, as part of the Procyclicality Framework, ICE Clear Europe also proposed to reference existing methods for mitigating procyclicality in the above mentioned areas, as well as certain stress testing arrangements.⁷

Furthermore, ICE Clear Europe proposed to incorporate into the Procyclicality Framework the measures by which it would assess the level of procyclicality. Specifically, ICE Clear Europe proposed to assess procyclicality by monitoring the 95th percentile expected shortfall of the 5-day

³ Securities Exchange Act Release No. 34-81994 (Nov. 1, 2017), 82 FR 51663 (Nov. 7, 2017) (SR-ICEEU-2017-013) (“Notice”).

⁴ Notice, 82 FR at 51663.

⁵ Article 28 of the Commission Delegated Regulation (EU) No 153/2013 of 19 December 2012 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council with regard to regulatory technical standards on requirements for central counterparties.

⁶ Notice, 82 FR at 51663.

⁷ *Id.*

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

percentage change in initial margin (or other relevant risk mitigant) over a rolling 250-day window. ICE Clear Europe represented that this metric would be used to measure short term spikes in margin.⁸ In addition, ICE Clear Europe would also take into consideration the largest percentage changes, and use these observations, as well as the estimates of the expected shortfall, to detect and remove extreme outliers from the data.

In the event procyclicality is identified using this measure, ICE Clear Europe proposed an escalation process that provides for review and response obligations.⁹ The nature of the response would vary based on predetermined thresholds for the expected 95th percentile expected shortfall metric described above.¹⁰

To further assess procyclicality, ICE Clear Europe also proposed to incorporate several qualitative factors into the Procyclicality Framework. These proposed qualitative factors include the periodicity of margin updates, the activities of other central counterparties in relevant markets, the expectations of market participants and related potential for moral hazard stemming from an expectation of gradual margin changes, and the ability of ICE Clear Europe to override, in extreme circumstances, standard measures designed to mitigate procyclicality.¹¹ Moreover, ICEEU proposed to take into account differences across markets when implementing measures intended to mitigate procyclicality, as well as the varying liquidity resources and practices of the different types of Clearing Members that use the services of ICE Clear Europe.¹²

With respect to future risk model design, ICE Clear Europe proposed to incorporate into the Procyclicality Framework a requirement that its model design process take into account any procyclicality characteristics that a model may exhibit, and that the model design process also take into account the impact of any steps designed to mitigate procyclicality.¹³

Finally, ICE Clear Europe proposed to include in the Procyclicality Framework consideration of the procyclicality of new products and procyclicality arising from material changes in existing products. ICE Clear Europe has represented that much of its

Procyclicality Framework will be available on its website.¹⁴

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization.¹⁵ Further, Section 17A(b)(3)(F) of the Act 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, 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, in general, to protect investors and the public interest.¹⁶ Rule 17Ad-22(e)(2) requires, in relevant part, that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to provide for governance arrangements that are clear and transparent, that clearly prioritize the safety and efficiency of the covered clearing agency, and that support the public interest requirements of Section 17A of the Act, applicable to clearing agencies, and the objectives of owners and participants.¹⁷

The Commission finds that the proposed rule change, which would implement a new Procyclicality Framework, is consistent with the requirements of Section 17A of the Act and the relevant provisions of Rule 17Ad-22 thereunder. By establishing a Procyclicality Framework that (1) identifies risk management policies and procedures exhibiting procyclicality, (2) establishes a measure for assessing procyclicality in such risk management policies and procedures, and (3) provides for a process requiring review and defined responses in the event that certain procyclicality thresholds are exceeded, the Commission believes that ICE Clear Europe will have an increased ability to identify, assess and respond to procyclicality that arises in connection with the clearing services it provides. Consequently, the Commission believes that the Procyclicality Framework will enhance ICE Clear Europe's ability to mitigate the risks associated with

procyclicality, thereby facilitating ICE Clear Europe's collection of the appropriate level of resources to manage its risks in a variety of market conditions, including stressed market conditions. This expected outcome, in turn, will permit ICE Clear Europe to provide prompt and accurate clearance and settlement of the products for which it offers clearing services, and more adequately protect its Clearing Members in the event of a default, which will enhance ICE Clear Europe's ability to safeguard the securities and funds which are in its custody or control. For these reasons, the Commission also believes that implementing the Procyclicality Framework is in the public interest. Therefore, the Commission finds that the proposed rule change implementing a new Procyclicality Framework is consistent with the requirements of Section 17A.

Additionally, by implementing the Procyclicality Framework, which includes a process for review and response to assessments of procyclicality based on quantitative and qualitative metrics and the relation of those metrics to predefined thresholds, and by publishing portions of the Procyclicality Framework on its website, the Commission believes that ICE Clear Europe is establishing policies and procedures that are consistent with the requirements of Rule 17Ad-22(e)(2).

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁸ that the proposed rule change (ICEEU-2017-013) be, and hereby, is approved.¹⁹

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²⁰

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27232 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ Notice, at 82 FR at 51664.

¹² *Id.*

¹³ Notice, 82 FR at 51663-64.

¹⁴ *Id.*

¹⁵ 15 U.S.C. 78s(b)(2)(C).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17Ad-22(e)(2).

¹⁸ 15 U.S.C. 78s(b)(2).

¹⁹ In approving the proposed rule change, the Commission considered the proposal's impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

²⁰ 17 CFR 200.30-3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82315; File No. SR–BOX–2017–36]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing of Proposed Rule Change To Adopt Rule 7600(i) To Allow Split-Price Transactions on the Trading Floor

December 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b–4 thereunder,² notice is hereby given that on November 30, 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 allow split-price transactions on the Trading Floor. 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 website 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 adopt Rule 7600(i). Specifically, the Exchange is proposing to adopt rules for split-price transactions on the Trading Floor. The

proposal is based on the rules of another options exchange with an open outcry trading floor.³

Proposed Rule 7600(i) establishes priority principles for split-price transactions occurring in open outcry on the Trading Floor. Generally, if an order or offer (bid) for any number of contracts of a series is represented to the trading crowd, a Floor Participant that buys (sells) one or more contracts of that order or offer (bid) at one price will have priority over all other orders and quotes, except Public Customer Orders resting in the BOX Book, to buy (sell) up to the same number of contracts of those remaining from the same order or offer (bid) at the next lower (higher) price.⁴

In order to execute a split-price transaction, a Floor Broker will submit a Qualified Open Outcry (“QOO”) Order to the system in the same manner as done today on the Trading Floor, with the exception that the QOO Order will be entered at a sub-minimum trading increment.⁵ After receiving the QOO Order, the system will split the QOO Order into two transactions. The transactions are separated by one tick that, when combined, will yield a net price equal to the original price entered by the Floor Broker. For example, assume a Floor Broker submits a QOO Order with a price of \$1.025 for 100 contracts in a series with a minimum trading increment of \$0.05. The system will split the QOO Order into two transactions; a transaction for the purchase of 50 contracts at \$1.00 and a transaction for the purchase of 50 contracts at \$1.05.

The manner in which a Floor Broker brings an order to the Trading Floor is the same for a split-price QOO Order as it is for all other QOO Orders. Specifically, a Floor Broker may bring a single-sided order (*i.e.*, the initiating side of a QOO Order) to the Trading Floor in order to seek liquidity (*i.e.*, contra-side of a QOO Order). In such case, the Floor Broker announces the single-sided order to the trading crowd in an attempt to source contra-side liquidity. After finding sufficient liquidity for the single-sided order, the Floor Broker would be able to submit a two-sided QOO Order to the system as required.⁶ If a Floor Participant responds by providing liquidity at two separate prices, then the Floor Broker would submit the QOO Order at a sub-

minimum trading increment resulting in a split-price transaction.⁷ For example, a Floor Market Maker might be willing to buy half of the contracts at one price provided that the Floor Market Maker could buy the other half at one tick lower. Alternatively, the Floor Broker may have had both sides of the QOO Order (*i.e.*, the initiating side and the contra-side) when the order is brought to the Trading Floor and desires to execute the order at two separate prices in an attempt to have a net execution price with a sub-minimum trading increment. In such situation, the Floor Broker will announce the QOO Order to the trading crowd as required by Rule 7580(e)(2) and Floor Participants will be able to respond. Specifically, the Floor Broker will announce they are attempting to execute a QOO Order as a split-price transaction.

For example, assume the market for a series is \$0.25–\$0.35 (with a minimum trading increment of \$0.05), and a Floor Broker receives an order from a customer who would like to buy 50 contracts at a price or prices no higher than \$0.35. The Floor Broker will announce the single-sided order (*i.e.*, the initiating side of the QOO Order) to the crowd in order to solicit contra-side interest. Assume a Floor Market Maker is willing to sell 25 contracts at \$0.30 provided that he can also sell the remaining 25 contracts at \$0.35. Under the proposed Rule, that Floor Market Maker could offer \$0.30 for 25 contracts and then, by virtue of the proposed split-price priority, he will have priority for the balance of the order (up to 25 contracts) over all other Participants, except Public Customer Orders resting on the BOX Book. The Floor Broker will enter a QOO Order at a price of \$0.325, now that the Floor Broker has a two-sided order. The system will then split the QOO Order. The first transaction will be for 25 contracts at \$0.30. The second transaction will be for 25 contracts at \$0.35, the next best price for the Floor Broker customer. The Floor Market Maker (*i.e.*, the contra-side of the QOO Order) would have priority over all other Participants to sell the 25 contracts at \$0.35, except Public Customer Orders resting on the BOX Book. Two trades will be reported to the tape; a purchase of 25 contracts at \$0.30 and a purchase of 25 at \$0.35. The Floor Broker’s customer will receive a net

³ See Cboe Rule 6.47. See also NYSE Arca Rule 6.75–O(h), NYSE American Rule 963NY(f), and Phlx Rule 1014(g)(i)(B).

⁴ See proposed Rule 7600(i)(1).

⁵ For example, entering a QOO Order at a price of \$1.03 when the minimum trading increment for the series is \$0.05.

⁶ See Rule 7600(a).

⁷ The Exchange notes that nothing prevents a Floor Participant from responding for the full amount of the order at the better price for the Floor Broker’s customer. For example if a Floor Broker announces an order for a customer looking to buy at \$0.30 and \$0.35, a Floor Participant could respond to sell the full quantity at \$0.30 instead of selling part at \$0.30 and part at \$0.35.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b–4.

purchase price of \$0.325 for 50 contracts,⁸ which is the price that the Floor Broker entered when submitting the QOO Order.

If an order or offer (bid) of 100 or more contracts of a series is represented to the trading crowd, a Floor Participant that buys (sells) 50 or more of the contracts of that order or offer (bid) at one price will have priority over all other orders and quotes to buy (sell) up to the same number of contracts of those remaining from the same order or offer (bid) at the next lower (higher) price.⁹ If the bids or offers of two or more Floor Participants are both entitled to split-price priority, it will be afforded to the extent practicable on a pro-rata basis.¹⁰ Further, the Exchange may increase the minimum qualifying size of 100 contracts. These changes will be announced to Participants via Regulatory Circular.

For example, assume the market for a series is \$0.25–\$0.35, and a Floor Broker receives an order from a customer who would like to buy 100 contracts at a price or prices no higher than \$0.35. Assume a Floor Market Maker is willing to sell 50 contracts at \$0.30 provided that he can also sell the remaining 50 contracts at \$0.35. Under the proposed Rule, that Floor Market Maker could offer \$0.30 for 50 contracts then, by virtue of the proposed split-price priority, he will have priority for the balance of the order (up to 50 contracts) over all other Participants, including any resting Public Customer Orders on the BOX Book. The Floor Broker will enter a QOO Order with a price of \$0.325. The system will then split the QOO Order. The first transaction will be for 50 contracts at \$0.30. The second transaction will be for 50 contracts at \$0.35, the next best price for the Floor Broker's customer. The Floor Market Maker will have priority over all other Participants to sell the 50 contracts at \$0.35, including any resting Public Customer Orders on the BOX Book. Two trades will be reported to the tape; a purchase of 50 contracts at \$0.30 and a purchase of 50 at \$0.35. The Floor Broker's customer will receive a net purchase price of \$0.325 for 100 contracts, which is the price that the Floor Broker entered when submitting the QOO Order.

In order for a Floor Participant to avail himself to split-price priority, there are certain requirements. First, the priority is available for open outcry

transactions only (*i.e.*, QOO Orders) and does not apply to Complex Orders. The Floor Participant must make its bid (offer) at the next lower (higher) price for the second (or later) transaction at the same time as the first bid (offer) or promptly following the announcement of the first (or earlier) transaction. The second (or later) purchase (sale) must represent the opposite side of a transaction with the same order or offer (bid) as the first (or earlier) purchase (sale).

The Exchange further proposes that if the width of the quote for a series is the minimum increment for that series (*e.g.*, \$1.00–\$1.05 for a series with a minimum increment of \$0.05, or \$1.00–\$1.01 for a series with a minimum increment of \$0.01), and both the bid and offer represent Public Customer Orders resting in the BOX Book, split-price priority pursuant to this rule is not available to Floor Participant until the Public Customer Order(s) resting in the BOX Book on either side of the market trades. This exception is consistent with the Exchange's allocation and priority rules, which provide for Public Customer Orders to have priority at the best price in open outcry over QOO Orders.¹¹

For example, assume the market for a series with a minimum increment of \$0.05 is \$1.00–\$1.05 (with the \$1.00 bid and \$1.05 offer each representing a Public Customer Order for 25 contracts), and a Floor Broker receives an order from a customer who would like to buy 100 contracts at a price or prices no higher than \$1.05. Assume a Floor Market Maker is willing to sell 50 contracts at \$1.00 and 50 contracts at \$1.05. The Floor Broker will enter a QOO Order at a price of \$1.025. The system will then attempt to split the QOO Order. The first transaction would be for 50 contracts at \$1.00. However, there is Public Customer interest resting at \$1.00 on the BOX Book, which will have priority to trade at \$1.00. Therefore, the system will reject the QOO Order entered at \$1.025.¹² In this situation, if the Floor Market Maker wants to receive split-price priority at \$1.05, the Floor Market Maker will not be able to execute the first part of a split-price transaction with the order being represented by the Floor Broker until after the resting Public Customer Order at \$1.00 trades.

The proposed rule change provides that “either side of the market” must trade for split-price priority to become available. The proposal provides that a Floor Participant is eligible to receive split-price priority, which could include the Floor Participant representing the order or offer (quote). Thus, the proposal allows for the Floor Participant on either side of a transaction to be eligible for split-price priority. Assume the market for a series with a minimum increment of \$0.05 is \$1.00–\$1.05 (with the \$1.00 bid representing a Public Customer order for 25 contracts), and a Floor Broker receives an order from a customer who would like to buy 100 contracts at a price or prices no higher than \$1.05. After receiving no interest from the trading crowd to sell 100 contracts at \$1.00, the Floor Broker represents to the trading crowd that he would like to buy 50 contracts at \$1.00 and 50 contracts at \$1.05 for a net execution price of \$1.025. Assume a Floor Market Maker is willing to sell 50 contracts at \$1.00 and 50 contracts at \$1.05. The Floor Broker will enter a QOO Order at a price of \$1.025. The system will then split the QOO Order. The first transaction will be for 50 contracts at \$1.05 (at which price there is no resting Public Customer offer). The second transaction will be for 50 contracts at \$1.00, the next best price for the Floor Broker. In this situation, the Floor Broker's customer (*i.e.*, the initiating side of the QOO Order) is eligible to receive split-price priority at \$1.00 over the resting Public Customer interest at \$1.00 and achieve a better net price execution of \$1.025 for its customer order, which is the price that the Floor Broker entered when submitting the QOO Order. Two trades will be reported to the tape; a purchase of 50 contracts at \$1.00 and a purchase of 50 at \$1.05.

The Floor Broker may utilize the book sweep size, as provided in Rule 7600(h), when entering a split-price QOO Order. For example, assume the market for a series is \$0.30–\$0.35 (with a minimum trading increment of \$0.05 and the \$0.35 offer is a Public Customer Order for 10 contracts). A Floor Broker intends to execute a split-price QOO Order for a customer looking to buy 80 contracts (*i.e.*, the initiating side) at \$0.325 with a Floor Market Maker willing to sell 80 contracts (*i.e.*, the contra-side). The QOO Order will be split by the system into transactions for 40 contracts at \$0.30 and 40 contracts at \$0.35. A QOO Order entered at \$0.325 will be accepted as long as the Floor Broker provided a book sweep size of at least 10 contracts which would sweep the resting Public

⁸ The Floor Broker's customer would receive 25 contracts at \$0.30 and 25 contracts at \$0.35. The net price that the customer paid for the contracts would be \$0.325 ((25 * \$0.30 + 25 * \$0.35)/50).

⁹ See proposed Rule 7600(i)(2).

¹⁰ See proposed Rule 7600(i)(3).

¹¹ See Rules 7600(c) and (d).

¹² If, however, the resting interest at \$1.00 on the BOX Book was for non-Public Customer interest, the system would accept the QOO Order entered at \$1.025. This is in line with the priority rules applicable to the Trading Floor as outlined in Rule 7600(c).

Customer interest on the contra-side. Assuming the Floor Broker entered a book sweep size of 10 contracts for the QOO Order, the second transaction at \$0.35 will result in an allocation of the initiating side of the QOO Order to the Public Customer Order for 10 contracts and the remaining 30 contracts will be allocated to the Floor Market Maker.

To address potential concerns regarding Section 11(a) of the Act,¹³ the Exchange is proposing IM-7600-6. Section 11(a) generally prohibits members of national securities exchanges from effecting transactions for the member's own account, absent an exemption. With respect to the proposal, there could be situations where because of the limited exception to Public Customer priority, orders on behalf of members could trade ahead of orders of nonmembers in violation of Section 11(a).¹⁴ The proposal would make clear that Floor Brokers may avail themselves of the split-price priority rule, but they would be obligated to ensure compliance with Section 11(a). Specifically, the Exchange is proposing that a Floor Broker who bids (offers) on behalf of a non-Market-Maker BOX Participant broker-dealer ("BOX Participant BD") must ensure that the BOX Participant BD qualifies for an exemption from Section 11(a)(1) of the Exchange Act or the transaction satisfies the requirements of Exchange Act Rule 11a2-2(T). Pursuant to IM-7600-5, a Participant shall not utilize the Trading Floor to effect any transaction for its own account, the account of an associated person, or an account with respect to which it or an associated person thereof exercises investment discretion by relying on an exemption under Section 11(a)(1)(G) of the Exchange Act (the "G Exemption").¹⁵ Therefore, a Floor Broker bidding or offering on behalf of a BOX Participant must rely on other exceptions from Section 11(a).¹⁶ Otherwise a Floor Broker cannot execute a split-price transaction on the Trading Floor. The

Exchange notes that the proposed rule change would not limit in any way the obligation of a BOX Participant, while acting as a Floor Broker or otherwise, to comply with Section 11(a) or the rules thereunder.

The Exchange will provide at least two weeks' notice to Participants via Circular prior to the launch of split-price priority. The Exchange anticipates launching in the first quarter of 2018.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act¹⁷ in general, and furthers the objectives of Section 6(b)(5) of the Act¹⁸ 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.

In particular, the Exchange believes the proposed rule change is consistent with the existing split-price priority on another options exchange.¹⁹ The proposed rule change is designed to induce Floor Participants to bid (offer) at better prices for an order or offer (bid) that may require execution at multiple prices (such as larger orders), which will result in a better average price for the originating Floor Participant (or its customer).

Further, the Exchange believes that the proposal should lead to more aggressive quoting by Floor Participants, which in turn could lead to better executions. A Floor Participant might be willing to trade at a better price for a portion of an order if he were assured of trading with the balance of the order at the next pricing increment. As a result, Floor Brokers representing orders in the trading crowd might receive better-priced executions. As such, the Exchange believes that the proposed rule change will encourage Participants on BOX's Trading Floor to bid or offer better prices, thus creating more opportunities for price improvement, which ultimately enhances competition.

Lastly, as discussed above, the Exchange notes that the proposed change is substantially similar to the split-price priority rules at another options exchange with open outcry trading floor.²⁰ As such, the Exchange believes that the proposed change would remove impediments to and perfect the mechanism of a free and open market because the proposed rules

establishing split-price priority on the BOX Trading Floor would further promote competition among options exchange with open outcry trading floors. As such, the Exchange believes that the proposed change is consistent with the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As discussed above, the proposed change aligns the rules of the Exchange with those of another options exchange²¹ and will allow the Exchange to compete with the options exchanges that have open outcry floors. The Exchange believes it will help Floor Brokers at the Exchange to compete for executions against floor brokers at other exchanges by providing an additional tool to Floor Brokers that allows them to provide better executions for their customers. This, in turn, helps the Exchange compete against exchanges in a deeply competitive landscape.

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:

¹³ 15 U.S.C. 78k(a).

¹⁴ For example, assume Floor Broker A walks into the trading crowd attempting to find a crowd member willing to effect a split-price transaction. Floor Broker B, who is representing either a proprietary or Participant broker-dealer order, expresses interest. In this instance, Section 11(a) could be implicated, absent an exemption.

¹⁵ See Securities Exchange Act Release No. 80720 (May 18, 2017), 82 FR 23657 (May 23, 2017) (Notice of Amendment 2 to SR-BOX-2016-48) at 23674 and 23681. See also Securities Exchange Act Release No. 81292 (August 2, 2017), 82 FR 37144 (August 8, 2017) (Order Approving SR-BOX-2016-48).

¹⁶ For example, other Section 11(a)(1) exemptions include, the "effect vs. execute" exemption, the market maker exemption, and the error account exemption.

¹⁷ 15 U.S.C. 78f(b).

¹⁸ 15 U.S.C. 78f(b)(5).

¹⁹ See *supra* note 3.

²⁰ *Id.*

²¹ *Id.*

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-2017-36 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-BOX-2017-36. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (<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 website 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-2017-36 and should be submitted on or before January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.²²

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-27234 Filed 12-18-17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82308; File No. SR-CBOE-2017-077]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the Fees Schedule

December 13, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"),¹ and Rule 19b-4 thereunder,² notice is hereby given that on December 8, 2017, Cboe Exchange, Inc. (the "Exchange" or "Cboe Options") filed with the Securities and Exchange Commission (the "Commission") the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchanges seeks to amend the Fees Schedule. The text of the proposed rule change is available on the Exchange's website (<http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx>), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

Pursuant to Footnote 38 of the Fees Schedule, if a Lead Market-Maker ("LMM") in SPX options during extended trading hours ("ETH") (1) provides continuous electronic quotes in at least the lesser of 99% of the non-adjusted series or 100% of the non-adjusted series minus one call-put pair in an ETH allocated class (excluding intra-day add-on series on the day during which such series are added for trading) and (2) enters opening quotes within five minutes of the initiation of an opening rotation in any series that is not open due to the lack of a quote (see Rule 6.2B(d)(i)(A) or (ii)(A)), provided that the LMM will not be required to enter opening quotes in more than the same percentage of series set forth in clause (1) for at least 90% of the trading days during ETH in a month, the LMM will receive a rebate for that month and will receive a pro-rata share of a compensation pool equal to \$15,000 times the number of LMMs in that class (or pro-rated amount if an appointment begins after the first trading day of the month or ends prior to the last trading day of the month).

The Exchange proposes³ to amend Footnote 38 to modify the standard an SPX LMM will need to satisfy in order to receive a rebate for its ETH activity, and increase the compensation pool for SPX LMMs to \$30,000 per LMM.⁴ In addition to providing continuous electronic quotes and entering opening quotes, as described above, in order for an LMM in SPX to receive the monthly rebate, it must satisfy the following time-weighted average quote widths and bid/ask sizes for each moneyness category during the month: (A) Out of the money options ("OTM") category, average quote width of \$0.75 or less and average bid/ask size of 15 contracts or greater; (B) at the money options ("ATM") category, average quote width of \$3.00 or less and bid/ask size of 10 contracts or more; and (C) in the money options ("ITM") category, average quote width of \$10.00 or less and bid/ask size of 5 contracts or more. In other words, the LMM will need to satisfy the following nine criteria during a month to receive the payment described above for that month.

²² 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ The Exchange initially filed the proposed rule change on December 1, 2017 (SR-CBOE-2017-075). On December 8, 2017 the Exchange withdrew SR-CBOE-2017-075 and then subsequently submitted this filing (SR-CBOE-2017-077).

⁴ The proposed rule change does not change the standard a VIX LMM will need to meet to receive a rebate.

OTM	ATM	ITM
1. Avg. Quote Width ≤\$0.75	4. Avg. Quote Width ≤\$3.00	7. Avg. Quote Width ≤\$10.00.
2. Avg. Bid Size ≥15	5. Avg. Bid Size ≥10	8. Avg. Bid Size ≥5.
3. Avg. Ask Size ≥15	6. Avg. Ask Size ≥10	9. Avg. Ask Size ≥5.

The Exchange believes time-weighted averages are a good way to assess the overall quality of the market. The Exchange also believes having separate requirements per moneyness category will encourage tighter quote widths and larger sizes in each moneyness category.

The Exchange will determine an SPX LMM's monthly time-weighted average widths and sizes by capturing each of the LMM's quote submission's width, bid size, ask size, and receipt time during the month. Also, the percentage of series quoted will be weighted for the

time the series is available for quoting during a month. For example, if a series is only listed for three days during a month, the performance in that series is only weighted for those three days. Additionally, the Exchange will exclude 5% of the total quote time for all SPX series during the month in which the LMM was disseminating its widest quotes and smallest bid/ask sizes. This will allow the LMM to widen its quotes and decrease its bid/ask sizes consistent with its risk model in response to market events during ETH while

retaining the opportunity to meet the quoting standard for the month.

The below example demonstrates the manner in which the Exchange determines the time-weighted average quote widths.

- Assume Series A and B are the only OTM series in SPX during a month.
- If an LMM submits the below 6 quotes in Series A and B during the entire month, the resultant time-weighted average quote width in Series A for the month is as follows:

	Quote width (difference between the bid-ask)	Time (amount of time a quote is resting—in microseconds)	Quote time weight (excludes 5% of the time during which the widest quotes were disseminated)	Time-weighted quote width (quote width * quote time weight)	Time-weighted average quote width (time-weighted quote width/quote time weight)
Quote 1 (in A)	0.10	13,200	13,200	1,320	.....
Quote 2 (in A)	0.10	3,600	3,600	360	.....
Quote 3 (in B)	0.50	9,000	9,000	4,500	.....
Quote 4 (in B)	0.90	14,400	14,400	12,960	.....
Quote 5 (in B)	6.00	3,600	1,467	8,802	.....
Quote 6 (in B)	8.75	60	0	0	.....
Total .....	.....	43,860	41,667	27,942	.....
					0.67

The time-weighted average quote width in OTM series for the month is 0.67; thus, the LMM in this example has met the OTM time-weighted average quote width to be eligible for the monthly payment, because its time-

weighted average quote width is less than 0.75 for the month.

The Exchange determines the time-weighted average bid size and ask size in a similar manner. For example:

- Assume Series A and B are the only OTM series in SPX during a month.

- If an LMM submits the below 6 quotes in Series A and B during the entire month, the resultant time-weighted average quote width in Series A for the month is as follows:

	Bid size	Time (amount of time a quote is resting—in microseconds)	Quote time weight (excludes 5% of the time during which the smallest quotes were disseminated)	Time-weighted bid size (bid size * quote time weight)	Time-weighted average bid size (time-weighted bid size/quote time weight)
Quote 1 (in A)	25	13,200	13,200	330,000	.....
Quote 2 (in A)	20	3,600	3,600	72,000	.....
Quote 3 (in B)	10	9,000	9,000	90,000	.....
Quote 4 (in B)	10	14,400	14,400	144,000	.....
Quote 5 (in B)	5	3,600	1,467	7,335	.....
Quote 6 (in B)	2	60	0	0	.....
Total .....	.....	43,860	41,667	643,335	.....
					15.4

The time-weighted average quote bid size in OTM series for the month is 15.4; thus, the LMM in this example has met the OTM time-weighted average quote bid size to be eligible for the monthly payment because its time-weighted average quote bid size is greater than 15 contracts for the month. The LMM would also need to satisfy the OTM

average quote ask size, as well as the time-weighted average width, bid size, and ask size criteria in the ATM and ITM categories, determined in the same manner as described in the above example, to receive the monthly payment.

Whether a series is OTM, ATM, or ITM will depend on how far away the

series' strike price is from the S&P 500 Index's previous day's closing value, measured as a percentage. The OTM, ATM and ITM moneyness percentages will vary by time to expiration based on the table below. Expirations 1–6 are the nearest term expirations and expirations 37-last are the farthest term expirations.

Expirations	OTM		ATM		ITM	
	Calls %	Puts %	Calls %	Puts %	Calls %	Puts %
Expiration 1–6	>102	<98	≤102 and ≥98	≤102 and ≥98	<98	>102
Expiration 7–12	>103	<97	≤103 and ≥97	≤103 and ≥97	<97	>103
Expiration 13–18	>104	<96	≤104 and ≥96	≤104 and ≥96	<96	>104
Expiration 19–24	>105	<95	≤105 and ≥95	≤105 and ≥95	<95	>105
Expiration 25–30	>106	<94	≤106 and ≥94	≤106 and ≥94	<94	>106
Expiration 31–36	>107	<93	≤107 and ≥93	≤107 and ≥93	<93	>107
Expiration 37–last	>108	<92	≤108 and ≥92	≤108 and ≥92	<92	>108

For example, if the S&P 500 Index closes at 2200, all call options with a near-term expiration (*i.e.*, Expiration 1–6) that have a strike price greater than 2244 are considered OTM calls because 102% of 2200 is 2244. Similarly, all put options with a near-term expiration that have a strike price of less than 2156 are considered OTM puts because 98% of 2200 is 2156. Which series are considered OTM, ATM, or ITM will be readjusted on a daily basis. For example, series A may be OTM on trading day 1–5 of the month, and the S&P 500 Index may appreciate to make series A an ATM series on day 6 and so on.

LMMs are not obligated to satisfy the heightened quoting standards described in the Fees Schedule or in Rule 8.15 during ETH. LMMs are eligible to receive a rebate if they satisfy the heightened standards described in the Fees Schedule, which the Exchange believes will encourage LMMs to provide liquidity during ETH. Additionally, the Exchange notes that LMMs may have to undertake other expenses to be able to quote at the heightened standard during ETH, such as purchase additional bandwidth.

The Exchange also seeks to amend Footnote 38 of the Fees Schedule to clarify that the rebate described in Footnote 38 is the pro-rata share of the compensation pool. Footnote 38 provides, in relevant part that “. . . the LMM will receive a rebate for that month and will receive a pro-rata share of a compensation pool equal . . .” which could suggest there is a rebate and a payment from the compensation pool. However, the rebate is the payment from the compensation pool. The Exchange believes replacing “and

will receive” with “in the amount of” will provide more clarity.

Lastly, the LMM rebate program is currently described in Rule 6.1A(e)(iii)(C) and the Fees Schedule. The Exchange believes consolidating information related to the LMM rebate program in the Fees Schedule, and deleting the language in that rule that is redundant of language in the Fees Schedule, will prevent potential confusion that arises from having the rebate program described in multiple places. Specifically, the Exchange proposes to remove subparagraph (e)(iii)(C) and move the following language from subparagraph (e)(iii)(C) to Footnote 38 of the Fees Schedule:

Notwithstanding Rule 1.1(ccc), for purposes of Footnote 38, an LMM is deemed to have provided “continuous electronic quotes” if the LMM provides electronic two-sided quotes for 90% of the time during ETH in a given month. If a technical failure or limitation of a system of the Exchange prevents the LMM from maintaining, or prevents the LMM from communicating to the Exchange, timely and accurate electronic quotes in a class, the duration of such failure shall not be considered in determining whether the LMM has satisfied the 90% quoting standard with respect to that option class. The Exchange may consider other exceptions to this quoting standard based on demonstrated legal or regulatory requirements or other mitigating circumstances.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the “Act”) and the rules and regulations thereunder applicable to the Exchange

and, in particular, the requirements of Section 6(b) of the Act.⁵ Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁶ requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)⁷ requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the Exchange believes it is reasonable, equitable and not unfairly discriminatory to offer LMMs in SPX during ETH a rebate if they meet a certain heightened quoting standard (described above) to encourage LMMs in SPX to provide increased liquidity. More specifically, the Exchange believes the amount of the amended rebate (\$30,000) is reasonable because it takes into consideration certain additional costs an LMM may incur and the Exchange believes the proposed amount is such that it will incentivize LMMs to meet the ETH quoting standards for SPX that are further heightened by this proposal. Additionally, if a LMM does not satisfy the heightened quoting

⁵ 15 U.S.C. 78f(b).

⁶ 15 U.S.C. 78f(b)(5).

⁷ *Id.*

standard, then it will not receive the rebate. The Exchange believes it is equitable and not unfairly discriminatory to only offer the rebate to LMMs because it benefits all market participants in ETH to encourage LMMs to satisfy the heightened quoting standards, which may increase liquidity during those hours and provide more trading opportunities and tighter spreads. Also, the Exchange believes consolidating information related to the LMM rebate program in the Fees Schedule will prevent potential confusion that arises from having the rebate program described in multiple places, which, in general, helps protect customers and the public interest. Finally, the Exchange believes clarifying language in the Fees Schedule will also prevent potential confusion, which, in general, helps protect customers and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is 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 intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act, because the amended rebate for ETH is intended to encourage market participants to bring liquidity in SPX during ETH (which benefits all market participants), while still covering Exchange costs (including those associated with the upgrading and maintenance of Exchange systems). Furthermore, the Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because SPX is a proprietary product that will only be traded on Cboe Options. To the extent that the proposed changes make Cboe Options a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become Cboe Options market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act⁸ and paragraph (f) of Rule 19b-4⁹ thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an email to rule-comments@sec.gov. Please include File Number SR-CBOE-2017-077 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-CBOE-2017-077. 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 website (<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 website 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-CBOE-2017-077, and should be submitted on or before January 9, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁰

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27227 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82309; File No. SR-OCC-2017-017]

Self-Regulatory Organizations; The Options Clearing Corporation; Order Approving Proposed Rule Change Concerning Liquidity for Same Day Settlement

December 13, 2017.

On October 13, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") the proposed rule change SR-OCC-2017-007 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on November 1, 2017.³ The Commission did not receive any comments on the proposed rule change. This order approves the proposed rule change.

¹⁰ 17 CFR 200.30-3(a)(12).

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ Securities Exchange Act Release No. 34-81956 (Oct. 26, 2017), 82 FR 50705 (Nov. 1, 2017) (SR-OCC-2017-017) ("Notice"). OCC also filed an Advance Notice with the Commission in connection with the proposed change. See Securities Exchange Act Release No. 82056 (Nov. 13, 2017), 82 FR 54430 (Nov. 17, 2017) (SR-OCC-2017-806).

⁸ 15 U.S.C. 78s(b)(3)(A).

⁹ 17 CFR 240.19b-4(f).

I. Description of the Proposed Rule Change

A. Background

OCC filed the proposed rule change to modify the tools available to OCC to provide a mechanism for addressing the risks of liquidity shortfalls, specifically, in the extraordinary situation where OCC faces a liquidity need to meet its same-day settlement obligations resulting from the failure of a bank or securities or commodities clearing organization (“Settlement Entity”) to achieve daily settlement. As stated in the Notice, OCC’s By-Laws currently grant OCC the authority to borrow against its Clearing Fund where a Settlement Entity fails to make timely settlement with OCC due to bankruptcy, insolvency, resolution, suspension of operations, or a similar event of such Settlement Entity.⁴ The proposed rule change seeks to expand this borrowing authority to circumstances that include a temporary failure of a Settlement Entity to achieve daily settlement.

Article VIII, Section 5(e) of OCC’s By-Laws provides OCC with the authority to borrow against the Clearing Fund in two circumstances. First, the By-Laws provide OCC the authority to borrow where OCC “deems it necessary or advisable to borrow or otherwise obtain funds from third parties in order to meet obligations arising out of the default or suspension of a Clearing Member or any action taken by the Corporation in connection therewith pursuant to Chapter XI of the Rules or otherwise.” Second, the By-Laws provide OCC the authority to borrow against the Clearing Fund where OCC “sustains a loss reimbursable out of the Clearing Fund pursuant to [Article VIII, Section 5(b) of OCC’s By-Laws] but [OCC] elects to borrow or otherwise obtain funds from third parties in lieu of immediately charging such loss to the Clearing Fund.” In order for a loss to be reimbursable out of the Clearing Fund under Article VIII, Section 5(b) of OCC’s By-Laws, the loss must arise from a situation in which any Settlement Entity has failed “to perform any obligation to [OCC] when due because of its bankruptcy, insolvency, receivership, suspension of operations, or because of any similar event.”⁵

Under either of the circumstances above, OCC is authorized to borrow against the Clearing Fund for a period

not to exceed 30 days, and during this time, the borrowing would not affect the amount or timing of any charges otherwise required to be made against the Clearing Fund pursuant to Article VIII, Section 5 of the By-Laws. However, if any part of the borrowing remains outstanding after 30 days, then at the close of business on the 30th day (or the first Business Day thereafter) the amount must be considered an actual loss to the Clearing Fund, and OCC must immediately allocate such loss among its Clearing Members in accordance with Article VIII, Section 5.

B. The Proposed Rule Change to OCC’s By-Laws

The proposed rule change seeks to expand OCC’s authority to borrow against its Clearing Fund to instances where a Settlement Entity suffers an event relatively less extreme than bankruptcy, insolvency, or a similar event, but is still temporarily unable to timely make daily settlement with OCC. Such an event might include a scenario where the ordinary operations of a settlement bank are disrupted in a manner that temporarily prohibits the bank from timely effecting settlement payments in accordance with OCC’s daily settlement cycle. OCC believes that such authority would only be used in extraordinary circumstances, and any funds obtained from any such transaction could only be used for the stated purpose of satisfying a need for liquidity for same-day settlement.

Pursuant to the proposed change, any ability to borrow under this expanded authority would not exceed thirty (30) days. During this period, the funds obtained would not be deemed to be charges against the Clearing Fund and would not affect the amount or timing of any charges otherwise required to be made against the clearing fund under Article VIII of OCC’s By-Laws.⁶ Should the borrowing unexpectedly remain outstanding after thirty (30) days, at the close of business on the 30th day (or the first Business Day thereafter), the amount outstanding would be considered an actual loss to the Clearing Fund. However, OCC would also have discretionary authority to declare a borrowing outstanding for less than thirty (30) days as an actual loss chargeable against the Clearing Fund to be collected from Clearing Members.⁷ If

the amount outstanding becomes an actual loss to the Clearing Fund, OCC, in accordance with its By-Laws, would then charge all of its Clearing Members to make pro rata contributions to the Clearing Fund to cover the deficit arising from the loss.

To implement the proposed change, OCC proposed to amend Sections 1(a), 5(b) and 5(e) of Article VIII of its By-Laws to give effect to the expanded borrowing authority. First, Article VIII, Section 5(e) of the By-Laws would be amended to permit OCC to borrow against the Clearing Fund if it reasonably believes such borrowing is necessary to meet its liquidity needs for same-day settlement as a result of the failure of any Settlement Entity to achieve daily settlement. Second, Article VIII, Section 1(a) of the By-Laws would be amended to include conforming changes stating that the purpose of the Clearing Fund includes borrowing against the Clearing Fund as permitted under Article VIII, Section 5(e).

Next, Article VIII, Section 5(b) of the By-Laws would be amended to include conforming changes that would declare that any borrowing remaining outstanding for less than 30 days may be considered, in OCC’s discretion, an actual loss to the Clearing Fund to be charged proportionately against all Clearing Members’ computed contributions. Further, any borrowing remaining outstanding on the 30th day shall be considered an actual loss to the Clearing Fund and the amount of any such loss shall be charged proportionately against all Clearing Members’ computed contributions to the Clearing Fund as fixed at the time.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act⁸ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such

ensure that it maintains financial resources necessary to meet a “Cover 1” liquidity resource standard. OCC must establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, 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, to the extent not already maintained pursuant to the foregoing, maintaining additional financial resources at the minimum to enable it to cover a wide range of foreseeable stress scenarios that include, but are not limited to, the “default of the participant family that would potentially cause the largest aggregate credit exposure for the covered clearing agency in extreme but plausible market conditions.” 17 CFR 240.17Ad-22(e)(4)(iii).

⁸ 15 U.S.C. 78s(b)(2)(C).

⁴ OCC By-Laws, Article VIII, Section 5.

⁵ To the extent that a loss resulting from any of the events referred to in Article VIII, Section 5(b) is recoverable out of the Clearing Fund pursuant to Article VIII, Section 5(a), the provisions of Article VIII, Section 5(a) control and render the provisions of Article VIII, Section 5(b) inapplicable.

⁶ Assets contained in the Clearing Fund, including those assets pledged by OCC pursuant to its authority under this proposed expansion of borrowing authority, would remain in OCC’s possession.

⁷ OCC states that such discretionary authority could be exercised in a circumstance where, depending on the size of the borrowing, OCC must

proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to such organization. The Commission finds that the proposal is consistent with Section 17A(b)(3)(F) of the Act⁹ and Rule 17Ad-22(e)(7)(viii)¹⁰ thereunder, as described in detail below.

A. Consistency With Section 17A(b)(3)(F) of the Act

The Commission finds that the proposed change is consistent with Section 17A(b)(3)(F) of the Act,¹¹ which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions. The Commission understands that the proposed rule change constitutes a limited expansion of OCC's ability to address liquidity needs that arise from scenarios that, while relatively less extreme than a Settlement Entity suffering a bankruptcy, insolvency, resolution, suspension of operations, or similar event, nevertheless can prevent daily settlement from occurring. The Commission therefore believes that the proposed rule change is designed to enhance OCC's ability to access liquid resources under such circumstances, which, in turn, would allow OCC to continue to meet its settlement obligations to its Clearing Members in a timely fashion, thereby promoting prompt and accurate clearance and settlement of securities transactions.

Specifically, the Commission believes that the proposed rule change is designed to expand OCC's existing borrowing authority in a scenario where a Settlement Entity is temporarily unable to achieve daily settlement, but is not facing bankruptcy, insolvency, resolution, suspension of operations, or similar event. Therefore, the proposed rule change is designed to provide OCC with an alternative tool with which to address what OCC describes as an "extraordinary circumstance" that would enable OCC to borrow against the Clearing Fund in order to avoid disrupting its ordinary settlement cycle. The Commission believes that the authority to take such action is designed to avoid imposing a disruption on Clearing Members and reduce the need to extend the settlement window, which could allow OCC to settle transactions in a more timely fashion. Accordingly, the Commission finds that the proposed rule change is designed to promote the

prompt and accurate clearance and settlement of securities transactions, and is therefore consistent with Section 17A(b)(3)(F) of the Act.¹²

B. Consistency With Rule 17Ad-22(e)(7)(viii) Under the Act

The Commission further believes that the proposed rule change is consistent with Rule 17Ad-22(e)(7)(viii), which requires that a covered clearing agency establish, implement, maintain, and enforce written policies and procedures reasonably designed to, as applicable, effectively measure, monitor, and manage liquidity risk that arises in or is borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity by, at a minimum, addressing foreseeable liquidity shortfalls that would not be covered by its liquid resources and seek to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations.¹³

The Commission believes that the proposed rule change is designed to improve OCC's ability to address a temporary liquidity need resulting from the failure of a Settlement Entity to achieve timely settlement. The Commission believes that the proposed rule change is designed to provide OCC with additional tools to address a foreseeable, temporary liquidity shortfall to prevent the unwinding, revoking, or delaying of same-day settlement should that scenario materialize, and is therefore consistent with Rule 17Ad-22(e)(7)(viii) under the Act.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act¹⁴ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,¹⁵ that the proposed rule change (SR-OCC-2017-017) be, and it hereby is, approved.

¹² *Id.*

¹³ 17 CFR 240.17Ad-22(e)(7)(viii).

¹⁴ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

¹⁵ 15 U.S.C. 78s(b)(2).

¹⁶ 17 CFR 200.30-3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁶

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-27228 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[SEC File No. 270-385, OMB Control No. 3235-0441]

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of FOIA Services, 100 F Street NE, Washington, DC 20549-2736.

Extension:

Rule 18f-3.

Notice is hereby given that, pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) ("Paperwork Reduction Act"), the Securities and Exchange Commission ("the Commission") has submitted to the Office of Management and Budget ("OMB") a request for extension of the previously approved collection of information discussed below.

Rule 18f-3 (17 CFR 270.18f-3) under the Investment Company Act of 1940 (15 U.S.C. 80a-1 *et seq.*) exempts from section 18(f)(1) a fund that issues multiple classes of shares representing interests in the same portfolio of securities (a "multiple class fund") if the fund satisfies the conditions of the rule. In general, each class must differ in its arrangement for shareholder services or distribution or both, and must pay the related expenses of that different arrangement. The rule includes one requirement for the collection of information. A multiple class fund must prepare, and fund directors must approve, a written plan setting forth the separate arrangement and expense allocation of each class, and any related conversion features or exchange privileges ("rule 18f-3 plan"). Approval of the plan must occur before the fund issues any shares of multiple classes and whenever the fund materially amends the plan. In approving the plan, the fund board, including a majority of the independent directors, must determine that the plan is in the best interests of each class and the fund as a whole.

The requirement that the fund prepare and directors approve a written rule 18f-3 plan is intended to ensure that the fund compiles information relevant to

⁹ 15 U.S.C. 78q-1(b)(3)(F).

¹⁰ 17 CFR 240.17Ad-22(e)(7)(viii).

¹¹ 15 U.S.C. 78q-1(b)(3)(F).

the fairness of the separate arrangement and expense allocation for each class, and that directors review and approve the information. Without a blueprint that highlights material differences among classes, directors might not perceive potential conflicts of interests when they determine whether the plan is in the best interests of each class and the fund. In addition, the plan may be useful to Commission staff in reviewing the fund's compliance with the rule.

Based on an analysis of fund filings, the Commission estimates that there are approximately 7,743 multiple class funds offered by 1,045 registrants. The Commission estimates that each of the 1,045 registrants will make an average of 0.5 responses annually to prepare and approve a written 18f-3 plan.¹ The Commission estimates each response will take 6 hours, requiring a total of 3 hours per registrant per year.² Thus the total annual hour burden associated with these requirements of the rule is approximately 3,135 hours.³

Estimates of the average burden hours are made solely for the purposes of the Paperwork Reduction Act and are not derived from a comprehensive or even a representative survey or study of the costs of Commission rules and forms. The collection of information under rule 18f-3 is mandatory. The information provided under rule 18f-3 will not be kept confidential. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The public may view the background documentation for this information collection at the following website, www.reginfo.gov. Comments should be directed to: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10102, New Executive Office Building, Washington, DC 20503, or by sending an email to: Shagufta_Ahmed@omb.eop.gov; and (ii) Pamela Dyson, Director/Chief Information Officer, Securities and Exchange Commission, c/o Remi Pavlik-Simon, 100 F Street NE, Washington, DC 20549 or send an email to: PRA_Mailbox@sec.gov. Comments must be submitted to OMB within 30 days of this notice.

¹ The Commission estimates that each registrant prepares and approves a rule 18f-3 plan every two years when issuing a new fund or new class or amending a plan (or that 522.5 of all 1,045 registrants prepare and approve a plan each year).

² 0.5 responses per registrant × 6 hours per response = 3 hours per registrant.

³ 3 hours per registrant per year × 1,045 registrants = 3,135 hours per year.

Dated: December 14, 2017.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017-27313 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-82310; File No. SR-OCC-2017-010]

Self-Regulatory Organizations; the Options Clearing Corporation; Order Approving Proposed Rule Change Relating to The Options Clearing Corporation's Default Management Policy

December 13, 2017.

On October 12, 2017, The Options Clearing Corporation ("OCC") filed with the Securities and Exchange Commission ("Commission") proposed rule change SR-OCC-2017-010 pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"),¹ and Rule 19b-4 thereunder.² The proposed rule change was published for comment in the **Federal Register** on November 1, 2017.³ The Commission did not receive any comment letters on the proposed rule change. This order approves the proposed rule change.

I. Description of the Proposed Rule Change

This proposed rule change by OCC will formalize OCC's Default Management Policy ("DM Policy"). The proposed rule change does not require any changes to the text of OCC's By-Laws or Rules.⁴

As described by OCC, the DM Policy would apply in the event of a default by a Clearing Member, settlement bank, or a financial market utility ("FMU") with which OCC has a relationship.⁵ The purpose of the DM Policy is to outline OCC's default management framework and describe the default management

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

³ See Securities Exchange Act Release No. 34-81955 (Oct. 26, 2017), 82 FR 50707 (Nov. 1, 2017) (File No. SR-OCC-2017-010).

⁴ All terms with initial capitalization that are not otherwise defined herein have the same meaning as set forth in the OCC By-Laws and Rules.

⁵ The DM Policy identifies the following securities or commodities clearing organizations as examples of such FMUs: The Depository Trust Company, National Securities Clearing Corporation, and the Chicago Mercantile Exchange. In an event of default by one of these securities or commodities clearing organizations, or by a settlement bank, OCC has authority under certain conditions pursuant to Article VIII, Sections 1(a)(vii) and 5(b) of the By-Laws to manage the default using Clearing Member contributions to the Clearing Fund.

steps that OCC has authority to take depending upon the facts and circumstances of a default. The DM Policy focuses on Clearing Member default, which OCC believes is appropriate because Clearing Member default represents a substantial part of the overall default risk that is posed to OCC in connection with its central counterparty clearing services.⁶ OCC notes that the DM Policy is part of a broader framework used by OCC to manage the default of a Clearing Member, settlement bank, or FMU, including OCC's By-Laws, Rules, and other policies and procedures. The broader framework is designed to collectively ensure that OCC would appropriately manage any such default consistent with OCC's obligations as a covered clearing agency.⁷

The DM Policy describes the authority of OCC's Board of Directors ("Board") or a Designated Officer⁸ to summarily suspend a Clearing Member pursuant to OCC Rule 1102(a) in the event the Clearing Member defaults. The DM Policy further provides that, pursuant to OCC Rule 707, OCC may suspend a Clearing Member that participates in a cross-margining program in the event of a default regarding its cross-margining accounts. Upon any suspension of a Clearing Member, the DM Policy states that OCC would immediately notify a number of parties, including the suspended Clearing Member, regulatory authorities, participant and other exchanges (as applicable) in which the suspended Clearing Member is a common member, other Clearing Members,⁹ and OCC's Board.¹⁰

In the event of a Clearing Member suspension, the DM Policy provides that

⁶ For purposes of the DM Policy, references to a Clearing Member suspension or default contemplate the circumstances specified in OCC Rule 1102, which constitute events of "default" under Interpretation and Policy .01 to the Rule.

⁷ On September 28, 2016, the Commission amended Rule 17Ad-22 under the Act by adding new Rule 17Ad-22(e) to establish requirements for the operation and governance of registered clearing agencies that meet the definition of a covered clearing agency, as defined by Rule 17Ad-22(a)(5). Standards for Covered Clearing Agencies, Securities Exchange Act Release No. 34-78961 (Sept. 28, 2016), 81 FR 70786 (Oct. 13, 2016).

⁸ For this purpose, the term Designated Officer includes the Executive Chairman, Chief Administrative Officer ("CAO"), Chief Operating Officer ("COO"), Chief Risk Officer ("CRO"), and Executive Vice President—Financial Risk Management ("EVP-FRM").

⁹ OCC Rule 1103 requires OCC to notify all Clearing Members of the suspension as soon as possible.

¹⁰ With respect to pending transactions of a suspended Clearing Member, the DM Policy provides that these will be handled pursuant to OCC Rule 1105, provided that OCC has no obligation to accept the trades effected by a suspended Clearing Member post-suspension.

OCC's Financial Risk Management Department ("FRM") shall prepare an exposure summary report to be provided to OCC's Management Committee detailing, among other things, the open obligations of the suspended Clearing Member, collateral deposited by the Clearing Member, obligations to other FMUs, and a summary of related entity exposure. The report summarizes the net settlement obligation of the suspended Clearing Member at the time of default. The DM Policy further provides that a recommendation as to any liquidity needs requiring a draw on OCC's credit facilities would be provided to OCC's Management Committee and subsequently be authorized, as applicable, by the Executive Chairman, CAO, or COO, as provided for in Article VIII, Section 5 of the By-Laws. These practices ensure that OCC's Management Committee remains properly informed and can make appropriate decisions in the default management process.

The DM Policy describes OCC's existing authority under OCC Rule 505 to extend the time for OCC's settlement obligations (*i.e.*, payment obligations owed by OCC to Clearing Members). The DM Policy notes that, as set forth in OCC Rule 505, any such determination to extend the settlement time and the reasons thereof will be promptly reported by OCC to the Commission and the Commodity Futures Trading Commission ("CFTC"); however, the effectiveness of the extension would not be conditioned upon such reporting. The DM Policy notes that such an extension may be necessary as a result of a Clearing Member default or a failure of a Clearing Member's settlement bank.

To address situations in which a Clearing Member's settlement bank fails or experiences an operational outage that prevents the Clearing Member from meeting its settlement obligations to OCC, the DM Policy provides that OCC requires each Clearing Member to maintain procedures detailing how it would meet its settlement obligations in such an event. The DM Policy further provides that a Designated Officer would determine whether to enact alternate settlement procedures in the event that a Clearing Member's settlement bank is unable to perform.

The DM Policy sets forth the sequence or "waterfall" of financial resources that OCC may use to meet its obligations in the event of a Clearing Member suspension to provide certainty regarding the order in which these resources would be applied. Specifically, the DM Policy describes

that OCC is able to use the following financial resources: (i) Margin deposits of the suspended Clearing Member; (ii) deposits in lieu of margin of the suspended Clearing Member;¹¹ (iii) Clearing Fund deposits of the suspended Clearing Member; (iv) Clearing Fund deposits of non-defaulting Clearing Members; (v) Clearing Fund assessments against Clearing Members; and (vi) the current or retained earnings of OCC, subject to the unanimous approval of certain OCC shareholders.¹²

In the case of a suspended Clearing Member, the DM Policy outlines the means by which OCC may close out positions and liquidate collateral of the suspended Clearing Member pursuant to OCC's Rules, including certain provisions under Chapter XI of the Rules. Based upon recommendations from OCC's risk staff, the EVP-FRM may take any one, or any combination, of the following actions pursuant to the terms of OCC's By-Laws and Rules: (i) Net the suspended Clearing Member's positions by offset; (ii) effect close out open short positions, long positions, and collateral through market transactions; (iii) transfer the positions and related collateral to a non-suspended Clearing Member; (iv) effect hedging transactions to reduce the risk to OCC of open positions; (v) conduct a private auction of the positions and collateral of the suspended Clearing Member; (vi) exercise unsegregated and segregated long options; (vii) set cash settlement values or perform buy-in or sell-out processes; and (viii) defer close-out, as may be authorized by certain officers of OCC.¹³

In addition, the DM Policy specifies that OCC risk staff will develop a Close-out Action Plan ("CAP") and present it to the EVP-FRM for approval. The DM Policy provides that upon approval of the CAP by the EVP-FRM, FRM, and other designated business officers/departments will be responsible for its execution. The DM Policy also provides that OCC's legal department would advise OCC's Management Committee on OCC's authority to execute the

proposed CAP and describe the responsibilities for the execution, monitoring, and reporting of the CAP and escalation of issues to OCC's Management Committee. The CAP process is designed to ensure that OCC has an appropriate process in place to analyze its exposures, take into consideration current and expected market conditions, and evaluate the tools and resources available to deal with those exposures under the circumstances so that OCC can appropriately manage any default in a manner that would protect Clearing Members, investors, the public interest, and the markets that OCC serves.

The DM Policy provides that OCC would generally liquidate all positions and collateral of a suspended Clearing Member, and the proceeds would be attributed to the account type from which they originated. It also specifies that as a registered clearing agency with the Commission and a registered derivatives clearing organization with the CFTC, OCC is required to comply with regulatory requirements to safeguard customer assets.

In the event of a default, OCC would immediately demand any pledged collateral of the suspended Clearing Member from custodian(s) to ensure those resources are available for default management purposes. For example, the DM Policy provides that, among other things, cash and proceeds from any liquidated collateral or demand of payment on a letter of credit would be placed in the appropriate liquidating settlement account, pursuant to OCC Rule 1104. The DM Policy further provides that all pledged valued margin collateral will be moved by OCC's Collateral Services Department into an OCC account and may be transferred to an auction recipient, delivered to a liquidating agent, or delivered to a liquidating settlement account. In the case of deposits in lieu of margin, however, the DM Policy states that OCC would only demand such collateral to meet obligations arising from the assignment of a related contract.

After the close-out of the positions and collateral of the suspended Clearing Member is completed, the DM Policy describes that the Executive Chairman, CAO, or COO would determine whether, consistent with Article VIII, Section 5(a) of OCC's By-Laws, an assessment must be made against the Clearing Fund in connection with the liquidation. In the event of a shortfall whereby the close-out of the suspended Clearing Member does not result in enough resources to cover its obligations, the DM Policy states that each Clearing Member, consistent with

¹¹ See OCC Rules 610(f) and (g).

¹² See OCC By-Law Article VIII, Section 5(d). In lieu of charging a loss or deficiency proportionately to the computed Clearing Fund contributions of non-defaulting Clearing Members, OCC may charge the loss or deficiency to current or retained earnings. This discretion applies in connection with any loss by reason of the failure of a bank or securities or commodities clearing organization to perform an obligation to OCC.

¹³ The DM Policy also provides that any determination to defer close-out or hedging transactions under the Close-out Action Plan (as discussed herein) would be reported to the Board and/or the Board Risk Committee, as required under OCC Rule 1106.

Article VIII, Section 6 of OCC's By-Laws, may be assessed an additional amount equal to the amount of its initial Clearing Fund deposit, as determined by the Executive Chairman, CAO, or COO. The DM Policy notes that any such assessment decision would be communicated via email in accordance with the applicable OCC procedure covering the assessment process. The DM Policy also specifies that a Clearing Member is liable for further assessments until the balance of OCC's losses are covered or the Clearing Member has withdrawn from membership as set forth in Article VIII, Sections 6 and 7 of OCC's By-Laws.

The DM Policy provides that, on at least an annual basis, OCC's default management working group will provide OCC's Management Committee with recommended areas for testing, including close-out procedures, and that the Management Committee is responsible for reviewing and ultimately approving the overall test plan.¹⁴ In addition, the DM Policy specifies that the default management working group maintains the authority to approve individual test plans and overall plan changes, but that any changes to the overall plan would be reported to and reviewed by OCC's Management Committee. The DM Policy further provides that testing is recommended and performed more frequently than annually if a material change is made to OCC's default management procedures or if it is deemed necessary by OCC's default management working group.

In addition, the DM Policy outlines the execution of the testing plan and the review of the results of the testing plan, including the production of annual reports to OCC's Management Committee and Risk Committee of OCC's Board regarding the results of OCC's default tests to provide appropriate oversight over the default testing process.

II. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act¹⁵ directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization. The Commission finds that the proposal is

consistent with Section 17A(b)(3)(F) of the Act¹⁶ and Rules 17Ad-22 (e)(4)(ix) and (e)(13)¹⁷ thereunder, as described in detail below.

A. Consistency With Section 17A(b)(3)(F) of the Act

The Commission finds OCC's proposed changes to be consistent with Section 17A(b)(3)(F) of the Act,¹⁸ which requires, among other things, that the rules of a clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, in general, to protect investors and the public interest. As noted above, the DM Policy focuses on the processes that OCC would use to take timely action to contain losses and liquidity demands in an event of default by a Clearing Member, such as closing out open positions and collateral of a defaulted Clearing Member, using alternate settlement bank procedures, or relying on Clearing Fund contributions of Clearing Members under certain conditions. In this regard, the DM Policy is designed to ensure that OCC can maintain its resilience in the event of a default, thereby enabling OCC to continue to provide its clearance and settlement services to the public in such circumstances. By formalizing the components of the DM Policy, OCC has taken measures to provide that its rules are designed to promote the prompt and accurate clearance and settlement of securities transactions, and, in general, to protect investors and the public interest.

B. Consistency With Rule 17Ad-22(e)(4)(ix)

Rule 17Ad-22(e)(4)(ix)¹⁹ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to effectively identify, measure, and manage its credit exposures to participants and those arising from its payment, clearing, and settlement processes, including by describing its process to replenish any financial resources it may use following a default or other event in which use of such resources is contemplated. The DM Policy describes the process by which OCC may initiate a Clearing Fund assessment to replenish financial resources that may be used following a default and the attendant suspension of a Clearing Member. Specifically, the DM Policy provides that where the liquidation of a suspended Clearing

Member results in a shortfall, certain officers of OCC may require that all Clearing Members be assessed an additional amount equal to the amount of their respective Clearing Fund deposits, consistent with OCC's By-Laws, and that a Clearing Member is liable for further assessments until the balance of OCC's losses are covered or the Clearing Member has withdrawn from membership as set forth in OCC's By-Laws. In addition, the DM Policy also provides that, pursuant to the waterfall of financial resources used in the event of a Clearing Member suspension, OCC could use current or retained earnings, consistent with OCC's By-Laws, to continue meeting its financial obligations. Accordingly, the Commission finds that the proposed changes are consistent with Rule 17Ad-22(e)(4)(ix).²⁰

C. Consistency With Rule 17Ad-22(e)(13)

Rule 17Ad-22(e)(13)²¹ requires each covered clearing agency to establish, implement, maintain and enforce written policies and procedures reasonably designed to ensure that it has the authority and operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations by, at a minimum, requiring its participants and, when practicable, other stakeholders to participate in the testing and review of its default procedures, including any close-out procedure, at least annually and following material changes thereto. The DM Policy, among other things, sets forth OCC's authority and operational capabilities to take timely action to contain losses and liquidity demands and continue to meet its obligations. For example, the DM Policy sets forth the procedures by which OCC would suspend a Clearing Member as well as the waterfall of financial resources that OCC would use to contain losses arising from the Clearing Member's default. The DM Policy also describes, among other things, the various means by which OCC may close-out the positions of a suspended Clearing Member and the process it uses to make such determinations, which OCC believes helps ensure that it has sufficient operational capacity to take timely action to contain losses and liquidity demands and continue to meet its obligations. In addition, the DM Policy sets forth OCC's processes for managing annual default management testing, or more frequent testing following a change to OCC's default management

¹⁴ The DM Policy also provides that Clearing Members are required to participate in default management testing pursuant to OCC Rules 218(c) and (d). See Securities Exchange Act Release No. 80372 (April 4, 2017), 82 FR 17311 (April 10, 2017) (SR-OCC-2017-003).

¹⁵ 15 U.S.C. 78s(b)(2)(C).

¹⁶ 15 U.S.C. 78q-1(b)(3)(F).

¹⁷ 17 CFR 240.17Ad-22(e)(4)(ix), (e)(13).

¹⁸ 15 U.S.C. 78q-1(b)(3)(A).

¹⁹ 17 CFR 240.17Ad-22(e)(4)(ix).

²⁰ *Id.*

²¹ 17 CFR 240.17Ad-22(e)(13).

procedures. Accordingly, the Commission finds that these policies and procedures are consistent with the requirements in Rule 17Ad-22(e)(13).²²

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposed change is consistent with the requirements of the Act, and in particular, with the requirements of Section 17A of the Act²³ and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,²⁴ that the proposed rule change (SR-OCC-2017-010) be, and it hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated Authority.²⁵

Eduardo A. Aleman,
Assistant Secretary.

[FR Doc. 2017-27229 Filed 12-18-17; 8:45 am]

BILLING CODE 8011-01-P

DEPARTMENT OF STATE

[Public Notice: 10233]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: "Inventur—Art in Germany, 1943–55" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition "Inventur—Art in Germany, 1943–55," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Harvard Art Museums, Cambridge, Massachusetts, from on or about February 9, 2018, until on or about June 3, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202-632-6471; email: section2459@state.gov). The mailing address is U.S. Department of State, L/PD, SA-5, Suite 5H03, Washington, DC 20522-0505.

²² *Id.*

²³ In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

²⁴ 15 U.S.C. 78s(b)(2).

²⁵ 17 CFR 200.30-3(a)(12).

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236-3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257-1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017-27252 Filed 12-18-17; 8:45 am]

BILLING CODE 4710-05-P

DEPARTMENT OF STATE

[Public Notice: 10234]

Notice of Public Meeting

The Department of State will conduct an open meeting at 9:00 a.m. on Wednesday, January 10, 2018, in room 6K15-15 of the Douglas A. Munro Coast Guard Headquarters Building at St. Elizabeth's, 2703 Martin Luther King Jr. Avenue SE, Washington, DC, 20593. The primary purpose of the meeting is to prepare for the Fifth session of the International Maritime Organization's (IMO) Sub-Committee on Ship Design and Construction to be held at the IMO headquarters, London, United Kingdom, January 22-26, 2018.

The agenda items to be considered include:

- Adoption of the agenda
- Decisions of other bodies
- Amendments to SOLAS regulations II-1/8-1 on the availability of passenger ships' electrical power supply in cases of flooding from side raking damage (5.2.1.13)
- Computerized stability support for the master in case of flooding for existing passenger ships (5.2.1.7)
- Review SOLAS chapter II-1, parts B-2 to B-4, to ensure consistency with parts B and B-1 with regard to watertight integrity
- Finalization of second generation intact stability criteria (5.2.1.12)
- Mandatory instrument and/or provisions addressing safety standards for the carriage of more than 12 industrial personnel on board vessels engaged on international voyages (5.2.1.4)
- Amendments to the 2011 ESP Code (2.0.1.1)

- Unified interpretation to provisions of IMO safety, security, and environment-related Conventions (1.1.2.3)
- Revised SOLAS regulation II-1/3-8 and associated guidelines (MSC.1/Circ.1175) and new guidelines for safe mooring operations for all ships (5.2.1.1)
- Guidelines for wing-in-ground craft (5.2.1.23)
- Biennial status report and provisional agenda for SDC 6
- Election of Chairman and Vice-Chairman for 2019
- Any other business
- Report to the Maritime Safety Committee

Members of the public may attend this meeting up to the seating capacity of the room. Upon request to the meeting coordinator, members of the public may also participate via teleconference. To facilitate the building security process, and to request reasonable accommodation, those who plan to attend should contact the meeting coordinator, LT Jonathan Duffett, by email at Jonathan.B.Duffett@uscg.mil, or by phone at (202) 372-1022, or in writing at 2703 Martin Luther King Jr. Ave. SE., Stop 7509, Washington DC 20593-7509 not later than January 3, 2018, seven days prior to the meeting. Requests made after January 3, 2018 might not be able to be accommodated. Please note that due to security considerations, two valid, government issued photo identifications must be presented to gain entrance to the Coast Guard Headquarters building. The building is accessible by taxi, public transportation, and privately owned conveyance (upon request). In the case of inclement weather where the U.S. Government is closed or delayed, a public meeting may be conducted virtually by calling (202) 475-4000 or 1-855-475-2447, Participant code: 887 809 72#. The meeting coordinator will confirm whether the virtual public meeting will be utilized. Members of the public can find out whether the U.S. Government is delayed or closed by visiting www.opm.gov/status/. Additional information regarding this and other IMO public meetings may be found at: www.uscg.mil/imo.

Joel C. Coito,

Coast Guard Liaison Officer, Office of Ocean and Polar Affairs, Department of State.

[FR Doc. 2017-27253 Filed 12-18-17; 8:45 am]

BILLING CODE 4710-09-P

DEPARTMENT OF TRANSPORTATION**Federal Highway Administration****[FHWA Docket No. FHWA–2016–0020]****Productive and Timely Expenditure of Funds**

AGENCY: Federal Highway Administration (FHWA), U.S. Department of Transportation.

ACTION: Notice.

SUMMARY: This notice announces the FHWA website, “FAST Act Section 1421—Programmatic Approaches to Project Delivery,” where information and guidance on improving project delivery is consolidated to encourage implementation of approaches, techniques, and best practices to facilitate the productive, effective, and timely expenditure of title 23, United States Code, funds. Consistent implementation of the information and guidance provided on the website will serve to assist Federal-aid recipients in effectively using Federal funds by avoiding unnecessary, costly project delays and minimizing project cost overruns.

DATES: The date of this notice is December 19, 2017.

FOR FURTHER INFORMATION CONTACT: Mr. Gerald Yakowenko, FHWA Office of Program Administration, 202–366–1562, or via email at gerald.yakowenko@dot.gov. For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202–366–1373, or via email at jomar.maldonado@dot.gov. Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., ET, Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:**Electronic Access**

An electronic copy of this document may be downloaded from the **Federal Register’s** home page at: <http://www.archives.gov> and the Government Publishing Office’s Federal Digital System at: <http://www.fdsys.gov>.

Background

On August 30, 2016, at 81 FR 59717, FHWA published a notice and request for comments to identify any readily available information resources on programmatic approaches to improve project delivery through avoidance of unnecessary delays, and minimizing of cost overruns in compliance with the Section 1421 of the Fixing America’s Surface Transportation (FAST) Act. To comply with Section 1421, “Productive and Timely Expenditure of Funds,” FHWA developed a test website where

sample information resources on programmatic agreements, approaches, techniques, and best practices were consolidated for ease of access, and to encourage and ensure consistent implementation. *The test website was used for illustrative purpose to obtain input from commenters on the content to be included on the final website.*

Discussion of Comments**I. Summary**

All comments received in response to the initial notice and request for comments have been considered in adopting this final notice. Comments were received from one representative of the Maryland Department of Transportation State Highway Administration (MDOT SHA). The following discussion identifies and summarizes the comments submitted by the commenter in response to the August 30, 2016, notice, as well as FHWA’s response to those comments.

II. Analysis of and Response to Comments on the Test Website

Comment 1: A representative of MDOT SHA recommended adding a number of Maryland-specific information on programmatic agreements, procedures, and memorandum of agreements to the FAST Act Section 1421 website.

FHWA’s Response 1: The comments provided by MDOT SHA were State-specific, not national; therefore, FHWA did not incorporate those comments into the final FAST Act Section 1421 website. Since the August 30, 2016, notice, FHWA has developed an Environmental Review Toolkit website that included information on programmatic agreements and approaches to accelerate project delivery. State-specific resources could be provided on the FHWA State Practice Database accessed from the Environmental Review Toolkit website, or directly at: <https://www.environment.fhwa.dot.gov/strmlng/es3stateprac.asp>.

Comment 2: The MDOT SHA recommended including the U.S. Fish and Wildlife Service planning tool, “IPaC Information for Planning and Consultation,” for streamlining the environmental review process.

FHWA’s Response 2: The FHWA agrees with the commenter and will add the U.S. Fish and Wildlife Service planning tool to the final FAST Act Section 1421 website.

Final FAST Act Section 1421 Website

The FHWA established the test FHWA website, “FAST Act Section 1421—Programmatic Approaches to

Project Delivery,” for notice and public comment on August 30, 2016. After considering all the comments, FHWA has incorporated appropriate revisions into the final FAST Act Section 1421 website. As such, the final FHWA FAST Act Section 1421 website can be found at: <http://www.fhwa.dot.gov/construction/contracts/section1421.cfm>.

Issued on: December 12, 2017.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2017–27270 Filed 12–18–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION**Federal Motor Carrier Safety Administration****[Docket No. FMCSA–2017–0108]****Hours of Service of Drivers of Commercial Motor Vehicles: Proposed Regulatory Guidance Concerning the Use of a Commercial Motor Vehicle for Personal Conveyance**

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of regulatory guidance; request for comments.

SUMMARY: FMCSA is proposing to revise the regulatory guidance concerning driving a commercial motor vehicle (CMV) for personal use while off-duty, referred to as “personal conveyance.” This provision is available to all CMV drivers required to record their hours of service (HOS) who are permitted by their employer to use the vehicle for personal use. The Agency requests public comments on the guidance and its economic impact.

DATES: Comments are due by January 18, 2018.

ADDRESSES: You may submit comments bearing the Federal Docket Management System (FDMS) Docket ID FMCSA–2017–0108 using any of the following methods:

- *Federal eRulemaking Portal:* Go to www.regulations.gov. Follow the on-line instructions for submitting comments.
- *Mail:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal Holidays.
- *Fax:* 1–202–493–2251.

Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to www.regulations.gov, including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to www.regulations.gov at any time or visit Room W12-140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year. If you want acknowledgment that we received your comments, please include a self-addressed, stamped envelope or postcard or print the acknowledgement page that appears after submitting comments on-line.

Privacy Act: DOT solicits comments from the public to better inform its guidance 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.

FOR FURTHER INFORMATION CONTACT: For information concerning this notice contact Ms. LaTonya Mimms, Transportation Specialist, Enforcement Division, FMCSA. Ms. Mimms may be reached at 202-366-0991 and by email at LaTonya.Mimms@dot.gov. If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366-9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA-2017-0108), indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comment online, go to <http://www.regulations.gov> and put the docket number, “FMCSA-2017-0108” in the “Keyword” box, and click “Search.” When the new screen appears, click on “Comment Now!” button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope.

FMCSA will consider all comments and material received during the comment period and may change this notice based on your comments.

Viewing Comments and Documents

To view comments, as well as documents mentioned in this preamble as being available in the docket, go to <http://www.regulations.gov> and insert the docket number, “FMCSA-2017-0108” in the “Keyword” box and click “Search.” Next, click “Open Docket Folder” button and choose the document listed to review. If you do not have access to the internet, you may view the docket online by visiting the Docket Management Facility in Room W12-140 on the ground floor of the DOT West Building, 1200 New Jersey Avenue SE, Washington, DC 20590, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays.

II. Background

Currently, the Federal Motor Carrier Safety Regulations (FMCSRs) require drivers to document their HOS on records of duty status (RODS), identifying one of four duty status options: On-duty (non-driving), driving, sleeper berth, and off-duty (49 CFR 395.8). As a result, when personal conveyance in a CMV is authorized by the motor carrier, drivers are required to document such use as off-duty on their RODS, irrespective of the method used to record the driver’s HOS (e.g., paper logs, automatic on-board recording device, electronic logging devices (ELDs), etc.)

The minimum performance and design standards for ELDs in the Agency’s final rule on “Implementation of Electronic Logging Devices and Hours of Service Supporting Documents” (ELD rule) include the automatic recording of data related to the off-duty movement of the CMV. As part of the ELD rule, ELD

manufacturers are required to include a special driving category for personal conveyance. This may be used at the motor carrier’s discretion, based on their operations. In addition, motor carriers may grant drivers authority to operate a CMV under personal conveyance without preconfiguring the ELD with the personal conveyance special driving category.

The existing guidance on personal conveyance (49 CFR 395.8, Question 26) was issued by the Federal Highway Administration (FHWA), FMCSA’s predecessor agency, in a memorandum dated November 18, 1996, and later published in a compilation of guidance (62 FR 16370, 16426, April 4, 1997). The guidance reiterated the basic principle that a driver in off-duty status must be relieved from work and all responsibility for performing work. It highlighted the use of the CMV as a personal conveyance in traveling to and from the place of employment (e.g., the normal work reporting location). The 1997 guidance included discussion of CMVs used to travel “short distances” from a driver’s en route lodgings to restaurants in the vicinity of such lodgings. In addition, the 1997 guidance explicitly excluded the use of laden vehicles as personal conveyance and the operation of the CMV as personal conveyance by drivers who have been placed out of service for HOS violations. The guidance has remained unchanged since 1997.

In issuing today’s proposed revision to the guidance, the Agency focuses on the reason the driver is operating a CMV while off duty, without regard to whether the CMV is or is not laden. The previous guidance, which required the CMV to be unladen, was written for combination vehicles, where the driver could readily detach the trailer and use the unladen tractor for personal conveyance. This interpretation had the inadvertent effect of not allowing drivers of single-unit work trucks that carry loads, as well as tools of trade and related materials, on the power unit to document this off-duty time on the RODS. In the absence of a trailer, these loads, tools, and other equipment cannot reasonably be offloaded, left unattended, and reloaded after the power unit has been used for personal conveyance. This proposed revision to the guidance eliminates the requirement that the CMV be unladen and thus the disparate impact created by the previous guidance.

FMCSA’s regulatory guidance for the FMCSRs is currently available on the Agency’s website at <https://www.fmcsa.dot.gov/regulations>.

Question 26 under section 49 CFR 395.8 currently reads as follows:

Question 26: If a driver is permitted to use a Commercial Motor Vehicle (CMV) for personal reasons, how must the driving time be recorded?

Guidance: When a driver is relieved from work and all responsibility for performing work, time spent traveling from a driver's home to his/her terminal (normal work reporting location), or from a driver's terminal to his/her home, may be considered off-duty time. Similarly, time spent traveling short distances from a driver's en route lodgings (such as en route terminals or motels) to restaurants in the vicinity of such lodgings may be considered off-duty time. The type of conveyance used from the terminal to the driver's home, from the driver's home to the terminal, or to restaurants in the vicinity of en route lodgings would not alter the situation unless the vehicle is laden. A driver may not operate a laden CMV as a personal conveyance. The driver who uses a motor carrier's Commercial Motor Vehicle (CMV) for transportation home, and is subsequently called by the employing carrier and is then dispatched from home, would be on-duty from the time the driver leaves home. A driver placed out of service for exceeding the requirements of the hours of service regulations may not drive a Commercial Motor Vehicle (CMV) to any location to obtain rest.

III. Proposed Guidance Language

FMCSA proposes to replace the above interpretation with the following revised Question 26 and seeks comments on this guidance. FMCSA also seeks public comments and information on other appropriate uses of a CMV while off-duty for personal conveyance, as well as the economic impacts of the proposal. FMCSA proposes to update the guidance for § 395.8 Driver's Record of Duty Status to read as follows:

Question 26: Under what circumstances may a driver operate a commercial motor vehicle (CMV) as a personal conveyance?

Guidance: A driver may record time operating a CMV for personal conveyance (*i.e.*, for personal use or reasons) as off-duty only when the driver is relieved from work and all responsibility for performing work.

(a) Examples of appropriate uses of a CMV while off-duty for personal conveyance include, but are not limited to:

1. Time spent traveling from a driver's en route lodging (such as a motel or truck stop) to restaurants and entertainment facilities and back to the lodging.

2. Commuting from the last location where on-duty activity occurred to the driver's permanent residence and back to that last on-duty location. This would include commuting between the driver's

terminal and his or her residence, between trailer-drop lots and the driver's residence, and between work sites and his or her residence.

(b) Examples of uses of a CMV that would not qualify as personal conveyance include, but are not limited to, the following:

1. The movement of a CMV to enhance the operational readiness of a motor carrier. For example, moving the CMV closer to its next loading or unloading point or other motor carrier-scheduled destination, regardless of other factors.

2. After delivering a towed unit, and the towing unit no longer meets the definition of a CMV, the driver returns to the point of origin under the direction of the motor carrier in order to pick up another towed unit.

3. Continuation of a CMV trip in interstate commerce, even after the vehicle is unloaded. In this scenario, on-duty time does not end until the driver reaches a location designated or authorized by the carrier for parking or storage of the CMV, such as a permanent residence, authorized lodging, or home terminal.

4. Bobtailing or operating with an empty trailer to retrieve another load.

5. Repositioning a CMV and or trailer at the direction of the motor carrier.

The CMV may be used for personal conveyance even if it is laden, since the load is not being transported for the commercial benefit of the carrier at that time.

IV. Expiration Date of the Proposed Regulatory Guidance

In accordance with section 5203(a)(2)(A) and (a)(3) of the Fixing America's Surface Transportation (FAST) Act, Public Law 114-94, 129 Stat. 1312, 1535 (Dec. 4, 2015), the proposed regulatory guidance would be posted on FMCSA's website, www.fmcsa.dot.gov, if finalized. It would be reviewed by the Agency no later than December 19, 2022. The Agency would consider at that time whether the guidance should be withdrawn, reissued for another period up to five years, or incorporated into the safety regulations.

V. Request for Comments

Refer to the **ADDRESSES** section above for instructions on submitting comments to the public docket concerning this regulatory guidance. The FMCSA will consider comments received by the closing date of the comment period to determine whether any further clarification of these regulatory provisions is necessary. In addition to general comments

concerning the guidance, the Agency is seeking information on the following:

1. Which carriers or drivers would take advantage of the additional flexibilities proposed in this guidance?

2. Are there particular segments of the industry that would take advantage of this change more than others?

3. Are there some carriers or segments of the industry that would prohibit their drivers from driving laden vehicles for personal conveyance?

4. For what reasons would a carrier prohibit drivers from driving a laden vehicle for personal conveyance?

5. What benefits would the new flexibilities provide to carriers and drivers?

Issued on: December 13, 2017.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2017-27315 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-EX-P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA-2010-0057]

Canadian National Railway's Request for Positive Train Control Safety Plan Approval and System Certification

AGENCY: Federal Railroad Administration (FRA), U.S. Department of Transportation (DOT).

ACTION: Notice of availability and request for comments.

SUMMARY: This document provides the public with notice that Canadian National Railway (CN) submitted to FRA its Positive Train Control Safety Plan (PTCSP) Version 1.6, dated October 30, 2017, on FRA's Secure Information Repository site on November 9, 2017. CN asks FRA to approve its PTCSP and issue a Positive Train Control System Certification for CN's Interoperable Electronic Train Management System (I-ETMS).

DATES: FRA will consider comments received by January 18, 2018 before taking final action on the PTCSP. FRA may consider comments received after that date if practicable.

ADDRESSES: All comments concerning this proceeding should identify Docket Number FRA-2010-0057, and may be submitted by any of the following methods:

- *Website:* <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.

FOR FURTHER INFORMATION CONTACT: Dr. Mark Hartong, Senior Scientific Technical Advisor, at (202) 493-1332, or *Mark.Hartong@dot.gov*; or Mr. David Blackmore, Staff Director, Positive Train Control Division, at (312) 835-3903, or *David.Blackmore@dot.gov*.

SUPPLEMENTARY INFORMATION: In its PTCSP, CN asserts that the I-ETMS system is designed as a vital overlay PTC system as defined in 49 CFR 236.1015(e)(2). The PTCSP describes CN's I-ETMS implementation and the associated I-ETMS safety processes, safety analyses, and test, validation, and verification processes used during the development of I-ETMS. The PTCSP also contains CN's operational and support requirements and procedures.

CN's PTCSP and the accompanying request for approval and system certification are available for review online at *www.regulations.gov* (Docket Number FRA-2010-0057), and in person at DOT's Docket Operations Facility, 1200 New Jersey Avenue SE, W12-140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to comment on the PTCSP by submitting written comments or data. During its review of the PTCSP, FRA will consider any comments or data submitted. However, FRA may elect not to respond to any particular comment and, under 49 CFR 236.1009(d)(3), FRA maintains the authority to approve or disapprove the PTCSP at its sole discretion. FRA does not anticipate scheduling a public hearing regarding CN's PTCSP because the circumstances do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, the party should notify FRA in writing before the end of the comment period and specify the basis for his or her request.

Privacy Act Notice

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). In accordance with 49 CFR 211.3, FRA solicits comments from the public to better inform its decisions. 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 *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov*.

Robert C. Lauby,
Associate Administrator for Railroad Safety,
Chief Safety Officer.

[FR Doc. 2017-27256 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-06-P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket Number MARAD-2017-0200]

Waiver Request for Aquaculture Support Operations for the 2018 Calendar Year: RONJA CARRIER, COLBY PERCE, SADIE JANE

AGENCY: Maritime Administration.

ACTION: Notice and request for comments

SUMMARY: Pursuant to a delegation of authority from the Secretary of Transportation, the Maritime Administrator is authorized to issue waivers allowing documented vessels with only registry endorsements or foreign flag vessels to be used in domestic operations that treat aquaculture fish or protect aquaculture fish from disease, parasitic infestation, or other threats to their health when suitable vessels of the United States are not available that could perform those services. A request for such a waiver has been received by the Maritime Administration (MARAD). This notice is being published to solicit comments intended to assist MARAD in determining whether suitable vessels of the United States are available that could perform the required services. If no suitable U.S.-flag vessels are available, the Maritime Administrator may issue a waiver necessary to comply with USCG Aquaculture Support regulations. A brief description of the proposed aquaculture support service is listed in the Supplementary Information section below.

DATES: Submit comments on or before January 18, 2018.

ADDRESSES: You may submit comments identified by DOT Docket Number MARAD-2017-0200 by any of the following methods:

- *On-line via the Federal Electronic Portal:* *http://www.regulations.gov*.

Search using "MARAD-2017-0200" and follow the instructions for submitting comments.

- *Mail/Hand-Delivery/Courier:* Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W12-140, Washington, DC 20590. Submit comments in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing.

Reference Materials and Docket Information: You may view the complete application, including the aquaculture support technical service requirements, and all public comments at the DOT Docket on-line via *http://www.regulations.gov*. Search using "MARAD-2017-0200." All comments received will be posted without change to the docket, including any personal information provided. The Docket Management Facility is open 9:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT:

Bianca Carr, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE, Room W23-453, Washington, DC 20590. Telephone 202-366-9309, Email *Bianca.carr@dot.gov*.

If you have questions on viewing the Docket, call Docket Operations, telephone: (800) 647-5527.

SUPPLEMENTARY INFORMATION: As a result of the enactment of the Coast Guard Authorization Act of 2010, codified at 46 U.S.C. 12102, the Secretary of Transportation has the discretionary authority to issue waivers allowing documented vessels with registry endorsements or foreign flag vessels to be used in operations that treat aquaculture fish for or protect aquaculture fish from disease, parasitic infestation, or other threats to their health when suitable vessels of the United States are not available that could perform those services. The Secretary has delegated this authority to the Maritime Administrator. Pursuant to this authority, MARAD is providing notice of the service requirements proposed by Cooke Aquaculture (Cooke) in order to make a U.S.-flag vessel availability determination. Specifics can be found in Cooke's application letter posted in the docket.

To comply with USCG Aquaculture Support regulations at 46 CFR part 106, Cooke is seeking a MARAD Aquaculture Waiver to operate the vessels RONJA CARRIER, COLBY PERCE, and SADIE JANE as follows:

Intended Commercial Use of Vessel: "to use highly-specialized foreign-flag vessels referred to as a "wellboat" (or

“live fish carrier”) to treat Cooke’s swimming inventory of farmed Atlantic salmon in the company’s salt-water grow-out pens off Maine’s North Atlantic Coast. This treatment prevents against parasitic infestation by sea lice that is highly destructive to the salmon’s health.”

Geographic Region: “off Maine’s North Atlantic Coast”.

Requested Time Period: “2018 calendar year, from January 1 2018 to December 31, 2018” Interested parties may submit comments providing detailed information relating to the availability of U.S.-flag vessels to perform the required aquaculture support services. If MARAD determines, in accordance with 46 U.S.C. 12102(d)(1) and MARAD’s regulations at 46 CFR part 388, that suitable U.S.-flag vessels are available to perform the required services, a waiver will not be granted. Comments should refer to the docket number of this notice in order for MARAD to properly consider the comments. Comments should also state the commenter’s interest in the waiver application.

Privacy Act

In accordance with 5 U.S.C. 553(c), MARAD solicits comments from the public to inform its process to determine the availability of suitable vessels. DOT posts these comments, without edit, to www.regulations.gov, as described in the system of records notice, DOT/ALL-14 FDMS, accessible through www.dot.gov/privacy. To facilitate comment tracking and response, we encourage commenters to provide their name, or the name of their organization; however, submission of names is completely optional. Whether or not commenters identify themselves, all timely comments will be fully considered. If you wish to provide comments containing proprietary or confidential information, please contact the agency for alternate submission instructions.

(Authority: 49 CFR 1.93(w))

* * * * *

Dated: December 14, 2017.

By Order of the Maritime Administrator.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017-27271 Filed 12-18-17; 8:45 am]

BILLING CODE 4910-81-P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. NHTSA-2017-0083]

Reports, Forms, and Record Keeping Requirements

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

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below is being forwarded to the Office of Management and Budget (OMB) for review and comments. A **Federal Register** Notice with a 60-day comment period soliciting comments on the following information was published on September 15, 2017.

DATES: Comments must be received on or before January 18, 2018.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Management and Budget, Attention: NHTSA Desk Officer, 725 17th Street NW, Washington, DC 20503.

Comments are invited on the following:

- i. Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, 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.

FOR FURTHER INFORMATION CONTACT: Ms. Debbie Sweet, NHTSA, 1200 New Jersey Avenue SE, Washington, DC 20590; Telephone (202) 366-7179; Fax: (202) 366-2106; email address: Debbie.Sweet@dot.gov. For access to the docket to read background documents, go to <http://www.regulations.gov> or the street address listed above. Follow the online instructions for accessing the dockets.

SUPPLEMENTARY INFORMATION:

Title: Automated Driving Systems 2.0: A Vision for Safety.

OMB Clearance Number: 2127-0723.

Type of Request: Modification of a currently approved information collection.

Abstract: In a separate notice published in the **Federal Register** on September 15, the Department of Transportation announced the publication of Voluntary Guidance titled *Automated Driving Systems 2.0: A Vision for Safety*. Recognizing the potential that Automated Driving Systems (ADSs) have to enhance safety and mobility, *Automated Driving Systems 2.0* sets out to support the safe testing and deployment of Automated Driving Systems (SAE Automation Levels 3 through 5—Conditional, High, and Full Automation Systems as defined in SAE J3016) on public roads. *Automated Driving Systems 2.0: A Vision for Safety* contains two primary sections: Voluntary Guidance for Automated Driving Systems and Technical Assistance to States.

Consistent with its statutory purpose to reduce traffic crashes and deaths and injuries resulting from traffic crashes, NHTSA is amending its recommendations for recordkeeping and disclosure of information related to automated vehicle technologies by vehicle manufacturers and other entities as described in the Voluntary Guidance section of *Automated Driving Systems 2.0: A Vision for Safety*. Specifically, NHTSA recommends that manufacturers and other entities assess their ADS-equipped vehicle against specific safety elements (which were developed from industry best practices, existing research, and public input) and document that assessment. Further, the Voluntary Guidance recommends that entities summarize that assessment and then voluntarily disclose that summary to the public. The section Technical Assistance to States contains no information collection and thus no associated burden.

The Voluntary Guidance is meant to help entities evaluate and achieve safety goals while assisting states and the public in understanding how safety is being considered by manufacturers and other entities developing and testing ADSs. By encouraging documentation, recordkeeping, and disclosures, NHTSA hopes to encourage safe system design while speeding the safe deployment of these potentially life-saving technologies and reducing crashes that occur on the nation’s roadways.

As stipulated in the September 15, 2017 **Federal Register** notice announcing the proposed collection of information (81 FR 43450), the burden estimates are based on the Agency’s present understanding of the ADS market and the time associated with

following the Voluntary Guidance, generating a self-assessment, and voluntarily making a summary of that self-assessment public.

In summary, NHTSA believes there will be 60 respondents annually during the three years covered by this information collection request. The modification from the previous estimate considers the addition of new entrants as well as the fact that many entities have already begun testing automated vehicles and thus are already included in the figure. The adjustments of burden hours from the previously approved collection are a result of the following changes to the Voluntary Guidance: reducing the number of priority safety design elements for consideration from 15 to 12, removing data sharing from the data element in the Voluntary Guidance, and limiting the scope to SAE system levels 3–5 rather than levels 2–5. NHTSA estimates the total burden associated with conforming to the documentation and disclosure recommendations contained in the Voluntary Guidance would be 1,435 hours per manufacturer or entity per year. The estimated cost for following this Voluntary Guidance is \$100 per hour. Therefore, the total annual cost is estimated to be \$8,610,000 (1,435 hours × 60 respondents × \$100/hour).

Affected Public: Business or other for-profit.

Estimated Number of Respondents: 60.

Estimated Number of Responses: 60.

Annual Estimated Total Annual Burden Hours: 86,100 hours.

Frequency of Collection: Annual.

NHTSA published a notice announcing the proposed collection of information pursuant to 44 U.S.C 3501 *et seq.* and providing a 60-day comment period (81 FR 43450). The Agency received 4 comments on this notice. Two of the four comments did not pertain to Automated Driving Systems, vehicles, automation technology, or the estimated burden associated with *Automated Driving Systems 2.0*. Rather, they provided comments regarding various other Congressional Acts previously passed. One of the four comments pertained to the *Automated Driving Systems 2.0* document in general with no comments regarding paperwork burden.

The final of the four comments cited support for the implementation of *ADS 2.0* and urges entities to implement the Voluntary Guidance. The commenter also maintains that “information sharing leads to transparency, which leads to public trust, and should be a clear part of a duty and responsibility to advance the safety of vehicles.” However, the

commenter offers the information collection could be “inadequate for the agency to perform its functions related to the safety of ADSs.” This is based on the Department’s removal of safety elements pertaining to Ethical Considerations, Privacy, and removal of Data Sharing from the Data Collection safety element as well as removing Level 2 ADSs from the scope of the Voluntary Guidance.

NHTSA and the Department focused the Voluntary Guidance on SAE Automation Levels 3 through 5 in order to focus on systems in which the system takes over full control of the vehicle, including monitoring of the environment. However, parts of the Voluntary Guidance could be applied to any level of automation, and NHTSA recommends companies use them for safe testing and development.

With respect to the changes in the safety elements, NHTSA reviewed the safety elements from the Federal Automated Vehicles Policy in conjunction with public comments and focused elements on those that affect motor vehicle safety, have consensus around acceptable considerations, and have feasible metrics for evaluation. As privacy is not directly relevant to motor vehicle safety and, generally, is under the protection of the Federal Trade Commission, this safety element was removed from the Voluntary Guidance. Ethical considerations, while essential to automated driving technology development, there is currently no consensus around acceptable ethical decision-making, and there are no metrics against which to evaluate. NHTSA plans to work with stakeholders to further research this area. Data sharing was removed from a safety element, as the agency has chosen to focus on data recording needed for crash reconstruction. NHTSA is working with industry to voluntarily collaborate on data sharing and appropriate new safety metric development. As such, NHTSA believes that removal of these safety elements and components does not diminish the usefulness of data that would be voluntarily disclosed through the Voluntary Safety Self-Assessment. And though these safety elements are currently not in the Voluntary Guidance, NHTSA continues to emphasize the importance of all these aspects of ADSs throughout design, testing, and deployment of ADSs.

It is important to note that the *Automated Driving Systems 2.0: A Vision for Safety* was effective on September 15, 2017, and is intended to be updated frequently. Therefore, the burden hours outlined in the 60-day notice and this subsequent 30-day

notice are reflective of that version of the policy. If the agency significantly changes the burden with any future updates, further modifications will be sought.

The 60-day **Federal Register** notice published on September 15, 2017 estimated 50 respondents annually based on the number of entities registered to test in California as of August 30, 2017. The number of entities registered to test in California has since increased to 45 as of November 16, 2017. Thus, NHTSA has increased the estimated number of respondents annually from 50 to 60.

The actual number of burden hours estimated per entity each year has not changed since the September 15, 2017 **Federal Register** notice. That notice (81 FR 43450) detailed modifications to the calculation of burden hours (based on the limiting of scope and removal of safety elements) since the January 2017 OMB clearance for information collection.

Considering the increase in number of respondents and the same number of estimated burden hours per respondent, the total number of burden hours increased from 71,750 hours to 86,100 hours, and the total estimated annual cost from \$7,175,000 to \$8,610,000. This is the only change in burden hours since the previous 60-day notice.

Authority: 44 U.S.C. Section 3506(c)(2)(A).

Nathaniel Beuse,

Associate Administrator for Vehicle Safety Research.

[FR Doc. 2017–27273 Filed 12–18–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Bureau of the Fiscal Service

Proposed Collection of Information: Claim Against the United States for the Proceeds of a Government Check

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently the Bureau of the Fiscal Service within the Department of the Treasury is soliciting comments concerning Fiscal Service Form 1133—Claim Against the United States for the Proceeds of a Government Check.

DATES: Written comments should be received on or before February 20, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments and requests for additional information to Bureau of the Fiscal Service, Bruce A. Sharp, 200 Third Street A4-A, Parkersburg, WV 26106-1328, or bruce.sharp@fiscal.treasury.gov.

SUPPLEMENTARY INFORMATION:

Title: Claim Against the United States for the Proceeds of a Government Check.

OMB Number: 1530-0010.

Form Number: FS Form 1133.

Abstract: Form FMS 1133 is used to collect information needed to process an individual's claim for non-receipt of proceeds from a U.S. Treasury check. Once the information is analyzed, a determination is made and a recommendation is submitted to the program agency to either settle or deny the claim.

Current Actions: It has become necessary to introduce a similar form to address non-receipt of electronic benefit payments. It is estimated that an additional 4,000 annual burden hours will be experienced for collection and analysis of the information provided in the claim form, and subsequent actions necessary to reconcile the claim.

Current Actions: Extension of a currently approved collection.

Type of Review: Regular.

Affected Public: Individuals or Households.

Estimated Number of Respondents: 51,640.

Estimated Time per Respondent: 10 minutes.

Estimated Total Annual Burden Hours: 8,607.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (1) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (2) the accuracy of the agency's estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Dated: December 14, 2017.

Bruce A. Sharp,

Bureau Clearance Officer.

[FR Doc. 2017-27312 Filed 12-18-17; 8:45 am]

BILLING CODE 4810-AS-P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section for effective date(s).

FOR FURTHER INFORMATION CONTACT:

OFAC: Associate Director for Global Targeting, tel.: 202/622-2420, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202/622-2490, Assistant Director for Licensing, tel.: 202/622-2480; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202/622-2410 (not toll free numbers).

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available from OFAC's website (www.treasury.gov/ofac).

Notice of OFAC Actions

On December 13, 2017, OFAC's Director determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked pursuant to the relevant sanctions authorities listed below:

Individuals

1. LUKWANG, Okot (a.k.a. LUKWONG, Okot; a.k.a. LOKWANG, Okot; a.k.a. LUKWENG, Okot), Songo, Kafia Kingi; Central African Republic; DOB 1975; alt. DOB 1974; alt. DOB 1976; alt. DOB 1981; alt. DOB 1982; alt. DOB 1980; POB Palabek, Uganda; alt.

POB Padibe Lamwu District, Uganda; nationality Uganda; (individual) [CAR].

Designated pursuant to section 1(a)(ii)(E) of Executive Order 13667 of May 12, 2014, "Blocking Property of Certain Persons Contributing to the Conflict in the Central African Republic" (E.O. 13667) for being owned or controlled by, or having acted or purported to act for or on behalf of, directly or indirectly, the Lord's Resistance Army, an entity whose property and interests in property are blocked pursuant to E.O. 13667.

2. HATARI, Musa (a.k.a. ATARI, Musah; a.k.a. ATAR, Mussa; a.k.a. TAHIR, Musa; a.k.a. TARA, Musah; a.k.a. TARAK, Musah; a.k.a. TARK, Musa; a.k.a. MUSA, Atari), Songo, Kafia Kingi; DOB 1965; alt. DOB 1964; alt. DOB 1966; nationality Sudan; (individual) [CAR].

Designated pursuant to section 1(a)(ii)(D) of E.O. 13667 for having materially assisted, sponsored, or provided financial, material, logistical, or technological support for, or goods or services in support of, the Lord's Resistance Army, an entity whose property and interests in property are blocked pursuant to E.O. 13667.

Dated: December 13, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017-27245 Filed 12-18-17; 8:45 am]

BILLING CODE 4810-AL-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information collection requirements related to continuation coverage requirements application to group health plans.

DATES: Written comments should be received on or before February 20, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue

Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the form should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Continuation Coverage Requirements Application to Group Health Plans.

OMB Number: 1545-1581.

Regulation Project Number: REG-209485-86 (TD 8812).

Abstract: The regulations require group health plans to provide notices to individuals who are entitled to elect COBRA (The Consolidated Omnibus Budget Reconciliation Act of 1985) continuation coverage of their election rights. Individuals who wish to obtain the benefits provided under the statute are required to provide plans notices in the cases of divorce from the covered employee, a dependent child's ceasing to be dependent under the terms of the plan, and disability. Most plans will require that elections of COBRA continuation coverage be made in writing. In cases where qualified beneficiaries are short by an insignificant amount in a payment made to the plan, the regulations require the plan to notify the qualified beneficiary if the plan does not wish to treat the tendered payment as full payment. If a health care provider contacts a plan to confirm coverage of a qualified beneficiary, the regulations require that the plan disclose the qualified beneficiary's complete rights to coverage.

Current Actions: There are no changes to the paperwork burden previously approved by OMB.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and not-for-profit institutions.

Estimated Number of Respondents: 1,800,000.

The estimated time per respondent varies from 30 seconds to 330 hours, depending on individual circumstances, with an estimated average of 14 minutes.

Estimated Total Annual Burden Hours: 404,640.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to

respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 13, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-27318 Filed 12-18-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning information returns of U.S. persons with respect to foreign disregarded entities, and transactions between foreign disregarded entity of a foreign tax owner and the filer on other related entities.

DATES: Written comments should be received on or before February 20, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT:

Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at (202) 317-5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224, or through the internet, at Kerry.Dennis@irs.gov.

SUPPLEMENTARY INFORMATION:

Title: Information Return of U.S. Persons With Respect To Foreign Disregarded Entities and Transaction Between Foreign Disregarded Entity of a Foreign Tax Owner and the Filer on Other Related Entities.

OMB Number: 1545-1910.

Form Number: Form 8858 and Form 8858 Sch M.

Abstract: Form 8858 and Schedule M are used by certain U.S. persons that own a foreign disregarded entity (FDE) directly or, in certain circumstances, indirectly or constructively.

Current Actions: There are no changes being made to these forms at this time. However, the agency has updated the number of respondents based on most recent data. This figure only represents all "other filers", as individual filing data is being reported under 1545-0074 and business data is being reported under 1545-0123.

Type of Review: Revision of a currently approved collection.

Affected Public: Business or other for-profit organizations, and individuals or households.

Form 8858:

Estimated Number of Respondents: 20,000.

Estimated Time per Respondent: 26.75 hours.

Estimated Total Annual Burden Hours: 535,000 hours.

Form 8858 (Sch M):

Estimated Number of Respondents: 8,000.

Estimated Time per Respondent: 24.75 hours.

Estimated Total Annual Burden Hours: 198,000 hours.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long

as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: December 13, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017-27319 Filed 12-18-17; 8:45 am]

BILLING CODE 4830-01-P

DEPARTMENT OF THE TREASURY

Agency Information Collection Activities; Proposed Collection; Comment Request; Small Business Lending Fund Quarterly Supplemental Report

AGENCY: Departmental Offices, U.S. Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on this continuing information collection, as required by the Paperwork Reduction Act of 1995. The public is invited to submit comments on the collection(s) listed below.

DATES: Written comments must be received on or before February 20, 2018.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestions for reducing the burden, to Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW, Suite 8142, Washington, DC 20220, or email at PRA@treasury.gov.

FOR FURTHER INFORMATION CONTACT:

Copies of the submissions may be obtained from Jennifer Leonard by emailing PRA@treasury.gov, calling (202) 622-0489, or viewing the entire information collection request at www.reginfo.gov.

SUPPLEMENTARY INFORMATION:

Title: Small Business Lending Fund Quarterly Supplemental Report.

OMB Control Number: 1505-0228.

Type of Review: Extension without change of a currently approved collection.

Abstract: Banks participating in the Small Business Lending Fund program are required to submit a Supplemental Report each quarter. The Supplemental Report is used to determine the bank's small business lending baseline and allows Treasury to assess the change in the small business lending for the previous quarter.

Form: TD F 102.3A, TD F 102.4.

Affected Public: Businesses or other for-profits.

Estimated Total Annual Burden Hours: 4,032.

Request for Comments: Comments submitted in response to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services required to provide information.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: December 13, 2017.

Spencer W. Clark,

Treasury PRA Clearance Officer.

[FR Doc. 2017-27247 Filed 12-18-17; 8:45 am]

BILLING CODE 4810-25-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0668]

Agency Information Collection Activity Under OMB Review: Supplemental Income Questionnaire (For Philippine Claims Only)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 18, 2018.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to oir_submission@omb.eop.gov. Please refer to "OMB Control No. 2900-0668" in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk, Department of Veterans Affairs, 811 Vermont Avenue, Floor 5, Area 368, Washington, DC 20420, (202) 461-5870 or email cynthia.harvey-pryor@va.gov. Please refer to "OMB Control No. 2900-0668" in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 1521, 1541, 1542.
Title: Supplemental Income Questionnaire (For Philippine Claims Only) (VA Form 21P-0784).

OMB Control Number: 2900-0668.

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: Eligibility to benefits may be established based on service in the Philippine Scouts, Commonwealth Army of the Philippines, or recognized guerrilla organizations (38 U.S.C. 107). Title 38 U.S.C. 1521, 1541, and 1542 provide for payment of Pension to eligible veterans, surviving spouses, and

surviving children. A claimant's eligibility for pension is determined, in part, by countable family income and net worth. Income information is requested by this form under the authority of 38 U.S.C. 1506.

VBA uses VA Form 21P-0784 to gather income information that is necessary to determine eligibility for Pension benefits. Entitlement to pension cannot be determined without complete information about a claimant's family income and net worth. Claimants residing in the Philippines have different types of income than claimants residing in the United States, and this form better captures those types of income than other VA Pension forms.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 47080 on October 10, 2017.

Affected Public: Individuals and households.

Estimated Annual Burden: 30 hours.
Estimated Average Burden per Respondent: 15 minutes.

Frequency of Response: Once.
Estimated Number of Respondents: 120.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017-27266 Filed 12-18-17; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0510]

Agency Information Collection Activity Under OMB Review: Application for Exclusion of Children's Income

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its

expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 18, 2018.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to oira_submission@omb.eop.gov. Please refer to "OMB Control No. 2900-0510" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk, Department of Veterans Affairs, 811 Vermont Avenue, Floor 5, Area 368, Washington, DC 20420, (202) 461-5870 or email cynthia.harvey-pryor@va.gov. Please refer to "OMB Control No. 2900-0510" in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 1521, 38 U.S.C. 1541.

Title: Application for Exclusion of Children's Income (VA Form 21P-0571).

OMB Control Number: 2900-0510.

Type of Review: Reinstatement without change of a previously approved collection.

Abstract: A veteran's or surviving spouse's rate of Improved Pension is determined by family income. Normally, income of children who are members of the household is included in this determination. However, children's income may be excluded if it is unavailable or if consideration of that income would cause hardship.

38 U.S.C. 1521(h) and 1541(g) provide the authority for the exclusion of children's income based on unavailability or hardship. VA Form 21P-0571, Application for Exclusion of Children's Income, is being transferred from Compensation Service to Pension and Fiduciary Service, due to changes in business lines.

VA Form 21P-0571 is used for the sole purpose of collecting the information needed to determine whether children's income is available to the beneficiary, and if it would cause hardship to consider their income.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 40781 on October 10, 2017.

Affected Public: Individuals and households.

Estimated Annual Burden: 2,025 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 2,700.

By direction of the Secretary:

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017-27264 Filed 12-18-17; 8:45 am]

BILLING CODE 8320-01-P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900-0545]

Agency Information Collection Activity Under OMB Review: Report of Medical, Legal, and Other Expenses Incident to Recovery for Injury or Death

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before January 18, 2018.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to oira_submission@omb.eop.gov. Please refer to "OMB Control No. 2900-0545" in any correspondence.

FOR FURTHER INFORMATION CONTACT:

Cynthia Harvey-Pryor, Office of Quality, Privacy and Risk, Department of Veterans Affairs, 811 Vermont Avenue, Floor 5, Area 368, Washington, DC 20420, (202) 461-5870 or email cynthia.harvey-pryor@va.gov. Please refer to "OMB Control No. 2900-0545" in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 1503.

Title: Report of Medical, Legal, and Other Expenses Incident to Recovery for Injury or Death (VA Form 21P-8416b).

OMB Control Number: 2900-0545.

Type of Review: Extension without change of a currently approved collection.

Abstract: Information is requested by this form under the authority of 38 U.S.C. 1503. Regulatory authority is found in 38 CFR 3.262, 3.271, and 3.272. A claimant's eligibility for pension is determined, in part, by countable family income and certain deductible expenses.

VBA uses VA Form 21P-8416b to gather information that is necessary to determine eligibility for income-based

benefits and the rate payable. When a claimant is awarded compensation by another entity or government agency based on personal injury or death, the compensation is usually countable income for VA purposes (38 CFR 3.262(i)). However, medical, legal or other expenses incident to the injury or death, or incident to the collection or recovery of the compensation, may be deducted from the amount of the award or settlement (38 CFR 3.271(g) and 3.272(g)).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period

soliciting comments on this collection of information was published at 82 FR 22056 on October 12, 2017.

Affected Public: Individuals and households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden per Respondent: 45 minutes.

Frequency of Response: Once.

Estimated Number of Respondents: 1,500.

By direction of the Secretary:

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017-27265 Filed 12-18-17; 8:45 am]

BILLING CODE 8320-01-P

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