FEDERAL REGISTER

Vol. 82 Wednesday,

No. 243 December 20, 2017

Pages 60281–60504

OFFICE OF THE FEDERAL REGISTER

The **FEDERAL REGISTER** (ISSN 0097–6326) is published daily, Monday through Friday, except official holidays, by the Office of the Federal Register, National Archives and Records Administration, Washington, DC 20408, under the Federal Register Act (44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). The Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402 is the exclusive distributor of the official edition. Periodicals postage is paid at Washington, DC.

The **FEDERAL REGISTER** provides a uniform system for making available to the public regulations and legal notices issued by Federal agencies. These include Presidential proclamations and Executive Orders, Federal agency documents having general applicability and legal effect, documents required to be published by act of Congress, and other Federal agency documents of public interest.

Documents are on file for public inspection in the Office of the Federal Register the day before they are published, unless the issuing agency requests earlier filing. For a list of documents currently on file for public inspection, see *www.ofr.gov.*

The seal of the National Archives and Records Administration authenticates the Federal Register as the official serial publication established under the Federal Register Act. Under 44 U.S.C. 1507, the contents of the **Federal Register** shall be judicially noticed.

The **Federal Register** is published in paper and on 24x microfiche. It is also available online at no charge at *www.fdsys.gov*, a service of the U.S. Government Publishing Office.

The online edition of the **Federal Register** is issued under the authority of the Administrative Committee of the Federal Register as the official legal equivalent of the paper and microfiche editions (44 U.S.C. 4101 and 1 CFR 5.10). It is updated by 6:00 a.m. each day the **Federal Register** is published and includes both text and graphics from Volume 59, 1 (January 2, 1994) forward. For more information, contact the GPO Customer Contact Center, U.S. Government Publishing Office. Phone 202-512-1800 or 866-512-1800 (toll free). E-mail, *gpocusthelp.com.*

The annual subscription price for the **Federal Register** paper edition is $749 plus postage, or $808, plus postage, for a combined **Federal Register, Federal Register** Index and List of CFR Sections Affected (LSA) subscription; the microfiche edition of the **Federal Register** including the **Federal Register** Index and LSA is $165, plus postage. Six month subscriptions are available for one-half the annual rate. The prevailing postal rates will be applied to orders according to the delivery method requested. The price of a single copy of the daily **Federal Register,** including postage, is based on the number of pages: $11 for an issue containing less than 200 pages; $22 for an issue containing 200 to 400 pages; and $33 for an issue containing more than 400 pages. Single issues of the microfiche edition may be purchased for $3 per copy, including postage. Remit check or money order, made payable to the Superintendent of Documents, or charge to your GPO Deposit Account, VISA, MasterCard, American Express, or Discover. Mail to: U.S. Government Publishing Office—New Orders, P.O. Box 979050, St. Louis, MO 63197-9000; or call toll free 1-866-512-1800, DC area 202-512-1800; or go to the U.S. Government Online Bookstore site, see *bookstore.gpo.gov.*

There are no restrictions on the republication of material appearing in the **Federal Register.**

How To Cite This Publication: Use the volume number and the page number. Example: 82 FR 12345.

Postmaster: Send address changes to the Superintendent of Documents, Federal Register, U.S. Government Publishing Office, Washington, DC 20402, along with the entire mailing label from the last issue received.

SUBSCRIPTIONS AND COPIES

PUBLIC

Subscriptions:

Paper or fiche	**202–512–1800**
Assistance with public subscriptions	**202–512–1806**
General online information	**202–512–1530; 1–888–293–6498**

Single copies/back copies:

Paper or fiche	**202–512–1800**
Assistance with public single copies	**1–866–512–1800 (Toll-Free)**

FEDERAL AGENCIES

Subscriptions:

Assistance with Federal agency subscriptions:

Email	*FRSubscriptions@nara.gov*
Phone	**202–741–6000**

Contents

Federal Register

Vol. 82, No. 243

Wednesday, December 20, 2017

Agricultural Marketing Service
RULES
Rules of Practice and Procedures to Formulate or Amend a Marketing Agreement or a Marketing Order, or Certain Research and Promotion Orders; Correction, 60281

Agriculture Department
See Agricultural Marketing Service

Census Bureau
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Survey of Residential Building or Zoning Permit Systems, 60369

Centers for Disease Control and Prevention
NOTICES
Meetings:
Disease, Disability, and Injury Prevention and Control Special Emphasis Panel, 60402

Coast Guard
RULES
Drawbridge Operations:
Quantuck Canal, Westhampton Beach, NY, 60316–60318
Sacramento River, Sacramento, CA, 60316
San Leandro Bay, between Alameda and Bay Farm Island, CA, 60315–60316
Quarterly Listings:
Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas; 2016, 60312–60315
Safety Zones:
Spa Creek, Annapolis, MD, 60318–60320
PROPOSED RULES
Safety Zones:
Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI, 60341–60348
NOTICES
Removal of Conditions of Entry for Certain Vessels Arriving to the United States from Two Port Facilities:
Cote d'Ivoire, 60409–60410

Commerce Department
See Census Bureau
See Foreign-Trade Zones Board
See Industry and Security Bureau
See International Trade Administration
See National Institute of Standards and Technology
See National Oceanic and Atmospheric Administration

Commodity Futures Trading Commission
PROPOSED RULES
Retail Commodity Transactions Involving Virtual Currency, 60335–60341

Comptroller of the Currency
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Debt Cancellation Contracts and Debt Suspension Agreements, 60468–60470

Education Department
NOTICES
Requests for Information:
Obtaining Input from Rural Schools and Local Educational Agencies, 60382–60383

Energy Department
See Energy Information Administration
See Federal Energy Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Energy Efficiency and Conservation Block Grant Financing Programs, 60384
Self-Certifications:
Coal Capability Under the Powerplant and Industrial Fuel Use Act, 60383–60384

Energy Information Administration
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60384–60385

Environmental Protection Agency
PROPOSED RULES
Air Quality State Implementation Plans; Approvals and Promulgations:
California; San Diego County Air Pollution Control District, 60348–60350
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals, 60396–60397
Environmental Assessments; Availability, etc.:
Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #2: Provide and Enhance Recreational Opportunities, 60397–60398

Federal Accounting Standards Advisory Board
NOTICES
Requests for Comments:
Proposed Statement of Federal Financial Accounting Standards, Classified Activities, 60399

Federal Aviation Administration
RULES
Airworthiness Directives:
Agusta S.p.A. Helicopters, 60298–60300
Airbus Helicopters (Previously Eurocopter France), 60292–60295
The Boeing Company Airplanes, 60300–60302
The Enstrom Helicopter Corporation Helicopters, 60295–60297
Change to Automatic Dependent Surveillance Broadcast Services, 60302–60303
NOTICES
Release of Deed Restrictions:
Yellowstone Airport, West Yellowstone, MT, 60467–60468

Federal Communications Commission
PROPOSED RULES
Authorizing Permissive Use of the ''Next Generation'' Broadcast Television Standard, 60350–60355

Federal Election Commission
NOTICES
Filing Dates:
Arizona Special Election in the 8th Congressional District, 60400–60401
Michigan Special Election in the 13th Congressional District, 60399–60400

Federal Energy Regulatory Commission
NOTICES
Applications:
Duke Energy Carolinas, LLC, 60392
Flambeau Hydro, LLC, 60394–60396
Mad River Power Associates LP, 60385–60386
Combined Filings, 60389–60393
Declaratory Orders; Petitions:
Blue Racer NGL Pipelines, LLC, 60394
Environmental Assessments; Availability, etc.:
Gulf South Pipeline Company, LP; Westlake Expansion Project, 60393–60394
Hydroelectric Applications:
City of Radford, 60386–60387
Idaho Power Co., 60387–60388
Institution of Section 206 Proceedings:
Carroll County Energy, LLC, 60394
Petitions for Enforcement:
Gregory R. and Beverly F. Swecker v. Midland Power Cooperative, Central Iowa Power Cooperative, 60388–60389
Records Governing Off-the-Record Communications, 60391–60392
Requests for Waivers:
Empire Pipeline, Inc., 60386

Federal Maritime Commission
NOTICES
Agreements Filed, 60401

Federal Motor Carrier Safety Administration
RULES
Hours of Service of Drivers of Commercial Motor Vehicles:
Electronic Logging Devices; Limited 90-Day Waiver for the Transportation of Agricultural Commodities, 60323–60325
PROPOSED RULES
Hours of Service of Drivers of Commercial Motor Vehicles:
Transportation of Agricultural Commodities, 60360–60362

Federal Railroad Administration
PROPOSED RULES
Training, Qualification, and Oversight for Safety-Related Railroad Employees, 60355–60360

Federal Reserve System
RULES
Regulation A: Extensions of Credit by Federal Reserve Banks, 60281–60282
Regulation D: Reserve Requirements of Depository Institutions, 60282–60283
NOTICES
Changes in Bank Control:
Acquisitions of Shares of a Bank or Bank Holding Company, 60401–60402

Federal Trade Commission
PROPOSED RULES
Test Procedures and Labeling Standards for Recycled Oil, 60334–60335

Fish and Wildlife Service
PROPOSED RULES
Endangered and Threatened Species:
90-Day Findings for Five Species, 60362–60363
NOTICES
Endangered Species Recovery Permit Applications, 60414–60415
Environmental Assessments; Availability, etc.:
Draft Habitat Conservation Plan for the Desert Tortoise and Mohave Ground Squirrel; Hinkley Groundwater Remediation Project; San Bernardino County, CA, 60416–60417
Permit Applications:
Foreign Endangered and Threatened Species, 60412–60414

Food and Drug Administration
RULES
Medical Devices:
General Hospital and Personal Use Devices; Classification of the Image Processing Device for Estimation of External Blood Loss, 60306–60308
Safety and Effectiveness of Health Care Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use, 60474–60503
NOTICES
Guidance:
Clarification of Orphan Designation of Drugs and Biologics for Pediatric Subpopulations of Common Diseases, 60402–60403
Drug Products Labeled as Homeopathic, 60403–60405

Foreign-Trade Zones Board
NOTICES
Proposed Production Activities:
AFE, Inc., Foreign-Trade Zone 41, Milwaukee, WI, 60369–60370

Health and Human Services Department
See Centers for Disease Control and Prevention
See Food and Drug Administration
See National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery, 60405–60406

Homeland Security Department
See Coast Guard

Housing and Urban Development Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Consolidated Discretionary Grant Programs Solicitations (Funding Opportunities) Templates and Forms, 60410–60412

Industry and Security Bureau
RULES
Certain Entities to the Entity List; Additions:
Russian Sanctions, 60304–60306

Interior Department
See Fish and Wildlife Service
See Land Management Bureau

International Trade Administration
NOTICES
Antidumping or Countervailing Duty Investigations, Orders, or Reviews:
Certain Crystalline Silicon Photovoltaic Products from Taiwan, 60370–60373

International Trade Commission
NOTICES
Investigations; Determinations, Modifications, and Rulings, etc.:
Certain Color Intraoral Scanners and Related Hardware and Software, 60418–60419
Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines, 60419

Justice Department
NOTICES
Proposed Consent Decrees:
CERCLA, 60419–60420

Land Management Bureau
RULES
Final Supplementary Rules:
Guffey Gorge in Park County, CO, 60320–60323
NOTICES
Realty Actions:
Proposed Non-Competitive (Direct) Sale of Public Land in Santa Barbara County, CA, 60417–60418

National Credit Union Administration
RULES
Agency Reorganization, 60290–60292
Emergency Mergers—Chartering and Field of Membership, 60283–60290

National Institute of Standards and Technology
NOTICES
Accurate Fluorescence Measurements Consortium, 60373–60374

National Institutes of Health
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Division of Cancer Epidemiology and Genetics Fellowship Program and Summer Student Applications, 60407–60408
Exclusive Patent Licenses:
Development of an Anti-CD30 Chimeric Antigen Receptor for the Treatment of Human Cancer, 60406–60407
Government-Owned Inventions; Availability for Licensing, 60408–60409
Meetings:
National Institute of Neurological Disorders and Stroke, 60407

National Oceanic and Atmospheric Administration
RULES
Fisheries of the Exclusive Economic Zone off Alaska:
Inseason Adjustment to the 2018 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific cod Total Allowable Catch Amounts, 60329–60333
Inseason Adjustment to the 2018 Gulf of Alaska Pollock and Pacific cod Total Allowable Catch Amounts, 60327–60329
Reallocation of Atka Mackerel in the Bering Sea and Aleutian Islands Management Area, 60325–60326
PROPOSED RULES
Pacific Island Fisheries:
2017 Hawaii Kona Crab Annual Catch Limit and Accountability Measure, 60363
NOTICES
Environmental Assessments; Availability, etc.:
Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal and Nearshore Habitats in the Barataria Basin, LA, 60377–60379
Proposed New Space Lease for the Geophysical Fluid Dynamics Laboratory in Princeton, NJ, 60382
Fisheries of the Exclusive Economic Zone off Alaska:
North Pacific Halibut and Sablefish Individual Fishing Quota Cost Recovery Programs, 60379–60382
Meetings:
Fisheries of the South Atlantic; South Atlantic Fishery Management Council, 60376
Permits:
Marine Mammals, 60374–60376

National Science Foundation
NOTICES
Antarctic Conservation Act Permits, 60420

Nuclear Regulatory Commission
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Registration Certificate—In Vitro Testing With Byproduct Material Under General License, 60422–60423
Request for Approval of Official Foreign Travel, 60423–60424
License Transfers:
AREVA, Inc.; Richland, WA, 60420–60422

Pension Benefit Guaranty Corporation
RULES
Allocation of Assets in Single-Employer Plans:
Valuation of Benefits and Assets; Expected Retirement Age, 60308–60309

Postal Service
NOTICES
Product Changes:
Priority Mail Express Negotiated Service Agreement, 60424
Priority Mail Negotiated Service Agreement, 60424

Securities and Exchange Commission
NOTICES
Applications:
Ausdal Financial Partners, Inc. and Ausdal Unit Investment Trust, 60426–60429
Consulting Group Capital Markets Funds and Consulting Group Advisory Services LLC, 60463–60464
Self-Regulatory Organizations; Proposed Rule Changes:
Cboe BZX Exchange, Inc., 60443–60451
Cboe EDGX Exchange, Inc., 60424–60426
Municipal Securities Rulemaking Board, 60433–60439
Nasdaq GEMX, LLC, 60431–60432, 60439–60442
Nasdaq ISE, LLC, 60453–60458

Nasdaq MRX, LLC, 60460–60462
Nasdaq PHLX LLC, 60458–60460
New York Stock Exchange LLC, 60442, 60451–60453
NYSE Arca, Inc., 60455
The Nasdaq Stock Market LLC, 60429–60430

Small Business Administration
NOTICES
Major Disaster Declarations:
Montana, 60464

State Department
NOTICES
Agency Information Collection Activities; Proposals, Submissions, and Approvals:
Training/Internship Placement Plan, 60466
Presidential Permits:
North Dakota, 60464–60466

Surface Transportation Board
NOTICES
Abandonment Exemptions:
CSX Transportation, Inc. in Greenbrier County, WV, 60466–60467

Transportation Department
See Federal Aviation Administration
See Federal Motor Carrier Safety Administration
See Federal Railroad Administration

Treasury Department
See Comptroller of the Currency
See United States Mint

United States Mint
RULES
Exchange of Coin, 60309–60312

Veterans Affairs Department
NOTICES
Meetings:
Advisory Committee on the Readjustment of Veterans, 60470
Publication of the Date on Which All Amounts Deposited in the Veterans Choice Fund Will Be Exhausted, 60470–60471

Separate Parts In This Issue

Part II
Health and Human Services Department, Food and Drug Administration, 60474–60503

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

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

CFR PARTS AFFECTED IN THIS ISSUE

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

7 CFR
900.....60281
1200.....60281

12 CFR
201.....60281
204.....60282
701 (2 documents) 60283, 60290
705.....60290
708a.....60290
708b.....60290
790.....60290

14 CFR
39 (4 documents) 60292, 60295, 60298, 60300
91.....60302

15 CFR
744.....60304

16 CFR
Proposed Rules:
311.....60334

17 CFR
Proposed Rules:
1.....60335

21 CFR
310.....60473
880.....60306

29 CFR
4044.....60308

31 CFR
100.....60309

33 CFR
100 (2 documents) 60312, 60314
117 (5 documents) 60312, 60314, 60315, 60316
147 (2 documents) 60312, 60314
165 (3 documents) 60312, 60314, 60318
Proposed Rules:
165.....60341

40 CFR
Proposed Rules:
52.....60348

43 CFR
8360.....60320

47 CFR
Proposed Rules:
15.....60350
73.....60350
74.....60350
76.....60350

49 CFR
395.....60323
Proposed Rules:
243.....60355
395.....60360

50 CFR
679 (3 documents) 60325, 60327, 60329
Proposed Rules:
17.....60362
665.....60366

Rules and Regulations

Federal Register
Vol. 82, No. 243
Wednesday, December 20, 2017

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

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 900 and 1200

[Doc. No. AMS–SC–17–0081]

RIN 0581–AD76

Rules of Practice and Procedures To Formulate or Amend a Marketing Agreement or a Marketing Order, or Certain Research and Promotion Orders; Correction

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule which was published on December 11, 2017. In the final rule, the Regulatory Information Number (RIN) appears as RIN 0581–AD74. This number is incorrect. The correct number is 0581–AD76. This document corrects the final rule.

DATES: Effective December 20, 2017.

FOR FURTHER INFORMATION CONTACT: William Richmond, Acting Chief of Staff, AMS, 1400 Independence Avenue SW, Washington, DC 20250, (202) 720–5115.

SUPPLEMENTARY INFORMATION: In final rule FR Doc. 2017–26718, beginning at page 58097 of the issue December 11, 2017, make the following corrections:

On page 58097, in the first column in the heading, correct the RIN to read ''0581–AD76''.

Dated: December 15, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–27401 Filed 12–19–17; 8:45 am]

BILLING CODE 3410–02–P

FEDERAL RESERVE SYSTEM

12 CFR Part 201

[Docket No. R–1592; RIN 7100 AE–93]

Regulation A: Extensions of Credit by Federal Reserve Banks

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.

DATES: The amendments to part 201 (Regulation A) are effective December 20, 2017. The rate changes for primary and secondary credit were applicable on December 14, 2017.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Senior Attorney (202–452–3952), or Sophia Allison, Special Counsel (202–452–3565), Legal Division, or Lyle Kumasaka, Senior Financial Analyst (202–452–2382); for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: The Federal Reserve Banks make primary and secondary credit available to depository institutions as a backup source of funding on a short-term basis, usually overnight. The primary and secondary credit rates are the interest rates that the twelve Federal Reserve Banks charge for extensions of credit under these programs. In accordance with the Federal Reserve Act, the primary and secondary credit rates are established by the boards of directors of the Federal Reserve Banks, subject to the review and determination of the Board.

On December 13, 2017, the Board voted to approve a ¼ percentage point increase in the primary credit rate in effect at each of the twelve Federal Reserve Banks, thereby increasing from 1.75 percent to 2.00 percent the rate that each Reserve Bank charges for extensions of primary credit. In addition, the Board had previously approved the renewal of the secondary credit rate formula, the primary credit rate plus 50 basis points. Under the formula, the secondary credit rate in effect at each of the twelve Federal Reserve Banks increased by ¼ percentage point as a result of the Board's primary credit rate action, thereby increasing from 2.25 percent to 2.50 percent the rate that each Reserve Bank charges for extensions of secondary credit. The amendments to Regulation A reflect these rate changes.

The ¼ percentage point increase in the primary credit rate was associated with an increase in the target range for the federal funds rate (from a target range of 1 to 1¼ percent to a target range of 1¼ to 1½ percent) announced by the Federal Open Market Committee on December 13, 2017, as described in the Board's amendment of its Regulation D published elsewhere in today's **Federal Register**.

Administrative Procedure Act

In general, the Administrative Procedure Act (12 U.S.C. 551 *et seq.*) (''APA'') imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.'' 12 U.S.C. 553(b)(3)(A). Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds of good cause for shortened notice and publishes its reasoning with the rule. 12 U.S.C. 553(d). The APA further provides that the notice, public comment, and delayed effective date requirements of 5 U.S.C. 553 do not apply ''to the extent that there is involved . . . a matter relating to agency management or personnel or to public property, *loans,*

grants, benefits, or contracts.'' 5 U.S.C. 553(a)(2) (emphasis added).

Regulation A establishes the interest rates that the twelve Reserve Banks charge for extensions of primary credit and secondary credit. The Board has determined that the notice, public comment, and delayed effective date requirements of the APA do not apply to these final amendments to Regulation A for several reasons. The amendments involve a matter relating to loans, and are therefore exempt under the terms of the APA. In addition, the Board has determined that notice, public comment, and delayed effective date would be unnecessary and contrary to the public interest because delay in implementation of changes to the rates charged on primary credit and secondary credit would permit insured depository institutions to profit improperly from the difference in the current rate and the announced increased rate. Finally, because delay would undermine the Board's action in responding to economic data and conditions, the Board has determined that ''good cause'' exists within the meaning of the APA to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to the final amendments to Regulation A.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[1] As noted previously, a general notice of proposed rulemaking is not required if the final rule involves a matter relating to loans. Furthermore, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

12 CFR Chapter II

List of Subjects in 12 CFR Part 201

Banks, Banking, Federal Reserve System, Reporting and recordkeeping.

Authority and Issuance

For the reasons set forth in the preamble, the Board is amending 12 CFR chapter II to read as follows:

PART 201—EXTENSIONS OF CREDIT BY FEDERAL RESERVE BANKS (REGULATION A)

■ 1. The authority citation for part 201 continues to read as follows:

Authority: 12 U.S.C. 248(i)–(j), 343 *et seq.,* 347a, 347b, 347c, 348 *et seq.,* 357, 374, 374a, and 461.

■ 2. In § 201.51, paragraphs (a) and (b) are revised to read as follows:

§ 201.51 Interest rates applicable to credit extended by a Federal Reserve Bank.[3]

(a) *Primary credit.* The interest rate at each Federal Reserve Bank for primary credit provided to depository institutions under § 201.4(a) is 2.00 percent.

(b) *Secondary credit.* The interest rate at each Federal Reserve Bank for secondary credit provided to depository institutions under 201.4(b) is 2.50 percent.

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–27392 Filed 12–19–17; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Docket No. R–1593; RIN 7100 AE–04]

Regulation D: Reserve Requirements of Depository Institutions

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The Board of Governors of the Federal Reserve System (''Board'') is amending Regulation D (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (''IORR'') and the rate of interest paid on excess balances (''IOER'') maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 1.50 percent and IOER is 1.50 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee (''FOMC'' or ''Committee'').

DATE: The amendments to part 204 (Regulation D) are effective December 20, 2017. The IORR and IOER rate changes were applicable on December 14, 2017.

FOR FURTHER INFORMATION CONTACT: Clinton Chen, Senior Attorney (202–452–3952), or Sophia Allison, Special Counsel (202–452–3198), Legal Division, or Kristen Payne, Financial Analyst (202–452–2872), or Heather Wiggins, Section Chief (202–452–3674), Division of Monetary Affairs; for users of Telecommunications Device for the Deaf (TDD) only, contact 202–263–4869; Board of Governors of the Federal Reserve System, 20th and C Streets NW, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

I. Statutory and Regulatory Background

For monetary policy purposes, section 19 of the Federal Reserve Act (''the Act'') imposes reserve requirements on certain types of deposits and other liabilities of depository institutions. Regulation D, which implements section 19 of the Act, requires that a depository institution meet reserve requirements by holding cash in its vault, or if vault cash is insufficient, by maintaining a balance in an account at a Federal Reserve Bank (''Reserve Bank'').[1] Section 19 also provides that balances maintained by or on behalf of certain institutions in an account at a Reserve Bank may receive earnings to be paid by the Reserve Bank at least once each quarter, at a rate or rates not to exceed the general level of short-term interest rates. Institutions that are eligible to receive earnings on their balances held at Reserve Banks (''eligible institutions'') include depository institutions and certain other institutions.[2] Section 19 also provides that the Board may prescribe regulations concerning the payment of earnings on balances at a Reserve Bank.[3] Prior to these amendments, Regulation D specified a rate of 1.25 percent for both IORR and IOER.[4]

II. Amendments to IORR and IOER

The Board is amending § 204.10(b)(5) of Regulation D to specify that IORR is 1.50 percent and IOER is 1.50 percent.

[1] 5 U.S.C. 603 and 604.

[3] The primary, secondary, and seasonal credit rates described in this section apply to both advances and discounts made under the primary, secondary, and seasonal credit programs, respectively.

[1] 12 CFR 204.5(a)(1).

[2] See 12 U.S.C. 461(b)(1)(A) & (b)(12)(C); see also 12 CFR 204.2(y).

[3] See 12 U.S.C. 461(b)(12).

[4] See 12 CFR 204.10(b)(5).

This 0.25 percentage point increase in the IORR and IOER was associated with an increase in the target range for the federal funds rate, from a target range of 1 to 1¼ percent to a target range of 1¼ to 1½ percent, announced by the FOMC on December 13, 2017, with an effective date of December 14, 2017. The FOMC's press release on the same day as the announcement noted that:

Information received since the Federal Open Market Committee met in November indicates that the labor market has continued to strengthen and that economic activity has been rising at a solid rate. Averaging through hurricane-related fluctuations, job gains have been solid, and the unemployment rate declined further. Household spending has been expanding at a moderate rate, and growth in business fixed investment has picked up in recent quarters. On a 12-month basis, both overall inflation and inflation for items other than food and energy have declined this year and are running below 2 percent. Market-based measures of inflation compensation remain low; survey-based measures of longer-term inflation expectations are little changed, on balance.

Consistent with its statutory mandate, the Committee seeks to foster maximum employment and price stability. Hurricane-related disruptions and rebuilding have affected economic activity, employment, and inflation in recent months but have not materially altered the outlook for the national economy. Consequently, the Committee continues to expect that, with gradual adjustments in the stance of monetary policy, economic activity will expand at a moderate pace and labor market conditions will remain strong. Inflation on a 12-month basis is expected to remain somewhat below 2 percent in the near term but to stabilize around the Committee's 2 percent objective over the medium term. Near-term risks to the economic outlook appear roughly balanced, but the Committee is monitoring inflation developments closely.

In view of realized and expected labor market conditions and inflation, the Committee decided to raise the target range for the federal funds rate to 1¼ to 1½ percent. The stance of monetary policy remains accommodative, thereby supporting strong labor market conditions and a sustained return to 2 percent inflation.

A Federal Reserve Implementation note released simultaneously with the announcement stated that:

The Board of Governors of the Federal Reserve System voted unanimously to raise the interest rate paid on required and excess reserve balances to 1.50 percent, effective December 14, 2017.

As a result, the Board is amending section 204.10(b)(5) of Regulation D to change IORR to 1.50 percent and IOER to 1.50 percent.

III. Administrative Procedure Act

In general, the Administrative Procedure Act (12 U.S.C. 551 *et seq.*) (''APA'') imposes three principal requirements when an agency promulgates legislative rules (rules made pursuant to congressionally delegated authority): (1) Publication with adequate notice of a proposed rule; (2) followed by a meaningful opportunity for the public to comment on the rule's content; and (3) publication of the final rule not less than 30 days before its effective date. The APA provides that notice and comment procedures do not apply if the agency for good cause finds them to be ''unnecessary, impracticable, or contrary to the public interest.'' 12 U.S.C. 553(b)(3)(A). Section 553(d) of the APA also provides that publication at least 30 days prior to a rule's effective date is not required for (1) a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) interpretive rules and statements of policy; or (3) a rule for which the agency finds of good cause for shortened notice and publishes its reasoning with the rule. 12 U.S.C. 553(d).

The Board has determined that good cause exists for finding that the notice, public comment, and delayed effective date provisions of the APA are unnecessary, impracticable, or contrary to the public interest with respect to these final amendments to Regulation D. The rate increases for IORR and IOER that are reflected in the final amendments to Regulation D were made with a view towards accommodating commerce and business and with regard to their bearing upon the general credit situation of the country. Notice and public comment would prevent the Board's action from being effective as promptly as necessary in the public interest, and would not otherwise serve any useful purpose. Notice, public comment, and a delayed effective date would create uncertainty about the finality and effectiveness of the Board's action and undermine the effectiveness of that action. Accordingly, the Board has determined that good cause exists to dispense with the notice, public comment, and delayed effective date procedures of the APA with respect to these final amendments to Regulation D.

IV. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (''RFA'') does not apply to a rulemaking where a general notice of proposed rulemaking is not required.[5] As noted previously, the Board has determined that it is unnecessary and contrary to the public interest to publish a general notice of proposed rulemaking for this final rule. Accordingly, the RFA's requirements relating to an initial and final regulatory flexibility analysis do not apply.

[5] 5 U.S.C. 603 and 604.

V. Paperwork Reduction Act

In accordance with the Paperwork Reduction Act (''PRA'') of 1995 (44 U.S.C. 3506; 5 CFR 1320 Appendix A.1), the Board reviewed the final rule under the authority delegated to the Board by the Office of Management and Budget. The final rule contains no requirements subject to the PRA.

List of Subjects in 12 CFR Part 204

Banks, Banking, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, the Board amends 12 CFR part 204 as follows:

PART 204—RESERVE REQUIREMENTS OF DEPOSITORY INSTITUTIONS (REGULATION D)

■ 1. The authority citation for part 204 continues to read as follows:

Authority: 12 U.S.C. 248(a), 248(c), 461, 601, 611, and 3105.

■ 2. Section 204.10 is amended by revising paragraph (b)(5) to read as follows:

§ 204.10 Payment of interest on balances.

* * * * *

(b) * * *

(5) The rates for IORR and IOER are:

	Rate (%)
IORR	1.50
IOER	1.50

* * * * *

By order of the Board of Governors of the Federal Reserve System.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–27393 Filed 12–19–17; 8:45 am]

BILLING CODE 6210–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 701

RIN 3133–AE76

Emergency Mergers—Chartering and Field of Membership

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (Board) is issuing this final rule to amend, in its Chartering and Field of Membership

Manual, the definition of the term ''in danger of insolvency'' for emergency merger purposes. The previous definition, adopted in 2010 (2010 definition), required a credit union to fall into at least one of three net worth categories over a period of time to be ''in danger of insolvency.'' For two of those three categories, the final rule lengthens by six months the forecast horizons, the time periods in which the NCUA projects a credit union's net worth will decline to the point that it falls into one of the categories. This extends the time period in which a credit union's net worth is projected to either render it insolvent or drop below two percent from 24 to 30 months and from 12 to 18 months, respectively. Additionally, the final rule adds a fourth category to the three existing net worth categories to include credit unions that have been granted or received assistance under section 208 of the Federal Credit Union Act (FCU Act) in the 15 months prior to the NCUA regional office's determination that the credit union is in danger of insolvency.

DATES: The effective date for this rule is January 19, 2018.

FOR FURTHER INFORMATION CONTACT: Thomas I. Zells, Staff Attorney, Office of General Counsel, or Amanda Parkhill, Loss/Risk Analysis Officer, Office of Examination and Insurance, at 1775 Duke Street, Alexandria, VA 22314 or telephone: (703) 548–2478 (Mr. Zells) or (703) 518–6385 (Ms. Parkhill).

SUPPLEMENTARY INFORMATION:

I. Background
II. Summary of Comments
III. Final Rule
IV. Regulatory Procedures

I. Background

Credit unions that experience a sharp decline in net worth have a much higher likelihood of failing. From the second quarter of 1996 through the second quarter of 2016, there were 11,734 federally insured credit unions. As shown in the table below, 2,502 of these credit unions fell below the well-capitalized threshold (7 percent net worth ratio) after having a net worth ratio above that threshold for at least one quarter. The net worth ratios of 490 of these 2,502 credit unions eventually declined to below two percent. Importantly, only 15 percent of those credit unions whose net worth dropped below two percent sometime in this period remain currently active.

TABLE 1—CREDIT UNIONS FALLING BELOW CRITICAL NET WORTH RATIO THRESHOLDS

Net worth ratio fell:	Number of CUs	Active	% Active
Below 7%	2,502	1,104	44
Below 6%	1,563	475	30
Below 5%	1,126	254	23
Below 4%	825	151	18
Below 3%	647	102	16
Below 2%	490	73	15

Credit union failures are costly to the entire credit union system through their effect on the National Credit Union Share Insurance Fund (NCUSIF). The NCUA, as a prudential safety and soundness regulator, is charged with protecting the safety and soundness of the credit union system and, in turn, the NCUSIF through regulation and supervision.[1] One way to mitigate some of the cost to the NCUSIF and minimize disruption to credit union members is to find appropriate merger partners for at-risk credit unions.

Under the emergency merger provision of section 205(h) of the FCU Act, the Board may allow a credit union that is either insolvent or in danger of insolvency to merge with another credit union if the Board finds that: (1) An emergency requiring expeditious action exists; (2) no other reasonable alternatives are available; and (3) the action is in the public interest.[2] Under these circumstances, the Board may approve an emergency merger without regard to common bond or other legal constraints, such as obtaining the approval of the members of the merging credit union. The emergency merger provision addresses exigent circumstances and is intended to serve the public interest and credit union members by providing for the continuation of credit union services to members and by preserving credit union assets and the NCUSIF.

To take such action, the NCUA must first determine that a credit union is either insolvent or in danger of insolvency before the agency can make the additional findings that an emergency exists, other alternatives are not reasonably available, and the public interest would be served by the merger. The FCU Act, however, does not define when a credit union is ''in danger of insolvency.''

In 2009, the NCUA proposed a definition of in danger of insolvency to establish an objective standard to aid it in making in danger of insolvency determinations.[3] In doing so, the NCUA aimed to provide certainty and consistency regarding how it interprets the in danger of insolvency standard. In 2010, the NCUA finalized the 2009 proposed definition, which provided for the above-referenced three net worth categories, and it has remained the definition since.[4]

Experience gained since 2010, including the analysis of Call Reports and other NCUA internal data, led the Board to conclude that an update to the 2010 definition of in danger of insolvency is needed. For these reasons, the Board published proposed changes to the definition in the **Federal Register** in July 2017.[5]

II. Summary of Comments

The NCUA received 12 comments on the 2017 proposal to amend the definition of in danger of insolvency for emergency merger purposes (the Proposal). The comments were overwhelmingly supportive of the proposed definition and generally agreed with the NCUA's rationale for amending the definition. No commenters specifically opposed the proposed amendments to the definition. However, the commenters did raise several issues and made several suggestions. Specifically, commenters: Raised concerns about the impact on small credit unions and the impact of mergers on the federal charter generally; asked the NCUA to continue to study

[1] NCUA's mission is to ''provide, through regulation and supervision, a safe and sound credit union system, which promotes confidence in the national system of cooperative credit.'' *https://www.ncua.gov/About/Pages/Mission-and-Vision.aspx.*

[2] 12 U.S.C. 1785(h).

[3] 74 FR 68722 (Dec. 29, 2009).

[4] 75 FR 36257 (June 25, 2010).

[5] 82 FR 35493 (July 31, 2017).

section 208 assistance generally and the data the NCUA has on recipient credit unions; requested increased transparency in the emergency merger process; and asked the NCUA to avoid using any definition that is overly rigid and results in the premature merger of a credit union. A number of these issues and suggestions, while relevant to emergency mergers or section 208 assistance generally, fall outside the scope of this rulemaking, which is only concerned with the definition of in danger of insolvency for emergency merger purposes. The Board addresses these concerns, to the extent that they fall within the scope of the rulemaking, below. Based on the rationale previously set forth, the commenters overwhelming support, and for the reasons explained in more detail below, the Board has decided to finalize the Proposal without amendment.

III. Final Rule

A. Overview

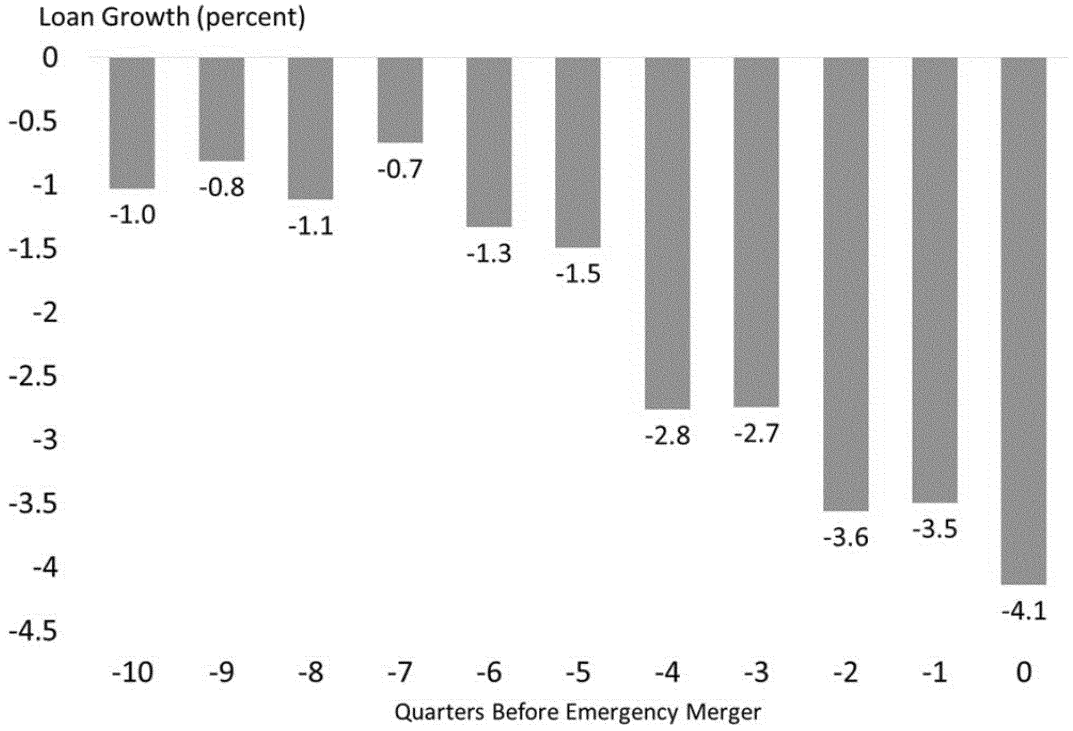
After reviewing and considering the comments, the Board is issuing this final rule to implement the changes as proposed in the Proposal. The 2010 definition of in danger of insolvency required a credit union to fall into at least one of three net worth categories to be found to be in danger of insolvency. Consistent with the Proposal, this final rule amends the 2010 definition in three ways.

First, the final rule lengthens by six months the ''forecast horizons,'' the time periods in which the NCUA projects a credit union's net worth for determining if it is in danger of insolvency. This change applies to two of the three current categories. It results in forecast horizons of 30 months for the insolvency (zero net worth) category, up from 24 months, and 18 months for the critically undercapitalized (under two percent net worth) category, up from 12 months. The third category of the 2010 definition, in which a credit union is significantly undercapitalized and the NCUA determines there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months, remains unchanged.

The second change the final rule makes is the addition of a fourth category to the definition. Specifically, a credit union will be considered in danger of insolvency if it has been granted or received assistance under section 208 of the FCU Act in the 15 months prior to the NCUA regional office's determination that the credit union is in danger of insolvency.

Third, the final rule makes a technical spelling correction to the first category of the definition to replace the word ''relay'' with the word ''rely''.

The Board believes these changes to the 2010 definition provide the NCUA with a more appropriate degree of flexibility and better allow the NCUA to act when the statutory criteria for an emergency merger are met, namely an emergency requiring expeditious action exists, no other reasonable alternatives are available, and the action is in the public interest.[6] As detailed in the Proposal and restated below, both the experience the NCUA gained in applying the current definition and quantitative data persuaded the Board that these changes are necessary. Commenters' overwhelming support for the changes further strengthened the Board's position. Under the time frames of the 2010 definition, the NCUA was, on several occasions, prevented from instituting an emergency merger because a struggling credit union had not yet met the regulatory time frames to be considered in danger of insolvency, although it had otherwise met the statutory criteria. The lack of flexibility in the 2010 definition can result in continued decline in the health of a credit union, leading to a reduction in member services as the institution moves towards resolution. As shown in the chart below, credit union loan growth declines in the quarters leading up to an emergency merger.



[6] 12 U.S.C. 1785(h).

In some instances, the rigidity of the 2010 regulatory definition unnecessarily limited the NCUA's ability to resolve failing institutions. This came at a greater cost to a credit union's members and the NCUSIF, particularly in the case of an eventual liquidation. The FCU Act grants the Board broad authority to define the term ''in danger of insolvency'' for emergency merger purposes. The new definition increases agency flexibility and will enable the NCUA to act more timely to preserve credit union services and credit union assets and to protect the safety and soundness of the credit union system and the NCUSIF. Specifically, commenters agreed that the changes will: (1) Modernize and provide increased flexibility to the emergency merger process; (2) improve merger prospects and help the NCUA and credit unions find appropriate merger partners for declining credit unions; (3) allow the NCUA to capture more credit unions that are in danger of insolvency earlier in their decline; (4) help to preserve and protect assets, liquidity, and net worth; (5) protect and mitigate costs to the NCUSIF; and (6) preserve continuity in services to members. One commenter also specifically agreed that identifying struggling credit unions and allowing them to merge is more desirable than total liquidation.

B. Extending the Forecast Horizons

The Proposal amended the definition of in danger of insolvency in the glossary to appendix B to part 701 to extend the forecast horizons. Under the 2010 definition, to be deemed in danger of insolvency under the definition's first two categories, the NCUA had to project that a credit union's future net worth would decline at a rate that would either render the credit union insolvent within 24 months or drop below two percent (critically undercapitalized) within 12 months. In the Proposal, the Board proposed extending these periods to 30 months and 18 months, respectively. The Proposal left as is the forecast horizon of the third category of the definition pertaining to significantly undercapitalized credit unions that NCUA projects have no reasonable prospect of becoming adequately capitalized in the succeeding 36 months. After reviewing the data and considering the overwhelmingly supportive comments, the Board is finalizing these amendments to the forecast horizons as proposed.

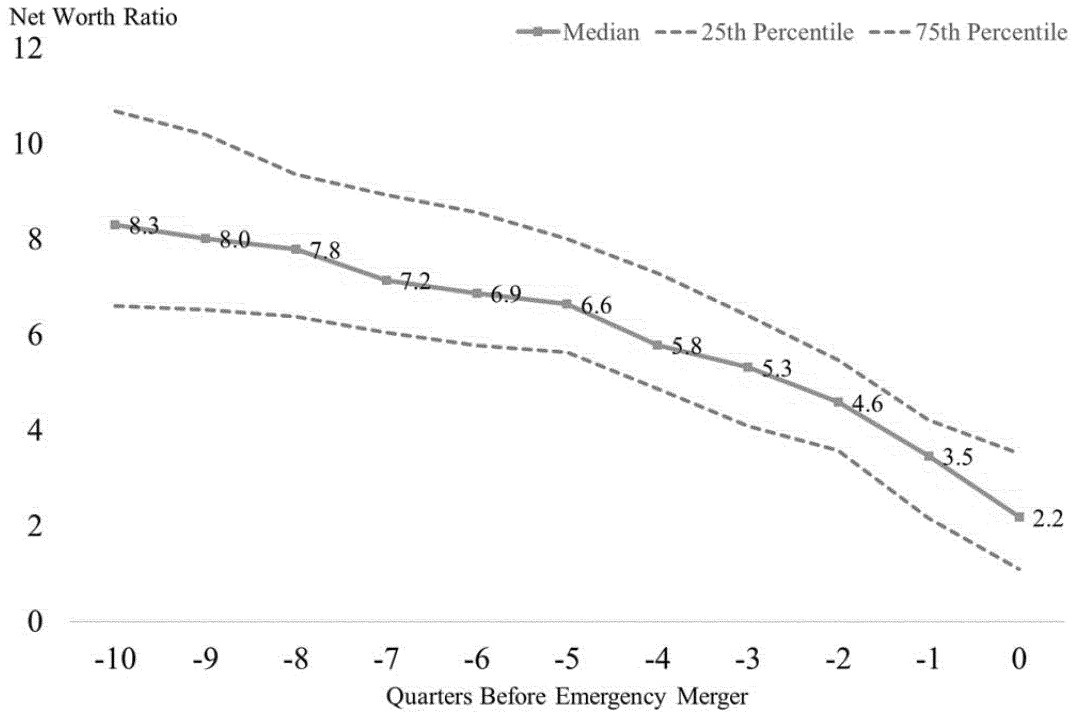
As noted in the Proposal, the Board believes that these changes to the definition will capture more credit unions that are in danger of insolvency earlier in their decline, before their net worth declines most rapidly, and will provide value to both the members of the credit union being merged and the NCUSIF. Increasing the likelihood that a distressed credit union would be eligible for an emergency merger earlier could help to protect net worth, reduce payouts on deposit insurance or merger assistance, and improve merger prospects. The changes also provide the NCUA with additional flexibility to resolve the distressed credit union through a merger and help to better ensure continuity of financial services for members. This additional flexibility is especially beneficial when circumstances deplete a credit union's capital slowly and steadily rather than abruptly, such as in the case of an institution with a large portfolio of declining illiquid assets.

As provided in the Proposal, the NCUA used a simple forecast of the net worth ratios of 46 credit unions that underwent an emergency merger between the second quarter of 2010, when the 2010 definition of in danger of insolvency was put into place, and the fourth quarter of 2016 to evaluate the benefit of shifting the critically undercapitalized threshold from 12 to 18 months and the insolvency threshold from 24 to 30 months.[7] Of the 46 credit unions that underwent an emergency merger since the rule was previously revised by the NCUA Board, 11 credit unions with total assets of $812 million would have qualified for an emergency merger earlier under the new definition of in danger of insolvency. The 11 credit unions had $12 million more in net worth at the time the credit unions first qualified under the new definition compared with the 2010 definition. The $12 million additional net worth meant the credit unions had net worth ratios one to three percentage points higher.

Also, the longer forecast horizon allows the NCUA to identify a significant number of additional potential credit union emergency merger candidates. The largest diagnostic improvements from extending the forecast horizon occur in the two quarters prior to an emergency merger. Instead of 31% of the credit unions estimated to be below the critically undercapitalized threshold within 12 months two quarters before the emergency merger and 50% one quarter before, 42% and 58% of the credit unions are estimated to be below the critically undercapitalized threshold within 18 months. The identification of these additional credit unions represent an opportunity for the NCUA to preserve services to members and member assets through the emergency merger process prior to the quarters when the net worth of these credit unions declines the most. As the chart below illustrates, credit union net worth generally declines the most in the quarters leading up to an emergency merger.

[7] This simple hypothetical forecast was used exclusively for purposes of analyzing emergency merger data and forecast horizons. It is not representative of, and does not limit, how the NCUA projects credit unions to meet the in danger of insolvency categories. The forecast of the net worth ratio uses the change in the net worth ratio during the most recently available four quarters and projects that change in net worth through the forecast horizon for each threshold. In other words, the NCUA calculated whether the credit union would fall below either of the critical thresholds using a simple straight line projection approach, with the projected rate of decline in net worth equal to the most recently available four-quarter change.

Net Worth Ratio Prior to an Emergency Merger



The data closely aligns with the views and experiences of the NCUA. The agency found that the 2010 definition's forecast horizons for these two categories could result in the unnecessary delay or even rejection of emergency merger requests that did not meet the 2010 regulatory definition of in danger of insolvency, but would otherwise meet the statutory criteria for an emergency merger. The NCUA believes that extending these forecast horizons will lessen the potential for such occurrences. When a credit union cannot be timely merged through an emergency merger and no other credit unions with compatible fields of membership submit a merger proposal, the NCUA must consider alternative and usually less desirable means of resolution. These less desirable means of resolution could even include the liquidation of the credit union. In general, merging a credit union into another institution is more desirable than liquidating the credit union because a merger is generally lower cost to the NCUSIF and provides continued and, in most cases, expanded service to the membership.

The NCUA believes that the delay associated with waiting for an institution to deteriorate to the point where it satisfies the 2010 regulatory definition of in danger of insolvency has too frequently resulted in struggling institutions being allowed to deteriorate over time to the point where they are no longer viable merger partners and have to be resolved by means that are more costly to the NCUSIF and more disruptive to the members. Rather than continue to operate under the 2010 definition, which hampered the NCUA's ability to take responsible supervisory action on a timely basis and ensure the safety and soundness of the credit union system, the Board is adopting the Proposal's amendments to the forecast horizons of the regulatory definition of in danger of insolvency to facilitate those mergers that satisfy the statutory requirements.

The vast majority of commenters specifically expressed support for the extended forecast horizons. No commenters opposed the change. Commenters' reasons for supporting the extended forecast horizons mirrored those expressed by the NCUA in the Proposal. Commenters specifically stated that the change will: (1) Improve merger prospects as credit unions will not continue to deteriorate until they are no longer viable merger partners; (2) allow undercapitalized institutions, where merited, to sooner be eligible for emergency mergers; (3) allow the NCUA to act more timely to preserve credit union services, liquidity, and assets for the benefit of members; (4) protect the NCUSIF; and (5) allow for continued (and often expanded) service to the membership. Additionally, one commenter specifically noted that the desire to preserve the NCUSIF will help federally insured credit unions avoid additional premium cost due to NCUSIF depletion. Another commenter stated that because of how expensive and draining mergers are to the acquiring organization, particularly when there is limited capital remaining or the membership base has departed, earlier identification and action by the NCUA to preserve the capital and membership base will make finding a merger partner for the merging credit union easier.

One commenter described how its credit union's experiences support the changes. The commenter stated that, as the continuing credit union, their members would have benefited greatly from an extra six months of cushion before the merging credit union deteriorated further. The commenter reiterated that mergers require months or years of due diligence and that, under the current rule, strong credit unions are reluctant to consider mergers with safety and soundness concerns because qualifying in danger of insolvency credit unions are often too far gone to allow sufficient time for proper due diligence. The commenter opined that on a few occasions they had to turn down emergency merger opportunities presented by the NCUA regional office

due to safety and soundness concerns. The commenter concluded that the extended forecast horizons will help ease this pressure and bring needed flexibility.

Commenters' support for the extended forecast horizons and their description of their own real world experiences bolsters the need for the extended forecast horizons. As such, the Board is finalizing the 30-month insolvency and 18-month critically undercapitalized forecast horizons as proposed.

As proposed, the final rule leaves the forecast horizon for the third category of the current definition as is. Rather than establishing a time period in which credit unions are projected to decline to a certain point, as the other two categories do, the third category only allows the NCUA to find that a credit union is in danger of insolvency if the credit union has no reasonable prospect of improving its net worth from the significantly undercapitalized level to the adequately capitalized level in the succeeding 36 months. The Board believes that the forecast horizon for this category adopted in 2010 already provides credit unions significant time to become adequately capitalized and is concerned that any extension to the forecast horizon would make it exceedingly difficult to accurately determine if a credit union has a reasonable possibility of returning its net worth to the adequately capitalized level.

C. Section 208 Assistance

In the Proposal, the Board proposed expanding the definition of in danger of insolvency in the glossary to appendix B to part 701 to add a fourth category that provides that a credit union will satisfy the definition of in danger of insolvency if the credit union has been granted or received assistance under section 208 of the FCU Act in the 15 months prior to the NCUA regional office making such a determination. Section 208 allows the Board to provide special assistance to credit unions to avoid liquidation. After reviewing the data and the comments, the Board has decided to adopt this change as proposed.

In the Proposal the Board noted that, in analyzing credit union Call Reports and other internal NCUA data, the NCUA has found that an overwhelming number of credit unions that received section 208 assistance eventually left the credit union system. Specifically, between the first quarter of 2001 and the fourth quarter of 2016, 181 credit unions received at least one type of section 208 assistance. Since then, 165, or 91.2%, of these credit unions have stopped filing Call Reports.

Further, the data shows that not only did the overwhelming majority of the credit unions that received section 208 assistance stop filing Call Reports, but did so not long after, or prior to, receiving the assistance. Notably, 13.9% of the total number of credit unions that received section 208 assistance began receiving such assistance after they filed their final Call Report. An additional 37.0% of these 165 credit unions filed their final Call Report in the same quarter in which they first began receiving section 208 assistance. Another 41.2% of these credit unions filed their final Call Report within the four quarters after the quarter they first received section 208 assistance. In total, 152 of the 165 credit unions, or 92.1%, stopped filing Call Reports prior to or within 15 months of receiving the section 208 assistance.

CREDIT UNIONS RECEIVING SECTION 208 ASSISTANCE—FIRST RECEIPT OF SECTION 208 ASSISTANCE TO LAST CALL REPORT FILED

	Number	%
Same quarter	61	37.0
1 year	68	41.2
2 years	3	1.8
3 years	2	1.2
4 or more years	8	4.8
Assistance began after final call report was filed	23	13.9
Total	165	100.0

The quantitative evidence, along with the NCUA's experiences and observations, demonstrate that credit unions receiving section 208 assistance within the last 15 months are in danger of insolvency for emergency merger purposes.

The majority of commenters explicitly supported the proposed fourth category and felt the NCUA's data clearly showed that credit unions receiving 208 assistance are in danger of insolvency. While no commenter opposed the addition of the fourth category, a number did provide suggestions and feedback. However, much of this feedback falls outside the scope of this rulemaking.

Specifically, one commenter who supported the change also argued that the data shows problems with 208 assistance generally and that the current process covers up foundational problems inherent in credit unions approaching insolvency. The commenter urged the NCUA to explore ways to either improve the success of 208 assistance or to seek more effective remedies to help struggling credit unions. Additionally, four commenters requested that the NCUA further analyze the credit unions that survived after receiving 208 assistance to ensure the success of future recipients. One of these commenters specifically asked the NCUA to consider whether more stringent criteria is warranted when receiving 208 assistance. Another of these commenters recommended that the NCUA continue to collect and analyze the 208 assistance data. Another commenter specifically asked that the NCUA exhaust all efforts to assist credit unions receiving 208 assistance to regain strength.

The Proposal sought comment on amendments to the in danger of insolvency standard for purposes of determining credit unions' eligibility for emergency mergers. This included whether the addition of the fourth category is proper. The comments received addressing section 208 assistance in a capacity other than its merits as an indication that a credit union is in danger of insolvency for emergency merger purposes, while generally helpful and appreciated, fall outside the scope of this rulemaking. However, the Board does note that the NCUA has previously and will continue to evaluate the 208 assistance program and the data the agency collects on it on an ongoing basis.

One commenter noted the delicate balance the NCUA must strike between the public policy behind 208 assistance and the implementation of this fourth category. The commenter stressed that the in danger of insolvency determination should be holistic and not based solely or primarily on a credit union's request or acceptance of 208 assistance. A separate commenter supported the addition of the fourth category, but cautioned that adding 208 assistance to the definition could deter credit unions from seeking 208 assistance.

The Board agrees that the determination that a credit union is eligible for an emergency merger must be made holistically rather than just based on a credit union's request for or acceptance of 208 assistance. The Board reiterates that it is not proposing that every credit union that receives section 208 assistance, thus meeting the new definition of in danger of insolvency, is destined for an emergency merger. In fact, the Board cannot authorize an emergency merger on this determination alone. Credit unions to be merged on an emergency basis still must meet the statutory requirements that an emergency exists, other alternatives are

not reasonably available, and the public interest would be served by the merger.[8] However, quantitative evidence and the NCUA's experience do indicate that a credit union's receipt of section 208 assistance is a reliable indicator of a credit union being in danger of insolvency and a safety and soundness concern.

For similar reasons, the Board does not believe that using section 208 assistance to determine that a credit union is in danger of insolvency is likely to deter credit unions from seeking 208 assistance. The Board's determination that an emergency merger is necessary is a holistic one and subject to the above strict statutory requirements. Further, credit unions that receive section 208 assistance typically do so only when necessary to avoid liquidation or reduce risk to the NCUSIF. Whether they would potentially be part of an emergency merger down the line should they survive seems a minor concern.

D. Technical Correction

The final rule replaces the word ''relay'' with the word ''rely'' as proposed. One commenter specifically supported this change.

E. Other Issues Raised by Commenters

Rigid Guidelines

Two commenters specifically cautioned against any regime that would result in rigid guidelines forcing credit union mergers. One of the commenters cited data in the Proposal that showed that roughly 73 credit unions that fell below two percent net worth during the last 20 years remain active today as evidence of the need to avoid ''impos[ing] an inflexible, one-size-fits-all rubric to resolve financially-challenged institutions.'' The Board understands this concern, and reiterates that the aim of this rulemaking is to return flexibility to the in danger of insolvency definition, not to force credit unions that meet the definition into emergency mergers. Further, credit unions are not forced into emergency mergers. While it is true that fledgling institutions may be left with limited options, including liquidation, a credit union's Board of Directors must consent to an emergency merger for it to occur.

Transparency

One commenter argued for a more transparent emergency merger process. The commenter suggested prospective merger partners be fully apprised of important information regarding the selection process and have the opportunity to make their case for the merger. To increase transparency and guide future emergency mergers, the commenter asked the NCUA to provide prospective merger partners with a written explanation of the reasons for its decision. The emergency merger process is a collaborative one between the merging credit union, the potential acquiring credit unions, the state regulator if applicable, and the NCUA. The Board believes that potential acquiring credit unions are currently provided with a transparent view of the emergency merger process. Further, this rulemaking focuses on the in danger of insolvency definition rather than the emergency merger process generally. As such, this comment is beyond the scope of this rulemaking but nevertheless appreciated.

Impact on Small Credit Unions

One commenter said that small credit unions' lack of resources often frustrates the merger process and requested the NCUA try to alleviate these potential issues by providing more streamlined procedures for merger of small institutions. The commenter noted that even with the increased forecast horizons, there may still be delays in the actual emergency merger process. The commenters did not specify how the procedures for emergency mergers could be streamlined to assist small institutions. This rulemaking relates only to the in danger of insolvency definition. As such, comments relating to procedures governing other aspects of the emergency merger process are beyond the scope of this rulemaking but still appreciated.

Another commenter read the proposal's Paperwork Reduction Act and Regulatory Flexibility Act sections to mean that the NCUA believed the proposed changes focused on regulating larger credit unions and did not impact a significant number of smaller credit unions. The commenter advised the NCUA to review how the proposal will actually impact smaller credit unions. Specifically, the commenter suggested the NCUA research whether the Proposal affects small credit unions through evaluation forecasts, prompt corrective action, and net worth restoration plans. The commenter requested that the NCUA analyze and explain whether subjective application of the definition will disproportionately affect small credit unions, as examiners may be more likely to accept (or even push for) a forecast for small credit unions that reflects a danger of insolvency.

The Proposal's Paperwork Reduction Act and Regulatory Flexibility Act analyses do not state that the changes to the in danger of insolvency definition are focused on regulating larger institutions. Instead, they convey that the changes do not have a significant economic impact on a substantial number of small credit unions and do not require additional information collection requirements. The analyses state that the proposed amendments instead are intended to return flexibility to the NCUA in making the in danger of insolvency determination.

Other

One commenter was particularly concerned that the NCUA ''emphasize and uphold the importance and viability of the credit union charter.'' The commenter said the NCUA has a dual obligation to preserve and protect the NCUSIF and the federal credit union system. The commenter stressed the value federal credit union charters hold and asserted that while a strong emphasis on finances is important in the emergency merger context, a more holistic evaluation that includes the three other statutory criteria should be incorporated to preserve the value of FCU charters.

The Board appreciates its responsibility to serve both as the charterer and prudential regulator of federal credit unions and the insurer of all federally insured credit unions. As the Board has noted both in the Proposal and above, it appreciates that the emergency merger evaluation is a holistic one that, in addition to the insolvent or in danger of insolvency determination, includes the Board's determination that the credit union meets the three other statutory criteria that: Exigent circumstances exist; there are no other reasonable alternatives available; and the emergency merger is in the public interest.[9] To reiterate, this final rule is not intended to encourage more emergency mergers or promote consolidation, but to return some flexibility to the definition of in danger of insolvency so that credit unions that are in fact in danger of insolvency can become *eligible* for an emergency merger.

Another commenter suggested that ''the Board consider standardizing timeframes contained both within this final rule as well as throughout all regulations relative to capitalization and net worth.'' The commenter noted that for risk-based capital purposes, the NCUA uses a 24-month look-back period and that for the in danger of insolvency determination the timelines would now be: 30 months for the

[8] 12 U.S.C. 1785(h).

[9] *Id.*

insolvency category; 18 months for the critically undercapitalized category; 36 months for the significantly undercapitalized category; and 15 months for the proposed 208 assistance category. The commenter said that while it ''supports the extensions and additions suggested in the proposed rule, it is recommended that a holistic view of look-back and forecast timeframes is important and suggests that standardization of such timeframes may assist the industry.'' The Board does not necessarily agree that standardization of timeframes across NCUA's regulations relative to capitalization and net worth is desirable or would benefit credit unions. Further, the Board believes this comment to beyond the scope of this rulemaking.

IV. Regulatory Procedures

A. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[10] This final rule merely provides the NCUA greater flexibility to authorize emergency mergers and will not have a significant economic impact on a substantial number of small credit unions. Accordingly, the NCUA certifies that the final rule will not have a significant economic impact on a substantial number of small credit unions.

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency creates new or amends existing information collection requirements.[11] For the purpose of the PRA, an information collection requirement may take the form of a reporting, recordkeeping, or a third-party disclosure requirement. The final rule does not contain information collection requirements that require approval by OMB under the PRA.[12] The final rule will merely provide the NCUA greater flexibility to authorize emergency mergers.

C. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. In adherence to fundamental federalism principles, the NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order. This rulemaking will not have a substantial direct effect on the states, on the connection between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

D. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this final rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[13]

E. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121) (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the Administrative Procedure Act. The NCUA does not believe this final rule is a ''major rule'' within the meaning of the relevant sections of SBREFA. As required by SBREFA, the NCUA has filed the appropriate reports so that this final rule may be reviewed.

List of Subjects in 12 CFR Part 701

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on December 14, 2017.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the NCUA Board amends 12 CFR part 701 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 is revised to read as follows:

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1785, 1786, 1787, 1788, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

■ 2. In appendix B to part 701, in the glossary, revise the definition of ''in danger of insolvency'' to read as follows:

Appendix B to Part 701—Chartering and Field of Membership Manual

* * * * *

In danger of insolvency—In making the determination that a particular credit union is in danger of insolvency, NCUA will establish that the credit union falls into one or more of the following categories:

1. The credit union's net worth is declining at a rate that will render it insolvent within 30 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

2. The credit union's net worth is declining at a rate that will take it under two percent (2%) net worth within 18 months. In projecting future net worth, NCUA may rely on data in addition to Call Report data. The trend must be supported by at least 12 months of historic data.

3. The credit union's net worth, as self-reported on its Call Report, is significantly undercapitalized, and NCUA determines that there is no reasonable prospect of the credit union becoming adequately capitalized in the succeeding 36 months. In making its determination on the prospect of achieving adequate capitalization, NCUA will assume that, if adverse economic conditions are affecting the value of the credit union's assets and liabilities, including property values and loan delinquencies related to unemployment, these adverse conditions will not further deteriorate.

4. The credit union has been granted or received assistance under section 208 of the Federal Credit Union Act, 12 U.S.C. 1788, in the 15 months prior to the Region's determination that the credit union is in danger of insolvency.

* * * * *

[FR Doc. 2017–27410 Filed 12–19–17; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Parts 701, 705, 708a, 708b, and 790

RIN 3133–AE81

Agency Reorganization

AGENCY: National Credit Union Administration (NCUA).

ACTION: Final rule.

SUMMARY: The NCUA Board (''Board'') is issuing a final rule to implement certain features of the NCUA reorganization that the Board announced earlier this year. This rule amends the NCUA's regulations related to the organization of the NCUA's Central Office.

DATES: This rule is effective January 6, 2018.

FOR FURTHER INFORMATION CONTACT: Elizabeth Wirick, Senior Staff Attorney,

[10] 5 U.S.C. 603(a).

[11] 44 U.S.C. 3507(d); 5 CFR part 1320.

[12] 44 U.S.C. chap. 35.

[13] Public Law 105–277, 112 Stat. 2681 (1998).

Office of General Counsel, 1775 Duke Street, Alexandria, VA 22314 or telephone (703) 518–6540.

SUPPLEMENTARY INFORMATION:

I. Background

In July 2017, the Board announced a plan to streamline and consolidate certain of the NCUA's functions and offices in an effort to reduce the NCUA's budget and increase efficiency. The portions of the Board's reorganization plan reflected in this rule will:

- Eliminate the Office of Small Credit Union Initiatives;
- Rename the Office of Consumer Financial Protection and Access the ''Office of Consumer Financial Protection;'' and
- Create a new office named the ''Office of Credit Union Resources and Expansion'' to absorb: (1) Most of the current functions of the Office of Small Credit Union Initiatives; (2) the federal credit union chartering and field of membership functions of the Office of Consumer Financial Protection; and (3) the minority depository institution preservation program of the Office of Minority and Women Inclusion.

Other aspects of the Board's reorganization plan, such as changes affecting the Office of Examination and Insurance, do not require regulatory changes.

The rule also makes a technical correction to the definition of ''Regional Director'' in the NCUA's voluntary merger regulation to reflect the fact that the Office of National Examinations and Supervision supervises natural person credit unions with assets of $10 billion or more as well as corporate credit unions.

Additionally, the changes articulated in this rulemaking relate only to changes in the organization of the NCUA's Central Office, which become effective January 6, 2018. The two NCUA Regional Offices that are to be eliminated under the reorganization plan will not be closed until December 31, 2018. The Board will issue another rule in 2018 to reflect the reduction in the number of NCUA Regional Offices beginning in 2019.

II. Regulatory Procedures

1. Final Rule Under the Administrative Procedure Act (APA)

Generally, the APA requires a federal agency to provide the public with notice and an opportunity to comment on agency rulemakings.[1] This rule is exempt from the APA's notice and comment requirement because it only addresses the NCUA's organization and structure.[2]

2. Effective Date

The APA also generally requires publication of a rule in the **Federal Register** at least 30 days before the effective date of the rule. Agencies can dispense with the 30-day requirement for good cause.[3] The NCUA finds good cause to dispense with the 30-day effective date requirement, as this rule is technical rather than substantive. The rule will, therefore, be effective January 6, 2018 to coincide with the implementation of the NCUA's reorganization plan.

3. Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act of 1996[4] (SBREFA) provides generally for congressional review of agency rules. A reporting requirement is triggered in instances where the NCUA issues a final rule as defined by Section 551 of the APA.[5] As required by SBREFA, the NCUA has submitted this rule to the Office of Management and Budget for it to determine if the final rule is a ''major rule'' for purposes of SBREFA. The NCUA does not believe the rule is major.

4. Regulatory Flexibility Act

The Regulatory Flexibility Act requires the NCUA to prepare an analysis of any significant economic impact a regulation may have on a substantial number of small entities (primarily those under $100 million in assets).[6] This final rule will not have a significant economic impact on small credit unions as it addresses only the NCUA's internal organization. Accordingly, the NCUA certifies the rule will not have a significant economic impact on a substantial number of small credit unions.

5. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA) applies to rulemakings in which an agency by rule creates a new paperwork burden on regulated entities or increases an existing burden.[7] For purposes of the PRA, a paperwork burden may take the form of a reporting or recordkeeping requirement, both referred to as information collections. As the final rule simply conforms the NCUA's regulations to reflect its new organizational structure, the NCUA has determined it does not increase paperwork requirements under the PRA.

6. Executive Order 13132

Executive Order 13132 encourages independent regulatory agencies to consider the impact of their actions on state and local interests. The NCUA, an independent regulatory agency as defined in 44 U.S.C. 3502(5), voluntarily complies with the executive order to adhere to fundamental federalism principles. The final rule does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. The NCUA has therefore determined that this final rule does not constitute a policy that has federalism implications for purposes of the executive order.

7. Assessment of Federal Regulations and Policies on Families

The NCUA has determined that this rule will not affect family well-being within the meaning of § 654 of the Treasury and General Government Appropriations Act, 1999, Public Law 105–277, 112 Stat. 2681 (1998).

List of Subjects

12 CFR Part 701

Credit unions, Chartering, Field of membership.

12 CFR Part 705

Credit unions, Grants, Loans, Low-income credit unions, Revolving fund.

12 CFR Part 708a

Credit unions, Charter conversions.

12 CFR Part 708b

Credit unions, Mergers of credit unions.

12 CFR Part 790

Organization and functions (Government agencies).

By the National Credit Union Administration Board on December 14, 2017.

Gerard Poliquin,

Secretary of the Board.

For the reasons discussed above, the National Credit Union Administration amends 12 CFR parts 701, 705, 708a, 708b, and 790 as follows:

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

■ 1. The authority citation for part 701 continues to read as follows:

[1] 5 U.S.C. 553(b).

[2] *Id.* (b)(A).

[3] *Id.* 553(d)(3).

[4] Public Law 104–121.

[5] 5 U.S.C. 551.

[6] 5 U.S.C. 603(a).

[7] 44 U.S.C. 3507(d); 5 CFR part 1320.

Authority: 12 U.S.C. 1752(5), 1755, 1756, 1757, 1758, 1759, 1761a, 1761b, 1766, 1767, 1782, 1784, 1786, 1787, 1789. Section 701.6 is also authorized by 15 U.S.C. 3717. Section 701.31 is also authorized by 15 U.S.C. 1601 *et seq.;* 42 U.S.C. 1981 and 3601–3610. Section 701.35 is also authorized by 42 U.S.C. 4311–4312.

Appendix B to Part 701 [Amended]

■ 2. In appendix B to part 701, remove the term ''Office of Consumer Financial Protection and Access'' wherever it appears and add in its place the term ''Office of Credit Union Resources and Expansion''.

PART 705—COMMUNITY DEVELOPMENT REVOLVING LOAN FUND FOR CREDIT UNIONS

■ 3. The authority citation for part 705 continues to read as follows:

Authority: 12 U.S.C. 1756, 1757, 1766, 1782, 1784, 1785, 1786.

■ 4. In § 705.5, in paragraph (d), remove the term ''Office of Small Credit Union Initiatives'' and add in its place the term ''Office of Credit Union Resources and Expansion''.

PART 708a—BANK CONVERSIONS AND MERGERS

■ 5. The authority citation for part 708a continues to read as follows:

Authority: 12 U.S.C. 1766, 1785(b), and 1785(c).

■ 6. In § 708a.101, revise the first sentence of the definition of ''Regional Director'' to read as follows:

§ 708a.101 Definitions.

* * * * *

Regional Director means either the director for the NCUA Regional Office for the region where a natural person credit union's main office is located or the director of the NCUA's Office of Credit Union Resources and Expansion. * * *

* * * * *

PART 708b—MERGERS OF FEDERALLY-INSURED CREDIT UNIONS; VOLUNTARY TERMINATION OR CONVERSION OF INSURED STATUS

■ 7. The authority citation for part 708b continues to read as follows:

Authority: 12 U.S.C. 1752(7), 1766, 1785, 1786, and 1789.

■ 8. In § 708b.2, revise the definition of ''Regional Director'' to read as follows:

§ 708b.2 Definitions.

* * * * *

Regional Director means either the director for the NCUA Regional Office for the region where a natural person credit union's main office is located or the director of the NCUA's Office of Credit Union Resources and Expansion. For corporate credit unions and natural person credit unions with $10 billion or more in assets, Regional Director means the director of the NCUA's Office of National Examinations and Supervision.

* * * * *

PART 790—DESCRIPTION OF NCUA; REQUEST FOR AGENCY ACTION

■ 9. The authority citation for part 790 continues to read as follows:

Authority: 12 U.S.C. 1766, 1789, 1795f.

■ 10. In § 790.2, revise the second sentence of paragraph (b)(6), paragraph (b)(12), the third sentence of paragraph (b)(13), and paragraph (b)(15) to read as follows:

§ 790.2 Central and field office organization.

* * * * *

(b) * * *

(6) * * * The Executive Director translates the NCUA Board policy decisions into workable programs, delegates responsibility for these programs to appropriate staff members, and coordinates the activities of the senior executive staff, which includes: The General Counsel; the Regional Directors; and the Office Directors for the Asset Management and Assistance Center, Chief Economist, Chief Financial Officer, Chief Information Officer, Consumer Financial Protection, Continuity and Security Management, Credit Union Resources and Expansion, Examination and Insurance, Human Resources, Minority and Women Inclusion, National Examinations and Supervision, and Public and Congressional Affairs. * * *

* * * * *

(12) *Credit Union Resources and Expansion.* This Office is responsible for coordinating NCUA policy and actions related to credit union chartering and field of membership, low income designation, and preserving credit unions run by minorities and/or serving minorities. The Office administers the Community Development Revolving Loan Program for Credit Unions (Program). This Program is funded from congressional appropriations and serves as a source of financial support, in the form of technical assistance grants and loans to low-income credit unions serving predominantly low-income members. The Program is governed by part 705 of subchapter A of this chapter.

* * * * *

(13) *Office of Minority and Women Inclusion.* * * * Specific duties of the Office include developing and implementing standards for: Equal employment opportunity and the racial, ethnic, and gender diversity of the workforce and senior management of the NCUA; increased participation of minority-owned and women-owned businesses in the programs and contracts of the NCUA, including standards for coordinating technical assistance to such businesses; and assessing the diversity policies and practices of credit unions regulated by the NCUA. * * *

* * * * *

(15) *Office of Consumer Financial Protection.* (i) The Office of Consumer Financial Protection contains two divisions:

(A) The Division of Consumer Compliance Policy and Outreach; and

(B) The Division of Consumer Affairs;

(ii) The Office provides consumer financial services, including consumer education and complaint resolution; establishes, consolidates, and coordinates consumer financial protections within the agency; oversees the agency's fair lending examination program; and acts as the central liaison on consumer financial protection with other federal agencies.

* * * * *

[FR Doc. 2017–27411 Filed 12–19–17; 8:45 am]

BILLING CODE 7535–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0671; Product Identifier 2016–SW–072–AD; Amendment 39–19135; AD 2017–26–04]

RIN 2120–AA64

Airworthiness Directives; Airbus Helicopters (Previously Eurocopter France)

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are superseding Airworthiness Directive (AD) 2009–25–07 for Airbus Helicopters Model EC120B helicopters. AD 2009–25–07 required amending the rotorcraft flight manual supplement (RFMS) and pre-flight checking the emergency flotation gear before each flight over water. Since we issued AD 2009–25–07, Airbus Helicopters developed a terminating action and identified an additional part-

numbered emergency floatation gear part with the unsafe condition. This new AD retains the requirements of AD 2009–25–07, expands the applicability, and adds a terminating action for the repetitive inspections. The actions of this AD are intended to correct an unsafe condition on these helicopters.

DATES: This AD is effective January 24, 2018.

ADDRESSES: For service information identified in this final rule, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/website/technical-expert/.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

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–2017–0671; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (phone: 800–647–5527) is U.S. Department of Transportation, Docket Operations Office, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: George Schwab, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *george.schwab@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to remove AD 2009–25–07 (74 FR 65682, December 11, 2009) (2009–25–07), and add a new AD. AD 2009–25–07 applied to Eurocopter France (now Airbus Helicopters) Model EC120B helicopters. AD 2009–25–07 required amending the limitations section of RFMS to prohibit flight over water if the ''float arm'' pushbutton does not remain lit, conducting a pilot check to determine whether the ''float arm'' pushbutton remains lit before any flight over water, and placarding the ''float arm'' pushbutton as inoperative if the functional check is unsuccessful.

The NPRM published in the **Federal Register** on July 14, 2017 (82 FR 32501). The NPRM was prompted by AD No. 2016–0180, dated September 13, 2016 (AD 2016–0180), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Model EC120B helicopters. EASA advises that Airbus Helicopters has designed an improved latching pushbutton, which when installed becomes a terminating action for the repetitive functional checks of the float arm pushbuttons. EASA also states that lighting and ancillary control unit (LACU) part number (P/N) 040101BA is equipped with the same faulty pushbutton and must be included in the applicability.

Accordingly, the NPRM proposed to retain the RFMS amendment and repetitive functional check requirements of AD 2009–25–07, add LACU P/N 040101BA to the applicability paragraph, require replacing the float arm pushbutton P/N 045004A111A with float arm pushbutton P/N 304–2500–00 within 300 hours time-in-service (TIS), and prohibit installing float arm pushbutton P/N 045004A111A on any helicopter. Replacing the float arm pushbutton was also proposed as a terminating action for the repetitive functional checks prior to flight overwater. An owner/operator (pilot) may perform the functional check required by this AD and must enter compliance with that paragraph into the helicopter maintenance records in accordance with 14 CFR 43.9(a)(1) through (4) and 91.417(a)(2)(v). A pilot may perform this check because it involves only a functional check to determine whether the emergency flotation gear has been armed and can be performed equally well by a pilot or a mechanic. This check is an exception to our standard maintenance regulations.

The proposed requirements were intended to prohibit flight over water if a functional test indicates that the emergency flotation gear cannot be armed, which would preclude deployment of the floats in an emergency water ditching, resulting in subsequent damage to the helicopter and injury to occupants.

Since the NPRM was issued, the FAA's Aircraft Certification Service has changed its organization structure. The new structure replaces product directorates with functional divisions. We have revised some of the office titles and nomenclature throughout this Final rule to reflect the new organizational changes. Additional information about the new structure can be found in the Notice published on July 25, 2017 (82 FR 34564).

Comments

We gave the public the opportunity to participate in developing this AD, but we did not receive any comments on the NPRM.

FAA's Determination

We have reviewed the relevant information and determined that an unsafe condition exists and is likely to exist or develop on other helicopters of these same type designs and that air safety and the public interest require adopting the AD requirements as proposed.

Differences Between This AD and the EASA AD

The EASA AD requires installing the LACU float arm pushbutton within 13 months; this AD requires the installation within 300 hours TIS.

Related Service Information

We reviewed Airbus Helicopters Emergency Alert Service Bulletin No. 04A007, Revision 1, dated June 30, 2016 (EASB), for Airbus Helicopters Model EC120B helicopters. The EASB describes procedures for a pre-flight check of the float arm pushbutton while arming the emergency flotation gear and prohibits operators from flight over water if the float arm pushbutton fails.

We also reviewed Airbus Helicopters Alert Service Bulletin No. EC120–31A008, Revision 0, dated June 30, 2016 (ASB), for Airbus Helicopters Model EC120B helicopters. The ASB describes procedures for replacing the float arm pushbutton with a new design pushbutton and for re-labeling the modified LACU with a new P/N label.

Costs of Compliance

We estimate this AD will affect 53 helicopters of U.S. Registry.

We estimate that operators may incur the following costs in order to comply with this AD. At an average labor rate of $85 per hour, the cost of revising the limitations section of the RFMS and of the pre-flight functional check is negligible. Replacing the float arm pushbutton will require about 2 work-hours, and required parts cost about $311, for a cost per helicopter of $481 and a total cost of $25,493 to the U.S. fleet.

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 helicopters identified in this rulemaking action.

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 to the extent that it justifies making a regulatory distinction; and

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2009–25–07, Amendment 39–16126 (74 FR 65682, December 11, 2009), and adding the following new AD:

2017–26–04 Airbus Helicopters (Previously Eurocopter France): Amendment 39–19135; Docket No. FAA–2017–0671; Product Identifier 2016–SW–072–AD.

(a) Applicability

This AD applies to Airbus Helicopters (previously Eurocopter France) Model EC120B helicopters, certificated in any category, with a Lighting and Ancillary Control Unit (LACU) part-number (P/N) 040101AB or 040101BA with a float arm pushbutton P/N 045004A111A installed.

(b) Unsafe Condition

This AD defines the unsafe condition as failure of a ''float arm'' pushbutton, which could result in inoperative floats being used in an emergency water ditching, causing damage to the helicopter or injury to occupants.

(c) Affected ADs

This AD supersedes AD 2009–25–07, Amendment 39–16126 (74 FR 65682, December 11, 2009).

(d) Effective Date

This AD becomes effective January 24, 2018.

(e) Compliance

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

(f) Required Actions

(1) Before further flight, amend the EC120B Rotorcraft Flight Manual Supplement (RFMS) for the Aerazur emergency flotation gear, by inserting a copy of this AD into the Limitations section of the RFMS or by making pen and ink changes to that section to add the information in Figure 1 to paragraph (f)(1) of this AD:

FIGURE 1 TO PARAGRAPH (f)(1)—AMENDMENT TO RFMS

Arm the emergency flotation gear by pressing the LACU ''FLOAT ARM'' pushbutton.
—If both lights of the pushbutton remain lit, flight over water is permitted.
—If one or both lights of the pushbutton do not remain lit, FLIGHT OVER WATER IS PROHIBITED.

(2) Before each flight over water:

(i) Perform a functional check to determine whether flight over water is permitted under the Limitations section in paragraph (f)(1) of this AD. For purposes of this AD, ''flight over water'' means flight beyond the power-off gliding distance from shore. ''Shore'' is an area of land adjacent to the water and above the high water mark but does not include land area that is intermittently under water. The actions required by this paragraph may be performed by the owner/operator (pilot) holding at least a private pilot certificate, and must be entered into the aircraft records showing compliance with this AD in accordance with 14 CFR 43.9(a)(1) through (4) and 14 CFR 91.417(a)(2)(v). The record must be maintained as required by 14 CFR 91.417, 121.380, or 135.439.

(ii) If the LACU fails the functional check required by paragraph (f)(2)(i) of this AD, place a placard over the ''float arm'' pushbutton that reads ''INOP.''

(3) Within 300 hours time-in-service, replace float arm pushbutton P/N 045004A111A with float arm pushbutton P/N 304–2500–00. Installing float arm pushbutton P/N 304–2500–00 is terminating action for the functional check and placard required by paragraphs (f)(2)(i) and (f)(2)(ii) of this AD.

(4) Do not install float arm pushbutton P/N 045004A111A on any helicopter.

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

(1) Airbus Helicopters Emergency Alert Service Bulletin No. 04A007, Revision 1, dated June 30, 2016, and Airbus Helicopters Alert Service Bulletin No. EC120–31A008, Revision 0, dated June 30, 2016, which are not incorporated by reference, contain additional information about the subject of this AD. For service information identified in this AD, contact Airbus Helicopters, 2701 N. Forum Drive, Grand Prairie, TX 75052; telephone (972) 641–0000 or (800) 232–0323; fax (972) 641–3775; or at *http://www.airbushelicopters.com/website/technical-expert/.* You may review a copy of the service information at the FAA, Office of

the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy., Room 6N–321, Fort Worth, TX 76177.

(2) The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2016–0180, dated September 13, 2016. You may view the EASA AD on the internet at *http://www.regulations.gov* in Docket No. FAA–2017–0671.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 2560 Emergency Equipment.

Issued in Fort Worth, Texas, on December 12, 2017.

Scott A. Horn,

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

[FR Doc. 2017–27274 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1191; Product Identifier 2017–SW–046–AD; Amendment 39–19134; AD 2017–26–03]

RIN 2120–AA64

Airworthiness Directives; The Enstrom Helicopter Corporation Helicopters

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; request for comments.

SUMMARY: We are adopting a new airworthiness directive (AD) for the Enstrom Helicopter Corporation (Enstrom) Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, TH–28, 280, 280C, 280F, 280FX, 480, and 480B helicopters. This AD requires inspecting certain rod end bearing assemblies. This AD is prompted by an accident. The actions of this AD are intended to prevent an unsafe condition on these helicopters.

DATES: This AD becomes effective January 4, 2018.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of January 4, 2018.

We must receive comments on this AD by February 20, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1191; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Enstrom Helicopter Corporation, 2209 22nd Street, Menominee, MI; telephone (906) 863–1200; fax (906) 863–6821; or at *www.enstromhelicopter.com.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1191.

FOR FURTHER INFORMATION CONTACT: Manzoor Javed, Senior Aerospace Engineer, Chicago ACO Branch, Compliance and Airworthiness Division, Aircraft Certification Service, FAA, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–8112; email *manzoor.javed@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Discussion

We are adopting a new AD for Enstrom Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, TH–28, 280, 280C, 280F, 280FX, 480, and 480B helicopters with a rod end bearing assembly (bearing assembly) part number (P/N) 01–824–08E–011, 09455–01–824–08E–011, ECD091–1, ASMK8T, M81935/1–08K, MS21242S8K, or MTK8 installed. We received a report of an accident involving an Enstrom Model 480B helicopter in which one of the main rotor (M/R) blades departed in-flight. The preliminary investigation indicated that failure of a rod end bearing assembly of one of the M/R hydraulic damper assemblies may have caused the M/R blade to depart from the helicopter. Based on a partially visible marking, the FAA believes the failed part is assembly P/N ECD091–1, vendor P/N 09455–01–824–08E–011. Analysis of the failed assembly revealed corrosion in the root of the threaded portion of the rod end. Enstrom identified a potential failure mode whereby failure of the rod end bearing assembly may result in the loss of the M/R blade. Because there is no indication of a specific manufacturing or design issue that would limit the potential for this corrosion to have occurred on other similarly-designed rod ends, the FAA determined it necessary to require an inspection of all approved rod end P/Ns.

Accordingly, this AD requires, within 5 hours time-in-service (TIS), a one-time inspection of the bearing assemblies for corrosion on the threaded portion of the rod end. If there is any corrosion, this AD requires replacing the bearing assembly before further flight. This AD also requires reporting information about the inspection to the FAA within 10 days.

The actions specified by this AD are intended to detect corrosion in the bearing assembly to prevent failure of the rod end, loss of an M/R blade, and subsequent loss of control of the helicopter. Additional inspections at longer intervals may also be necessary.

We plan to publish a notice of proposed rulemaking to give the public an opportunity to comment on those long-term requirements.

FAA's Determination

We are issuing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other helicopters of these same type designs.

Related Service Information Under 1 CFR Part 51

Enstrom has issued Service Directive Bulletin (SDB) No. 0127, Revision 1, dated October 6, 2017, for Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, 280, 280C, 280F, and 280FX helicopters and SDB No. T–058, dated August 2, 2017, for Model TH–28, 480, and 480B helicopters. This service information provides procedures for inspecting certain vendor specific bearing assemblies P/N ECD091–1 for corrosion on the threaded portion of the rod end.

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.

AD Requirements

This AD requires, within 5 hours TIS, inspecting each M/R hydraulic damper bearing assembly P/N ECD091–1, and for model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, 280, 280C, 280F, and 280FX helicopters each belt tension shaft bearing assembly P/N 01–824–08E–011, 09455–01–824–08E–011, ASMK8T, ECD091–1, MTK8, M81935/1–08K, and MS21242S8K, for corrosion at the root of the thread on the rod end with a 5X or higher power magnifying glass. If there is any corrosion, this AD requires replacing the bearing assembly before further flight.

This AD also requires, within 10 days after completing each inspection, reporting the findings of the inspection to the FAA's Chicago ACO Branch, including: The owner's contact information, helicopter registration number and model, date of the inspection, total hours of the bearing assembly and helicopter, bearing assembly serial number, the location of any corrosion, and a description of any corrosion.

Differences Between This AD and the Service Information

The service information specifies repeating the visual inspection for corrosion at every 100 hour or annual inspection, while this AD does not, as this time interval would allow for sufficient time for notice and comment.

Also, the service information only applies to bearing assembly P/N ECD091–1 and only specifies performing an inspection if marked with vendor P/N 09455–01–824–08E–011 or if the marking is missing or illegible. This AD applies to all P/N ECD091–1, 09455–01–824–08E–011, MTK8, ASMK8T, 01–824–08E–011, M81935/1–08K, and MS21242S8K bearing assemblies. Because the FAA does not have any data that positively confirms the root cause as a manufacturing batch, the AD requires inspections on all P/Ns of the same type design. The data received about the initial inspections will be used to determine the effectivity of any follow-on actions.

Finally, the service information specifies reporting the inspection findings to Enstrom, while this AD requires reporting the findings to the FAA.

Interim Action

We consider this AD interim action. The inspection reports that are required by this AD will enable us to obtain better insight into the nature of the corrosion and to develop final action to address the unsafe condition. Once final action has been identified, we might consider further rulemaking.

Costs of Compliance

We estimate that this AD affects 513 helicopters of U.S. Registry.

At an average labor rate of $85 per work-hour, we estimate that operators may incur the following costs in order to comply with this AD.

Inspecting the bearing assemblies will require 5 work-hours, for a cost per helicopter of $425 and a total cost of $218,025 to the U.S. fleet.

Reporting the inspection results required by this AD will require about 0.5 work-hour, for a cost per helicopter of $43, and a total cost of $22,059 to the U.S. fleet.

If required, replacing one bearing assembly will not incur any additional work-hours, and required parts will cost $410, for a cost per helicopter of $410.

Paperwork Reduction Act

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB control number. The control number for the collection of information required by this AD is 2120–0056. The paperwork cost associated with this AD has been detailed in the Costs of Compliance section of this document and includes time for reviewing instructions, as well as completing and reviewing the collection of information. Therefore, all reporting required by this AD is mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at 800 Independence Ave. SW, Washington, DC 20591. ATTN: Information Collection Clearance Officer, AES–200.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because the bearing assembly inspection required by this AD must be accomplished within 5 hours TIS. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason(s) stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

responsibilities among the various levels of government.

For the reasons discussed, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–26–03 The Enstrom Helicopter Corporation: Amendment 39–19134; Docket No. FAA–2017–1191; Product Identifier 2017–SW–046–AD.

(a) Applicability

This AD applies to the Enstrom Helicopter Corporation (Enstrom) Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, TH–28, 280, 280C, 280F, 280FX, 480, and 480B helicopters, certificated in any category, with a rod end bearing assembly (bearing assembly) P/N 01–824–08E–011, 09455–01–824–08E–011, ECD091–1, ASMK8T, M81935/1–08K, MS21242S8K, or MTK8 installed.

(b) Unsafe Condition

This AD defines the unsafe condition as corrosion on a bearing assembly rod end thread. This condition could result in a crack in the bearing assembly, failure of the rod end resulting in loss of a main rotor blade, and loss of control of the helicopter.

(c) Effective Date

This AD becomes effective January 4, 2018.

(d) Compliance

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

(e) Required Actions

(1) Within 5 hours time-in-service (TIS), using a 5X or higher power magnifying glass, inspect each main rotor damper bearing assembly for corrosion on the threaded portion of the rod end as shown in Figure 1 of Enstrom Service Directive Bulletin (SDB) No. 0127, Revision 1, dated October 6, 2017 (SDB 0127), for Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, 280, 280C, 280F, and 280FX helicopters or Enstrom SDB No. T–058, dated August 2, 2017 (SDB T–058), for model TH–28, 480, and 480B helicopters, as appropriate for your model helicopter. If there is any corrosion, before further flight, replace the bearing assembly.

(2) For Model F–28, F–28A, F–28C, F–28C–2, F–28C–2R, F–28F, F–28F–R, 280, 280C, 280F, and 280FX helicopters, within 5 hours TIS, using a 5X or higher power magnifying glass, inspect each belt tension shaft rod end bearing assembly for corrosion on the threaded portion of the rod end as shown in Figure 1 of SDB 0127. If there is any corrosion, before further flight, replace the bearing assembly.

(3) Within 10 days after completing the inspections required by paragraph (e)(1) and (e)(2) of this AD, report the findings of each inspection, including the helicopter owner, address, telephone number, email address, helicopter model, helicopter registration number, date of inspection, total hours TIS of the helicopter, total hours TIS of the bearing, bearing assembly serial number, location of any corrosion, and a description of any corrosion, by mail or email to the individual listed in paragraph (g)(1) of this AD.

(f) Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 30 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW, Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(g) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Chicago ACO Branch, Compliance and Airworthiness Division, Aircraft Certification Service, FAA, may approve AMOCs for this AD. Send your proposal to: Manzoor Javed, Senior Aerospace Engineer, Chicago ACO Branch, Compliance and Airworthiness Division, Aircraft Certification Service, FAA, 2300 East Devon Ave., Des Plaines, IL 60018; telephone (847) 294–8112; email *manzoor.javed@faa.gov.*

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

(h) Subject

Joint Aircraft Service Component (JASC) Code: 6200 Main Rotor System.

(i) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference 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) Enstrom Service Directive Bulletin No. 0127, Revision 1, dated October 6, 2017.

(ii) Enstrom Service Directive Bulletin No. T–058, dated August 2, 2017.

(3) For Enstrom service information identified in this AD, contact Enstrom Helicopter Corporation, 2209 22nd Street, Menominee, MI; telephone (906) 863–1200; fax (906) 863–6821; or at *www.enstromhelicopter.com.*

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

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

Issued in Fort Worth, Texas, on December 11, 2017.

Scott A. Horn,

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

[FR Doc. 2017–27268 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1173; Product Identifier 2017–SW–030–AD; Amendment 39–19131; AD 2017–25–17]

RIN 2120–AA64

Airworthiness Directives; Agusta S.p.A. Helicopters

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

ACTION: Final rule; request for comments.

SUMMARY: We are superseding airworthiness directive (AD) 2011–27–08 for Agusta S.p.A. (Agusta) Model A109S and AW109SP helicopters. AD 2011–27–08 required repetitively inspecting each elevator assembly for a crack. This new AD retains the initial inspection interval and adds a repetitive borescope inspection. This AD is prompted by the discovery of another crack on an elevator assembly since AD 2011–27–08 was issued. The actions of this AD are intended to prevent an unsafe condition on these helicopters.

DATES: This AD becomes effective January 4, 2018.

The Director of the Federal Register approved the incorporation by reference of certain documents listed in this AD as of January 4, 2018.

We must receive comments on this AD by February 20, 2018.

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

- *Federal eRulemaking Docket:* Go to *http://www.regulations.gov.* Follow the online instructions for sending your comments electronically.
- *Fax:* 202–493–2251.
- *Mail:* Send comments to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590–0001.
- *Hand Delivery:* Deliver to the ''Mail'' address between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1173; or in person at the Docket Operations Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this AD, the European Aviation Safety Agency (EASA) AD, any incorporated-by-reference service information, the economic evaluation, any comments received, and other information. The street address for the Docket Operations Office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

For service information identified in this final rule, contact Leonardo S.p.A. Helicopters, Matteo Ragazzi, Head of Airworthiness, Viale G.Agusta 520, 21017 C.Costa di Samarate (Va) Italy; telephone +39–0331–711756; fax +39–0331–229046; or at *http://www.leonardocompany.com/-/bulletins.* You may review the referenced service information at the FAA, Office of the Regional Counsel, Southwest Region, 10101 Hillwood Pkwy, Room 6N–321, Fort Worth, TX 76177. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1173.

FOR FURTHER INFORMATION CONTACT: David Hatfield, Aviation Safety Engineer, Safety Management Section, Rotorcraft Standards Branch, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *david.hatfield@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

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

Discussion

We issued AD 2011–27–08 (77 FR 3382, January 24, 2012) (2011–27–08), for Agusta Model A109S and AW109SP helicopters with elevator assemblies, part number (P/N) 109–0200–02–601, 109–0200–02–801, 109–0200–02–602, 109–0200–02–802, 109–0200–02–803, or 109–0200–02–804 installed. AD 2011–27–08 required repetitively inspecting the left and right elevator assemblies for a crack and replacing the elevator assembly before further flight if there is a crack. AD 2011–27–08 was prompted by AD No. 2011–0150, dated August 9, 2011 (AD 2011–0150), issued by EASA, which is the Technical Agent for the Member States of the European Union, to correct an unsafe condition for Agusta Model A109S and AW109SP helicopters. EASA advised of a fracture of the left elevator assembly along the riveting of the upper skin to the fourth rib due to fatigue.

Actions Since AD 2011–27–08 Was Issued

Since we issued AD 2011–27–08, EASA has issued Emergency AD No. 2017–0085–E, dated May 12, 2017 (EAD 2017–0085–E), which supersedes AD 2011–0150. EASA advises that since AD 2011–0150 was issued, another crack was found in an elevator assembly during a post-flight inspection on an A109S helicopter. EAD 2017–0085–E requires a one-time visual or dye-penetrant inspection of the elevator upper skin in the area of the fourth rib, and also requires drilling an access hole in each elevator and performing repetitive inspections of the internal areas with an endoscope. If there is a crack, EAD 2017–0085–E requires replacing the cracked elevator assembly or contacting Agusta for an approved repair.

Also, the FAA is in the process of updating Agusta's name change to Leonardo Helicopters S.p.A. on its FAA type certificate. Because this name change is not yet effective, this AD specifies Agusta.

FAA's Determination

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

Related Service Information Under 1 CFR Part 51

Leonardo Helicopters has issued Emergency Alert Service Bulletin (EASB) No. 109S–076 for Model A109S helicopters, and EASB No. 109SP–113 for Model AW109SP helicopters, both Revision A and dated May 12, 2017. Each EASB specifies procedures for visually inspecting the elevator assembly skin for a crack, adding an inspection hole to the elevator assembly, and inspecting the interior of the elevator assembly with an endoscope.

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.

AD Requirements

This AD retains the initial visual inspection of AD 2011–27–08, but changes the compliance time to before further flight or before the elevator assembly exceeds 400 hours TIS, whichever occurs later.

The AD also requires, within 10 hours TIS or before the elevator assembly exceeds 400 hours TIS, whichever occurs later, drilling an access hole on the lower face of each elevator assembly and performing a borescope inspection of the internal areas of the elevator assembly leading edge and trailing edge longerons and upper web for a crack. If there is a crack, the AD requires replacing the elevator assembly before further flight. Lastly, this AD requires repeating the borescope inspection every 25 hours TIS.

Differences Between This AD and the EASA AD

The EASA AD allows a dye-penetrant inspection of the elevator assembly as an option, while this AD does not.

Costs of Compliance

We estimate that this AD will affect 14 helicopters of U.S. Registry.

At an average labor rate of $85 per hour, we estimate that operators may incur the following costs in order to comply with this AD. Inspecting the elevator assemblies with a magnifying glass will require 3 work-hours for a cost of $255 per helicopter and $3,570 for the U.S. fleet.

Drilling an access hole will require 1 work-hour and required parts cost would be minimal, for a cost of $85 per helicopter and $1,190 for the U.S. fleet.

Inspecting with a borescope will require 1 work-hour for a cost of $85 per helicopter and $1,190 for the U.S. fleet per inspection cycle.

If required, replacing a cracked elevator assembly will require 10 work-hours and required parts will cost $23,905 for a cost per helicopter of $24,755.

FAA's Justification and Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD without providing an opportunity for public comments prior to adoption. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because some of the corrective actions must be accomplished before further flight. Therefore, we find good cause that notice and opportunity for prior public comment are impracticable. In addition, for the reason stated above, we find that good cause exists for making this amendment effective in less than 30 days.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by removing Airworthiness Directive (AD) 2011–27–08, Amendment 39–16910 (77 FR 3382, January 24, 2012), and adding the following new AD:

2017–25–17 Agusta S.p.A.: Amendment 39–19131; Docket No. FAA–2017–1173; Product Identifier 2017–SW–030–AD.

(a) Applicability

This AD applies to Model A109S and AW109SP helicopters with elevator assemblies, part number (P/N) 109–0200–02–601, 109–0200–02–801, 109–0200–02–602, 109–0200–02–802, 109–0200–02–803, or 109–0200–02–804 installed, certificated in any category.

(b) Unsafe Condition

This AD defines the unsafe condition as a fatigue crack on the elevator assembly. This condition could result in failure of the elevator, reduced maneuverability of the helicopter, and subsequent loss of control of the helicopter.

(c) Affected ADs

This AD supersedes AD 2011–27–08, Amendment 39–16910 (77 FR 3382, January 24, 2012).

(d) Effective Date

This AD becomes effective January 4, 2018.

(e) Compliance

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

(f) Required Actions

(1) Before further flight or before the elevator assembly accumulates 400 hours time-in-service (TIS), whichever occurs later, inspect the left and right elevator upper skin along the 4th rib station rivet line from the leading edge to 200 mm aft with a 10X or higher power magnifying glass for a crack in the area depicted in Figure 1 of Leonardo Helicopters Emergency Alert Service Bulletin (EASB) No. 109S–076, Revision A, dated May 12, 2017 (EASB 109S–076), or EASB No. 109SP–113, Revision A, dated May 12, 2017 (EASB 109SP–113), as appropriate for your model helicopter. If there is a crack, before further flight, replace the elevator assembly.

(2) Within 10 hours TIS or before the elevator assembly accumulates 400 hours TIS, whichever occurs later:

(i) Drill a 19.05 mm access hole on the lower face of each elevator assembly as depicted in Figure 2 of EASB 109S–076 or EASB 109SP–113, as appropriate for your model helicopter. Apply Alodine or equivalent coating and epoxy polyamide primer to the hole surface.

(ii) Using a borescope, inspect the internal area of each elevator assembly for a crack along the leading edge and trailing edge longerons and upper web as depicted in Figure 3 of EASB 109S–076 or EASB 109SP–113, as appropriate for your model helicopter. If there is a crack, before further flight, replace the elevator assembly. Repeat this inspection at intervals not to exceed 25 hours TIS.

(g) Alternative Methods of Compliance (AMOCs)

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

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

(h) Additional Information

The subject of this AD is addressed in European Aviation Safety Agency (EASA) AD No. 2017–0085–E, dated May 12, 2017. You may view the EASA AD on the internet at *http://www.regulations.gov* by searching for and locating it in Docket No. FAA–2017–1173.

(i) Subject

Joint Aircraft Service Component (JASC) Code: 5520 Elevator Structure.

(j) Material Incorporated by Reference

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

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

(i) Leonardo Helicopters Emergency Alert Service Bulletin No. 109S–076, Revision A, dated May 12, 2017.

(ii) Leonardo Helicopters Emergency Alert Service Bulletin No. 109SP–113, Revision A, dated May 12, 2017.

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

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

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

Issued in Fort Worth, Texas, on December 4, 2017.

Scott A. Horn,

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

[FR Doc. 2017–27263 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–0251; Product Identifier 2016–NM–101–AD; Amendment 39–19133; AD 2017–26–02]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 757–200 series airplanes. This AD was prompted by a report indicating that the main cargo door (MCD) forward-most cam latch on the forward center cam latch pair broke during flight. This AD requires repetitive inspections for discrepancies of cam latches, latch pins, and latch pin cross bolts of the MCD; replacement of all alloy steel latch pin cross bolts with corrosion-resistant steel (CRES) latch pin cross bolts of the MCD; and related investigative and corrective actions if necessary. We are issuing this AD to address the unsafe condition on these products.

DATES: This AD is effective January 24, 2018.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of January 24, 2018.

ADDRESSES: For service information identified in this final rule, contact VT Mobile Aerospace Engineering Inc., 2100 9th Street, Brookley Aeroplex, Mobile, AL 36615; telephone: 251–379–0112; email: *mae.757sf@vtmae.com;* internet: *http://www.vtmae.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–0251.

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–2017–0251; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this final rule, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Samuel Belete, Aerospace Engineer, Systems and Equipment Section, FAA, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; telephone: 404–474–5580; fax: 404–474–5605; email: *samuel.belete@faa.gov.*

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 757–200 series airplanes. The NPRM published in the **Federal Register** on June 8, 2017 (82 FR 26617). The NPRM was prompted by a report indicating that the MCD forward-most cam latch on the forward center cam

latch pair broke during flight. The NPRM proposed to require repetitive inspections for discrepancies of cam latches, latch pins, and latch pin cross bolts of the MCD; replacement of all alloy steel latch pin cross bolts with CRES latch pin cross bolts of the MCD; and related investigative and corrective actions if necessary.

We are issuing this AD to detect and correct discrepancies of the MCD cam latches, latch pins, and latch pin cross bolts, which, if left undetected, could reduce the structural integrity of the MCD and result in potential loss of the cargo door and rapid decompression of the airplane.

Comments

We gave the public the opportunity to participate in developing this final rule. We have considered the comments received. Air Line Pilots Association, International, FedEx Express, and VT Mobile Aerospace Engineering Inc. supported the NPRM.

Conclusion

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

Related Service Information Under 1 CFR Part 51

We reviewed VT Mobile Aerospace Engineering Inc. Service Bulletin MAE757SF–SB–52–12/02, Revision 3, dated July 22, 2016. This service information describes procedures for doing inspections for discrepancies of cam latches, latch pins, and latch pin cross bolts of the MCD; replacement of all alloy steel latch pin cross bolts with CRES latch pin cross bolts of the MCD; and related investigative and corrective actions. 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 119 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
Inspections	20 work-hours × $85 per hour = $1,700 per inspection cycle	$0	$1,700 per inspection cycle	$202,300 per inspection cycle.

We estimate the following costs to do any necessary replacement of latch pin cross bolts and related investigative and corrective actions that would be required based on the results of the inspection. We have no way of determining the number of aircraft that might need these actions:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Replacement and Related investigative and corrective actions	Up to 144 work-hours × $85 per hour = $12,240	Up to $3,000	Up to $15,240.

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2017–26–02 The Boeing Company: Amendment 39–19133; Docket No. FAA–2017–0251; Product Identifier 2016–NM–101–AD.

(a) Effective Date

This AD is effective January 24, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 757–200 series airplanes, certificated in any category, that have been converted from passenger to freighter configuration as specified in any of the VT Mobile Aerospace Engineering Inc. supplemental type certificates (STCs) identified in paragraphs (c)(1), (c)(2), and (c)(3) of this AD.

(1) STC ST03562AT (14 pallet) (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/7239683609eb1b4086257ff1004d0f2b/$FILE/ST03562AT.pdf*).

(2) STC ST04242AT (15 pallet) (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/edd46d607cedd3a286257ff1004d8d82/$FILE/ST03952AT.pdf.*)

(3) STC ST03952AT (combi—airplanes that can carry passenger, freight, or both in the cabin) (*http://rgl.faa.gov/Regulatory_and_Guidance_Library/rgstc.nsf/0/edd46d607cedd3a286257ff1004d8d82/$FILE/ST03952AT.pdf*).

(d) Subject

Air Transport Association (ATA) of America Code 52, Doors.

(e) Unsafe Condition

This AD was prompted by a report indicating that the main cargo door (MCD) forward-most cam latch on the forward center cam latch pair broke during flight. We are issuing this AD to detect and correct discrepancies of the MCD cam latches, latch pins, and latch pin cross bolts, which, if left undetected, could reduce the structural integrity of the MCD and result in potential loss of the MCD and rapid decompression of the airplane.

(f) Compliance

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

(g) Repetitive Inspections, Replacement, and Related Investigative and Corrective Actions

At the applicable time specified in paragraph I.D., ''Compliance,'' of VT Mobile Aerospace Engineering Inc. Service Bulletin MAE757SF–SB–52–12/02, Revision 3, dated July 22, 2016 (''SB MAE757SF–SB–52–12/02, R3''), except as required by paragraph (h)(1) of this AD; or within 30 days after the effective date of this AD, whichever occurs later: Do the actions specified in paragraphs (g)(1) through (g)(4) of this AD, and do all applicable related investigative and corrective actions, in accordance with the Accomplishment Instructions of SB MAE757SF–SB–52–12/02, R3, except as specified in paragraph (h)(2) of this AD. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections specified in paragraphs (g)(1), (g)(2), and (g)(4) of this AD thereafter at the applicable intervals specified in paragraph I.D., ''Compliance,'' of SB MAE757SF–SB–52–12/02, R3.

(1) Do a general visual inspection for any broken or missing cam latches, latch pins, and latch pin cross bolts of the MCD.

(2) Do a detailed inspection for any cracks or gouges in critical areas of the cam latches and latch pins of the MCD and for any cam latches with lip deformation.

(3) Replace all previously unreplaced alloy steel latch pin cross bolts with corrosion resistant steel (CRES) latch pin cross bolts of the MCD.

(4) Do a high frequency eddy current (HFEC) or magnetic particle inspection for any cracks in the critical areas of cam latch 1 and cam latch 2 of the MCD.

(h) Exceptions to Service Information

(1) Where the ''Condition'' column of table 1 of paragraph I.D., ''Compliance,'' of SB MAE757SF–SB–52–12/02, R3, refers to airplanes meeting certain conditions identified in ''Condition 1,'' for this AD, ''Condition 1'' applies to all airplanes.

(2) Where the Accomplishment Instructions of SB MAE757SF–SB–52–12/02, R3, specify doing actions only for airplanes that have completed a certain rig and check of the MCD, this AD requires doing those actions on all airplanes.

(i) Credit for Previous Actions

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using VT Mobile Aerospace Engineering Inc. Service Bulletin MAE757SF–SB–52–12/02, Revision 2, dated February 18, 2016.

(j) Special Flight Permit

A special flight permit may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane, for a single unpressurized flight, to a location where the requirements of this AD can be accomplished.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Atlanta ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (l) of this AD.

(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.

(l) Related Information

For more information about this AD, contact Samuel Belete, Aerospace Engineer, Systems and Equipment Section, Atlanta ACO Branch, 1701 Columbia Avenue, College Park, GA 30337; telephone 404–474–5580; fax 404–474–5605; email: *samuel.belete@faa.gov.*

(m) 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) VT Mobile Aerospace Engineering Inc. Service Bulletin MAE757SF–SB–52–12/02, Revision 3, dated July 22, 2016. The date appears only on pages 1 and 3 of this document.

(ii) Reserved.

(3) For service information identified in this AD, contact VT Mobile Aerospace Engineering Inc., 2100 9th Street, Brookley Aeroplex, Mobile, AL 36615; telephone: 251–379–0112; email: *mae.757sf@vtmae.com;* internet: *http://www.vtmae.com.*

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

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

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

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–27169 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 91

[Docket No.: FAA–2017–1194]

Change to Automatic Dependent Surveillance Broadcast Services

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notification of changes in ADS–B services.

SUMMARY: This action announces changes in ADS–B services, including Traffic Information Service—Broadcast (TIS–B), for a small number of aircraft. The FAA is implementing a filter for certain ADS–B equipped aircraft

broadcasting erroneous or improper information when the broadcast information could affect the safe provision of air traffic services. Any aircraft subject to the filter will not have its ADS–B information sent to an air traffic control (ATC) facility nor will the aircraft be a client for TIS–B services. Affected aircraft will continue to receive ATC services within radar coverage using secondary radar information.

DATES: The action described herein is implemented January 2, 2018.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this action, contact: David E. Gray, Program Manager, Surveillance and Broadcast Services, AJM–232, Air Traffic Organization, Federal Aviation Administration, 600 Independence Ave. SW, Wilbur Wright Building, Washington, DC 20597; telephone: 202–267–3615; email: *adsb@faa.gov.*

SUPPLEMENTARY INFORMATION:

Background

In 2010, the FAA issued a final rule mandating equipage requirements and performance standards for Automatic Dependent Surveillance—Broadcast (ADS–B) Out avionics on aircraft operating in certain airspace after December 31, 2019. 75 FR 30160, May 28, 2010. Use of ADS–B Out will move air traffic control from a radar-based system to a satellite-derived aircraft location system and enhance aircraft surveillance by FAA and Department of Defense (DOD) air traffic controllers. Equipage with ADS–B avionics also provides aircraft operators with a platform for additional flight applications and services, including TIS–B,[1] which improve a pilot's situational awareness in aircraft not equipped with a traffic alert and collision avoidance system (TCAS).

In deploying the ADS–B surveillance infrastructure, the FAA implemented a capability to monitor compliance with § 91.227 requirements for aircraft operating within the U.S. National Airspace System (NAS). Over the past three years, this monitoring has identified some ADS–B Out aircraft with non-performing equipment (NPE) transmitting data used by ATC and ADS–B-In-equipped aircraft that present a potential safety hazard to NAS operations, including but not limited to: Unassigned/invalid 24-bit ICAO addresses; incorrect flight identification codes; erroneous position reports; improper avionics integrity and accuracy levels; and missing data required by applicable regulations.

To reduce the potential hazard presented by NPE aircraft, the FAA is filtering individual 24-bit ICAO address codes (also known as Mode S codes) for certain aircraft from the FAA's operational ADS–B network. The FAA is implementing an ATC filtering capability on January 2, 2018. This filtering prevents processing of data transmitted by uniquely identified NPE aircraft within FAA air traffic control systems and by the FAA TIS–B service. ATC will continue to receive transponder replies to secondary radar interrogations and will be able to provide ATC services within radar coverage to aircraft subject to the filter, using secondary radar information. Also, any aircraft with a filtered ICAO address code will continue to appear as a ''target'' to nearby aircraft with ADS–B-In equipment.

Action

The FAA will always filter ICAO address codes from aircraft that are transmitting the hexadecimal values ''000000'' and ''FFFFFF.'' Per ICAO technical standards which FAA surveillance systems meet, neither of these ICAO address codes should be used by any aircraft ADS–B Out transmitter or Mode S transponder. However, FAA ADS–B monitoring over the last three years indicates that approximately once per day, on average, there is a flight in the NAS using one of these incorrect ICAO address codes and indicating that the aircraft is equipped with an ADS–B-In system. Because these non-compliant codes are not unique to a single aircraft, the potential for multiple aircraft to transmit the same code could create confusion inside ADS–B and TCAS avionics, Mode S interrogators, and ATC automation systems. This confusion could cause an aircraft's position to be incorrectly displayed or not displayed at all, thereby creating an unsafe condition in the NAS. To mitigate this risk and discourage violation of ICAO technical standards, the FAA will filter the ADS–B information from any aircraft transmitting a non-compliant address code from the FAA's operational ATC systems. Therefore, aircraft broadcasting these incorrect ICAO address codes will be unable to receive TIS–B services.

The FAA also intends to utilize the filter for other ICAO codes that are being improperly broadcast or for aircraft whose ADS–B Out equipment has exhibited erroneous position reports that could affect the safe provision of air traffic services. The FAA may also utilize the filter for aircraft that have a known issue that could reasonably result in erroneous ADS–B reports that could affect the safe provision of ATC services.

The FAA has initiated the filtering capability described in this document for aircraft transmitting non-compliant codes. For other aircraft, the FAA intends when possible to provide individual notice to owners/operators prior to utilizing the filter. This notification would describe the reason for applying the filter and steps that must be taken before an aircraft may be removed from the filter. If an aircraft owner/operator does not respond to an FAA notice of finding regarding an ADS–B avionics issue, FAA at its option may subject that aircraft to the filter without further notice.

Owners and operators can identify the ICAO address filtering status of their aircraft by requesting a Public ADS–B Performance Report (PAPR) at the following web address: *https://adsbperformance.faa.gov/PAPRRequest.aspx.* Owners and operators whose aircraft are affected by application of the ICAO address filter must contact the FAA Flight Standards Service ADS–B Focus Team at *adsbfocusteam@faa.gov* for guidance on corrective actions and coordination for removal of aircraft from the ICAO address filter.

Operators should check to insure that the ICAO address code (Mode S code) broadcast by their ADS–B equipment matches the assigned ICAO address code for their aircraft. This ICAO address code (Mode S code) can be found at: *http://registry.faa.gov/aircraftinquiry/NNum_Inquiry.aspx.* Operators can verify what ICAO address code is being broadcast by their aircraft by visiting: *https://adsbperformance.faa.gov/PAPRRequest.aspx.*[2]

Issued in Washington, DC, on December 12, 2017.

Kristen G. Burnham,

Vice President, Program Management Organization, FAA Air Traffic Organization.

[FR Doc. 2017–27202 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

[1] TIS–B uses secondary surveillance radars and multilateration systems to provide proximate traffic situational awareness, including position reports from aircraft not equipped with ADS–B Out. TIS–B data may not provide as much information as could be received directly from an aircraft's ADS–B Out broadcast, because of the required data processing. The TIS–B signal is an advisory service that is not designed for aircraft surveillance or separation, and cannot be used for either purpose.

[2] For those aircraft transmitting an erroneous ICAO code, the PAPR software will search for the Flight ID matching the entered N-registry number if it cannot locate the corresponding ICAO code.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 140908761–7999–02]

RIN 0694—AG29

Addition of Certain Entities to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: This rule amends the Export Administration Regulations (EAR) by adding two entities to the Entity List. The two entities being added to the Entity List have been determined by the U.S. Government to be acting contrary to the national security or foreign policy interests of the United States. These two entities will be listed on the Entity List under the destination of Russia.

DATES: This rule is effective December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Chair, End-User Review Committee, Office of the Assistant Secretary, Export Administration, Bureau of Industry and Security, Department of Commerce, Phone: (202) 482–5991, Email: *ERC@bis.doc.gov.*

SUPPLEMENTARY INFORMATION:

Background

The Entity List (Supplement No. 4 to part 744 of the Export Administration Regulations (EAR)) identifies entities and other persons reasonably believed to be involved, or to pose a significant risk of being or becoming involved, in activities contrary to the national security or foreign policy interests of the United States. The EAR imposes additional license requirements on, and limits the availability of most license exceptions for, exports, reexports, and transfers (in-country) to those listed. The ''license review policy'' for each listed entity or other person is identified in the License Review Policy column on the Entity List and the impact on the availability of license exceptions is described in the **Federal Register** document adding entities or other persons to the Entity List. BIS places entities and other persons on the Entity List pursuant to sections of part 744 (Control Policy: End-User and End-Use Based) and part 746 (Embargoes and Other Special Controls) of the EAR.

The End-User Review Committee (ERC), composed of representatives of the Departments of Commerce (Chair), State, Defense, Energy and, where appropriate, the Treasury, makes all decisions regarding additions to, removals from, or other modifications to the Entity List. The ERC makes decisions to add an entry to the Entity List by majority vote and decisions to remove or modify an entry by unanimous vote. The Departments represented on the ERC have approved these changes to the Entity List.

ERC Entity List Decisions

Additions to the Entity List

This rule implements the decision of the ERC to add two entities to the Entity List. These two entities are being added on the basis of § 744.11 (License requirements that apply to entities acting contrary to the national security or foreign policy interests of the United States) of the EAR. The two entries added to the Entity List consist of two entities located in Russia.

Under § 744.11(b) (Criteria for revising the Entity List) of the EAR, persons for whom there is reasonable cause to believe, based on specific and articulable facts, that they have been involved, are involved, or pose a significant risk of being or becoming involved in, activities that are contrary to the national security or foreign policy interests of the United States and those acting on behalf of such persons may be added to the Entity List. Paragraphs (b)(1) through (b)(5) of § 744.11 provide an illustrative list of activities that could be contrary to the national security or foreign policy interests of the United States.

BIS, pursuant to Section 744.11(b) of the EAR, and in consultation with the Departments of State, Defense, Energy and the Treasury, has designated the two persons, located in the Russian Federation, to be added to the Entity List for actions contrary to the national security or foreign policy interests of the United States. Specifically, these entities produced, for the Russian Federation Ministry of Defense, a ground-launched cruise missile system, and associated transporter-erector-launcher, with a range prohibited by the Intermediate-Range Nuclear Forces Treaty. Both the Russian Federation and the United States are party to the INF Treaty. Therefore, there is reasonable cause to believe, based on specific and articulable facts, that Joint Stock Company Experimental Design Bureau Novator, and Joint Stock Company Federal Scientific and Production Center Titan-Barrikady have been involved in actions contrary to the national security or foreign policy interests of the United States.

The prior review of exports, reexports or transfers (in-country) of all items subject to the EAR involving these persons, and the possible imposition of license conditions or license denials on shipments to the persons, will enhance BIS's ability to prevent use of items subject to the EAR contrary to U.S. national security or foreign policy interests.

For the two persons added to the Entity List, BIS imposes a license requirement for all items subject to the EAR, and a license review policy of presumption of denial. The license requirements apply to any transaction in which items are to be exported, reexported, or transferred (in-country) to either of the persons or in which such persons act as purchaser, intermediate consignee, ultimate consignee, or end-user. In addition, no license exceptions are available for exports, reexports, or transfers (in-country) to the persons being added to the Entity List in this rule. The acronym ''a.k.a.'' (also known as) is used in entries on the Entity List to identify aliases and help exporters, reexporters and transferors to better identify persons on the Entity List.

This final rule adds the following two entities to the Entity List:

Russia

(1) *Joint Stock Company Experimental Design Bureau Novator,* a.k.a., the following two aliases:

—Novator Design Bureau; *and*
—JSC OKB Novator.

18 Prospekt Kosmonavtov, 620017 Yekaterinburg, Russia; *and*

(2) *Joint Stock Company Federal Scientific and Production Center Titan-Barrikady,* a.k.a., the following three aliases:

—Federal Research and Production Center Titan Barrikady JSC;
—Titan Design Bureau; *and*
—JSC FNPTS Titan-Barrikady.

Prospekt Imeni V.I. Lenina, b/n 400071, Volgograd, Russia.

Export Administration Act of 1979

Although the Export Administration Act of 1979 expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as amended by Executive Order 13637 of March 8, 2013, 78 FR 16129 (March 13, 2013) and as extended by the Notice of August 15, 2017, 82 FR 39005 (August 16, 2017), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Export Administration Act of 1979, as appropriate and to the extent permitted by law, pursuant to Executive Order

13222, as amended by Executive Order 13637.

Rulemaking Requirements

1. 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 determined to be not significant for purposes of Executive Order 12866. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to nor 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 regulation involves collections previously approved by OMB under control number 0694–0088, Simplified Network Application Processing System, which includes, among other things, license applications, and carries a burden estimate of 43.8 minutes for a manual or electronic submission.

Total burden hours associated with the PRA and OMB control number 0694–0088 are not expected to increase as a result of this rule. You may send comments regarding the collection of information associated with this rule, including suggestions for reducing the burden, to Jasmeet K. Seehra, Office of Management and Budget (OMB), by email to *Jasmeet_K._Seehra@omb.eop.gov,* or by fax to (202) 395–7285.

3. This rule does not contain policies with Federalism implications as that term is defined in Executive Order 13132.

4. For the two persons added to the Entity List in this final rule, the provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation and a 30-day delay in effective date are inapplicable because this regulation involves a military or foreign affairs function of the United States (5 U.S.C. 553(a)(1)). BIS implementation of this rule is necessary to protect U.S. national security or foreign policy interests by preventing items from being exported, reexported, or transferred (in-country) to the persons being added to the Entity List. If this rule were delayed to allow for notice and comment and a delay in effective date, the entities being added to the Entity List by this action would continue to be able to receive items without a license and to conduct activities contrary to the national security or foreign policy interests of the United States. In addition, publishing a proposed rule would give these parties notice of the U.S. Government's intention to place them on the Entity List, which could create an incentive for these persons to accelerate receiving items subject to the EAR to conduct activities that are contrary to the national security or foreign policy interests of the United States, including taking steps to set up additional aliases, change addresses, and other measures to try to limit the impact of the listing on the Entity List once a final rule is published. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* are not applicable. Accordingly, no regulatory flexibility analysis is required and none has been prepared.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for part 744 is revised to read as follows:

Authority: 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of January 13, 2017, 82 FR 6165 (January 18, 2017); Notice of August 15, 2017, 82 FR 39005 (August 16, 2017); Notice of September 18, 2017, 82 FR 43825 (September 19, 2017); Notice of November 6, 2017, 82 FR 51971 (November 8, 2017).

■ 2. Supplement No. 4 to part 744 is amended by adding under Russia, two Russian entities.

The additions read as follows:

Supplement No. 4 to Part 744—Entity List

* * * * *

Country	Entity	License requirement	License review policy	**Federal Register** citation
*	*	*	*	*
RUSSIA	*	*	*	*
	Joint Stock Company Experimental Design Bureau Novator, a.k.a., the following two aliases: —Novator Design Bureau; *and* —JSC OKB Novator. 18 Prospekt Kosmonavtov, 620017 Yekaterinburg, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	82 FR [INSERT FR PAGE NUMBER], December 12/20/17.

Country	Entity	License requirement	License review policy	**Federal Register** citation
	Joint Stock Company Federal Scientific and Production Center Titan-Barrikady, a.k.a., the following three aliases: —Federal Research and Production Center Titan Barrikady JSC; —Titan Design Bureau; *and* —JSC FNPTS Titan-Barrikady. Prospekt Imeni V.I. Lenina, b/n 400071, Volgograd, Russia.	For all items subject to the EAR. (See § 744.11 of the EAR).	Presumption of denial	82 FR [INSERT FR PAGE NUMBER], 12/20/17.
*	*	*	*	*	*	*

Dated: December 15, 2017.

Richard E. Ashooh,

Assistant Secretary for Export Administration.

[FR Doc. 2017–27388 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 880

[Docket No. FDA–2017–N–6570]

Medical Devices; General Hospital and Personal Use Devices; Classification of the Image Processing Device for Estimation of External Blood Loss

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the image processing device for estimation of external blood loss 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 image processing device for estimation of external blood loss' 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 20, 2017. The classification was applicable on May 9, 2014.

FOR FURTHER INFORMATION CONTACT: Jitendra Virani, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G459, Silver Spring, MD 20993–0002, 301–796–6398, *Jitendra.Virani@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the image processing device for estimation of external blood loss 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 (PMA) 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

For this device, FDA issued an order on November 13, 2012, finding the Gauss Surgical Pixel 3 Application not substantially equivalent to a predicate not subject to PMA. Thus, the device remained in class III in accordance with section 513(f)(1) of the FD&C Act when we issued the order.

On February 4, 2013, Gauss Surgical, Inc., submitted a request for De Novo classification of the PIXEL 3 SYSTEM. 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 May 9, 2014, 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 880.2750. We have named the generic type of device image processing device for estimation of external blood loss, and it is identified as a device to be used as an aid in estimation of patient external blood loss. The device may include software and/or hardware that is used to process images capturing externally lost blood to estimate the hemoglobin mass and/or the blood volume present in the images.

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—IMAGE PROCESSING DEVICE FOR ESTIMATION OF EXTERNAL BLOOD LOSS RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Failure to provide accurate or precise device output	Non-clinical performance testing; Software display of estimated cumulative error; Software verification, validation, and hazard analysis; Human factors testing; and Labeling.
Use error	Human factors testing; and Labeling.
Electromagnetic incompatibility	Electromagnetic compatibility testing; Wireless testing; 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. 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 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 880

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 880 is amended as follows:

PART 880—GENERAL HOSPITAL AND PERSONAL USE DEVICES

■ 1. The authority citation for part 880 is revised to read as follows:

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

■ 2. Add § 880.2750 to subpart C to read as follows:

§ 880.2750 Image processing device for estimation of external blood loss.

(a) *Identification.* An image processing device for estimation of external blood loss is a device to be used as an aid in estimation of patient external blood loss. The device may include software and/or hardware that is used to process images capturing externally lost blood to estimate the hemoglobin mass and/or the blood volume present in the images.

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

(1) Non-clinical performance data must demonstrate that the device performs as intended under anticipated conditions of use. Demonstration of the performance characteristics must include a comparison to a scientifically valid alternative method for measuring deposited hemoglobin mass. The following use conditions must be tested:

(i) Lighting conditions;

(ii) Range of expected hemoglobin concentrations;

(iii) Range of expected blood volume absorption; and

(iv) Presence of other non-sanguineous fluids (*e.g.,* saline irrigation fluid).

(2) Human factors testing and analysis must validate that the device design and labeling are sufficient for appropriate use by intended users of the device.

(3) Appropriate analysis and non-clinical testing must validate the electromagnetic compatibility (EMC) and wireless performance of the device.

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

(5) Software display must include an estimate of the cumulative error associated with estimated blood loss values.

(6) Labeling must include:

(i) Warnings, cautions, and limitations needed for safe use of the device;

(ii) A detailed summary of the performance testing pertinent to use of the device, including a description of the bias and variance the device exhibited during testing;

(iii) The validated surgical materials, range of hemoglobin mass, software, hardware, and accessories that the device is intended to be used with; and

(iv) EMC and wireless technology instructions and information.

Dated: December 15, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27443 Filed 12–19–17; 8:45 am]

BILLING CODE 4164–01–P

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 4044

Allocation of Assets in Single-Employer Plans; Valuation of Benefits and Assets; Expected Retirement Age

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This rule amends the Pension Benefit Guaranty Corporation's regulation on Allocation of Assets in Single-Employer Plans by substituting a new table for determining expected retirement ages for participants in pension plans undergoing distress or involuntary termination with valuation dates falling in 2018. This table is needed to compute the value of early retirement benefits and, thus, the total value of benefits under a plan.

DATES: This rule is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Hilary Duke (*duke.hilary@pbgc.gov*), Attorney, Regulatory Affairs Division, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW, Washington, DC 20005, 202–326–4400 ext. 3839. (TTY/TDD users may call the Federal relay service toll-free at 1–800–877–8339 and ask to be connected to 202–326–4400 ext. 3839.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under Title IV of the Employee Retirement Income Security Act of 1974 (ERISA). PBGC's regulation on Allocation of Assets in Single-Employer Plans (29 CFR part 4044) sets forth (in subpart B) the methods for valuing plan benefits of terminating single-employer plans covered under Title IV. Guaranteed benefits and benefit liabilities under a plan that is undergoing a distress termination must be valued in accordance with subpart B of part 4044. In addition, when PBGC terminates an underfunded plan involuntarily pursuant to ERISA section 4042(a), it uses the subpart B valuation rules to determine the amount of the plan's underfunding.

Under § 4044.51(b) of the asset allocation regulation, early retirement benefits are valued based on the annuity starting date, if a retirement date has been selected, or the expected retirement age, if the annuity starting date is not known on the valuation date. Sections 4044.55 through 4044.57 set forth rules for determining the expected retirement ages for plan participants entitled to early retirement benefits. Appendix D of part 4044 contains tables to be used in determining the expected early retirement ages.

Table I in appendix D (Selection of Retirement Rate Category) is used to determine whether a participant has a low, medium, or high probability of retiring early. The determination is based on the year a participant would reach ''unreduced retirement age'' (*i.e.,* the earlier of the normal retirement age or the age at which an unreduced benefit is first payable) and the participant's monthly benefit at unreduced retirement age. The table applies only to plans with valuation dates in the current year and is updated annually by PBGC to reflect changes in the cost of living, etc.

Tables II–A, II–B, and II–C (Expected Retirement Ages for Individuals in the Low, Medium, and High Categories respectively) are used to determine the expected retirement age after the probability of early retirement has been determined using Table I. These tables establish, by probability category, the expected retirement age based on both the earliest age a participant could retire under the plan and the unreduced retirement age. This expected retirement age is used to compute the value of the early retirement benefit and, thus, the total value of benefits under the plan.

This document amends appendix D to replace Table I–17 with Table I–18 to provide an updated correlation, appropriate for calendar year 2018, between the amount of a participant's benefit and the probability that the participant will elect early retirement. Table I–18 will be used to value benefits in plans with valuation dates during calendar year 2018.

PBGC has determined that notice of, and public comment on, this rule are impracticable and contrary to the public interest. Plan administrators need to be able to estimate accurately the value of plan benefits as early as possible before initiating the termination process. For that purpose, if a plan has a valuation date in 2018, the plan administrator needs the updated table being promulgated in this rule. Accordingly, PBGC finds that the public interest is best served by issuing this table expeditiously, without an opportunity for notice and comment, and that good cause exists for making the table set forth in this amendment effective less than 30 days after publication to allow as much time as possible to estimate the value of plan benefits with the proper table for plans with valuation dates in early 2018.

PBGC has determined that this action is not a ''significant regulatory action'' under the criteria set forth in Executive Order 12866 and Executive Order 13771.

Because no general notice of proposed rulemaking is required for this regulation, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. 601(2)).

List of Subjects in 29 CFR Part 4044

Employee benefit plans, Pension insurance.

In consideration of the foregoing, 29 CFR part 4044 is amended as follows:

PART 4044—ALLOCATION OF ASSETS IN SINGLE-EMPLOYER PLANS

■ 1. The authority citation for part 4044 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362.

■ 2. Appendix D to part 4044 is amended by removing Table I–17 and adding in its place Table I–18 to read as follows:

Appendix D to Part 4044—Tables Used To Determine Expected Retirement Age

TABLE I–18—SELECTION OF RETIREMENT RATE CATEGORY

[For plans with valuation dates after December 31, 2017, and before January 1, 2019]

If participant reaches URA in year—	Participant's Retirement Rate Category is—			
	Low [1] if monthly benefit at URA is less than—	Medium [2] if monthly benefit at URA is—		High [3] if monthly benefit at URA is greater than—
		From—	To—	
2019	647	647	2,734	2,734
2020	662	662	2,797	2,797
2021	678	678	2,862	2,862
2022	693	693	2,927	2,927
2023	709	709	2,995	2,995
2024	725	725	3,064	3,064
2025	742	742	3,134	3,134
2026	759	759	3,206	3,206
2027	777	777	3,280	3,280
2028 or later	794	794	3,355	3,355

[1] Table II–A.
[2] Table II–B.
[3] Table II–C.

* * * * *

Issued in Washington, DC, by:

Daniel S. Liebman,

Acting Assistant General Counsel for Regulatory Affairs, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–27361 Filed 12–19–17; 8:45 am]

BILLING CODE 7709–02–P

DEPARTMENT OF THE TREASURY

United States Mint

31 CFR Part 100

Exchange of Coin

AGENCY: United States Mint, Treasury.

ACTION: Final rule.

SUMMARY: This final rule revises Treasury regulations relating to the exchange of uncurrent, bent, partial, fused, and mixed coins, and to update the regulations to comply with the requirement for orderly codification. The revisions include updates to redemption rates and procedures that will enhance the integrity of the acceptance and processing of bent and partial United States coins.

DATES: *Effective Date:* January 19, 2018.

FOR FURTHER INFORMATION CONTACT: Sheila Barnett, Legal Counsel; Office of the Chief Counsel; United States Mint; at (202) 354–7624 or *sbarnett@usmint.treas.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Treasury Regulations appearing at 31 CFR part 100, subpart C, are promulgated under 31 U.S.C. 5120, and relate to the exchange of uncurrent, bent, partial, fused, and mixed coins. The last amendment to 31 CFR part 100, subpart C, was on August 23, 1999. Since then, the United States Mint identified portions of the regulations in need of revision to update redemption rates and procedures, and to enhance the integrity of the acceptance and processing of bent and partial United States coins. *The United States Mint was also informed that the current structure of part 100 does not meet the orderly codification requirements of 1 CFR 8.2, 21.8, and 21.9.*

The first category of revisions updates and improves the redemption process of bent and partial coins to enhance security and ensure the integrity of United States coinage. The revisions establish procedures for certifying participants based on submission amounts and frequency, sampling submissions to authenticate material, conducting site visits for certain participants, and requiring information on how the submission came to be bent or partial. The revisions also inform submitters of required banking information. Lastly, the revisions provide the United States Mint discretion to cease processing submissions that appear to be part of an illegal scheme, or contain material that is not identifiable as bent or partial United States coinage.

The second category of revisions relates to the redemption rates for uncurrent coins and bent and partial coins that have been withdrawn from circulation. For uncurrent coins, the revisions clarify the procedure for redemption by instructing the public to deposit the uncurrent coins with a financial institution that will accept them, or with a depository institution that has a direct relationship with a Federal Reserve Bank. The revisions make clear that a Federal Reserve Bank will redeem uncurrent coins based on the policies described in the Federal Reserve's Operating Circular 2.

For bent or partial coins, the revisions update the redemption rates of certain coins to reflect the current values and compositions of coins being redeemed. For example, in the prior regulation, the redemption rate for one-cent coins was $1.4585 per pound; this redemption rate was derived from the weight of bronze one-cent coins (3.11 grams or 0.1097 ounces each), which the United States Mint has not minted and issued since 1982. In 1983, the United States Mint began minting and issuing only copper-plated zinc one-cent coins, which weigh 2.50 grams or 0.0882 ounces each. Due to the weight difference, a pound (the minimum weight for redemption) of copper-plated zinc one-cent coins contains a higher quantity of coins than a pound of bronze one-cent coins. The revisions make the redemption rate $1.8100 for a pound consisting solely of copper-plated zinc one-cent coins. For bronze one-cent coins, or a mix of both bronze and copper-plated zinc one-cent coins, the lower redemption rate of $1.4585 will apply. A similar update is made to the redemption rate for $1 coins.

The third category of revisions clarifies that the United States Mint will not accept fused coins. The United States Mint will also not accept mixed coins (coins of several alloy categories presented together) for redemption, with the exception of bent or partial one-cent coins and $1 coins that are presented in mixed years.

The fourth category of revisions puts the public on notice that the Director of the United States Mint may provide information pertaining to any bent or partial coin submission to law enforcement officials or other third parties for purposes of investigating related criminal activity or for purposes of seeking civil judgment. The revisions also notify potential participants that they may be held criminally and/or civilly liable, fined, and/or imprisoned for fraudulent submissions.

Finally, the United States Mint clarifies which of the various offices and bureaus within the Department of the Treasury has authorization to update the different subparts within part 100.

II. Public Participation

In 82 FR 43730, Sep. 19, 2017, the United States Mint issued a notice of proposed rulemaking (NPRM) to revise redemption rates and procedures relating to the exchange of uncurrent, bent, partial, fused, and mixed coins, and requested comments on the proposed revisions. The United States Mint received fourteen comments. The majority of comments were from individuals and businesses who previously participated in the exchange program. One comment was from a trade association representing the private, for-profit recycling industry.

Most comments expressed support for the revisions. Many of the comments raised questions about details of the exchange program that specifically relate to operating procedures. Those instructions and other details relating to the exchange of bent and partial coins will be provided to the public on the United States Mint's website. Instructions and other details related to the exchange of uncurrent coins will be described in the Federal Reserve's Operating Circular 2. If a comment is not addressed in the summary below, it is because the comment was more specific to those operating procedures and details, or the comment was not responsive to the proposed revisions.

Certification Process

The majority of comments supported a participant certification process. A few comments expressed confusion or dissatisfaction with certification occurring prior to submission of coins. One comment said it would be logically inconsistent to require certification prior to submission because the thresholds related to certification are related to the submission. The United States Mint does not believe it is inconsistent to require certification prior to submission. Participants who will exceed or plan to exceed the annual weight threshold will be required to be certified by the United States Mint prior to submission. The annual weight threshold, along with other certification instructions, will be provided on the United States Mint's website.

One comment asked whether a participant would be required to go through the certification process prior to *each* submission. The answer is no. A recertification will be required every three years for those participants whose recurring submissions exceed the annual submission threshold, unless the United States Mint decides in its discretion that recertification is needed earlier than the three year period. Details and instructions on the certification process will be available on the United States Mint's website.

Foreign Participants

Two comments expressed concern with the regulations applying equally to domestic and foreign recycling companies. Foreign individuals and businesses will be given the same opportunity to participate in the exchange program. The requirement to provide payment information for a bank or other financial institution in the United States applies equally to domestic and foreign participants.

Request To Clarify Denomination Categories

One comment requested clarity on how to separate bent or partial coins for redemption. Specifically, the comment cited the requirement of the prior regulation to separate bent or partial coins into the following denomination categories of at least one pound: One-cent coins; 5-cent coins; dime, quarter-dollar, and half-dollar coins; and $1 coins. The United States Mint is only revising the redemption rates, not the denomination categories themselves. Paragraph (d) is revised to clarify that lots of at least one pound must still be separated into the denomination categories of one-cent coins; 5-cent coins; dime, quarter-dollar, and half-dollar coins; and $1 coins.

Conclusion

After reviewing and considering all timely comments received in response to the NPRM, the United States Mint decided to move forward with the proposed regulatory text, with a minor editorial change to clarify the denomination categories. The United States Mint has determined that this minor editorial change is consistent with the intent that was proposed in the NPRM and does not add any additional burden upon the public than was already proposed in the NPRM.

III. Procedural Analysis

Regulatory Planning and Review

The Office of Management and Budget determined that this rule does not constitute a ''significant regulatory action'' under Executive Order 12866 or Executive Order 13771.

Regulatory Flexibility Act Analysis

It is hereby certified that the revisions will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.,* is not required. First, the regulations do not directly regulate any entities. The redemption of uncurrent, bent, or partial coins is a discretionary service offered to the public; participation is voluntary. Second, many of the coins presented for redemption in the past were submitted by individuals transacting with the United States Mint in their own names. The number of entities tendering significant quantities of coins for redemption is small. Even if each such individual or entity qualified as a ''small entity'' within the meaning of 5 U.S.C. 604(a), the United States Mint does not believe that the revisions are likely to have a significant economic impact. The revisions do not change or limit the scope of what may be submitted for redemption or who may submit them. The revisions may require additional information from participants to deter potential fraud and abuse, but the added administrative costs for participants are expected to be minimal.

List of Subjects in 31 CFR Part 100

Coins.

Words of Issuance

For the reasons set forth in the preamble, the United States Mint amends 31 CFR part 100 as follows:

PART 100—EXCHANGE OF PAPER CURRENCY AND COIN

■ 1. The authority citation for part 100 continues to read as follows:

Authority: 31 U.S.C. 321.

■ 2. Amend § 100.2 by designating the undesignated paragraph as paragraph (a) and adding paragraph (b) to read as follows:

§ 100.2 Scope of regulations; transactions effected through Federal Reserve banks and branches; distribution of coin and currencies.

* * * * *

(b) The Department of the Treasury has authorized amendments to this part by the following bureaus and offices:

(1) This section—Office of the Secretary.

(2) Subpart A—Office of the Secretary.

(3) Subpart B—Bureau of Engraving and Printing.

(4) Subpart C—United States Mint.

(5) Subpart D—Office of the Secretary.

■ 3. Revise subpart C to read as follows:

Subpart C—Request for Examination of Coin for Possible Redemption

Sec.

100.10 Request for examination of uncurrent coin for possible redemption.
100.11 Request for examination of bent or partial coin for possible redemption.
100.12 Exchange of fused or mixed coin.
100.13 Notices.

§ 100.10 Request for examination of uncurrent coin for possible redemption.

(a) *Definition.* Uncurrent coins are whole U.S. coins which are merely worn or reduced in weight by natural abrasion yet are readily and clearly recognizable as to genuineness and denomination and which are machine countable.

(b) *Redemption process.* The United States Mint will not accept uncurrent coins for redemption. Members of the public wishing to redeem lawfully held uncurrent coins must deposit the uncurrent coins with a bank or other financial institution that will accept them, or with a depository institution that has established a direct customer relationship with a Federal Reserve Bank. A Federal Reserve Bank will redeem uncurrent coins, based on the policies described in the Federal Reserve's Operating Circular 2.

(c) *Criteria for acceptance.* Depository institutions that redeem uncurrent coins must sort the coins by denomination into packages in accordance with the Federal Reserve's Operating Circular 2. The Federal Reserve Banks have the right to reject any shipment containing objects that are not U.S. coins or any contaminant that could render the uncurrent coins unsuitable for coinage metal.

(d) *Redemption sites.* The Federal Reserve Banks and branches listed in § 100.17 are the only authorized redemption sites at which a depository institution that has established a direct customer relationship with a Federal Reserve Bank may redeem uncurrent coins.

§ 100.11 Request for examination of bent or partial coin for possible redemption.

(a) *General.* Lawfully held bent or partial coins of the United States may be submitted to the United States Mint for examination in accordance with the provisions in this subpart. Any submission under this subpart shall be deemed an acceptance of all provisions of this subpart.

(b) *Definitions.* (1) Bent coins are U.S. coins which are bent or deformed so as to preclude normal machine counting but which are readily and clearly identifiable as to genuineness and denomination.

(2) Partial coins are U.S. coins which are not whole; partial coins must be readily and clearly identifiable as to genuineness and denomination.

(3) Participants are individuals or businesses that submit coins through the redemption process.

(c) *Redemption process.* (1) Depending on submission amount and frequency, participants may be subject to a certification process by the United States Mint. The established annual weight threshold and details about the participant certification process will be published on the United States Mint's website. If certification is required, it must be done prior to submission.

(2) All submissions for review shall include an estimate of the value of the coins and an explanation of how the submission came to be bent or partial. The submission should also contain the bank account number and routing number for a checking or savings account at a bank or other financial institution (such as a mutual fund, brokerage firm, or credit union) in the United States.

(3) Participants may be required to provide documentation for how the participant came into custody of the bent or partial coins.

(4) The United States Mint reserves the right to test samples from any submission to authenticate the material. The size of the sample will be limited to the amount necessary for authentication. Testing may result in partial or complete destruction of the sample.

(5) The United States Mint reserves the right to conduct site visits for participants over a certain volume threshold to verify information provided to the United States Mint.

(6) No redemption will be made when:

(i) A submission, or any portion of a submission, demonstrates a pattern of intentional mutilation or an attempt to defraud the United States;

(ii) A submission appears to be part of, or intended to further, any criminal activity;

(iii) A submission contains a material misrepresentation of facts;

(iv) Material presented is not identifiable as United States coins. In such instances, the participant will be notified to retrieve the entire submission, at the participant's sole expense, within 30 days. If the submission is not retrieved in a timely manner, the entire submission will be treated as voluntarily abandoned property, pursuant to 41 CFR 102–41.80, and will be retained or disposed of by the United States Mint;

(v) A submission contains any contaminant that could render the coins unsuitable for coinage metal. In such instances, the participant will be notified to retrieve the entire submission, at the participant's sole expense, within 30 days. If the submission is not retrieved in a timely manner, the entire submission will be treated as voluntarily abandoned property, pursuant to 41 CFR 102–41.80, and will be retained or disposed of by the United States Mint; or

(vi) A submission contains more than a nominal amount of uncurrent coins. In such instances, the participant may be notified to retrieve the entire submission, at the participant's sole expense, within 30 days. If the submission is not retrieved in a timely manner, the entire submission will be treated as voluntarily abandoned property, pursuant to 41 CFR 102–41.80, and will be retained or disposed of by the United States Mint.

(7) The Director of the United States Mint, or designee, shall have final authority with respect to all aspects of redemptions of bent or partial coin submissions.

(d) *Redemption rates.* (1) *Generally.* Participants shall separate bent or partial coins by the denomination categories listed below in lots of at least one pound for each denomination category. The United States Mint will redeem bent or partial coins on the basis of their weight and denomination at the following rates:

(i) One-Cent Coins: $1.4585 per pound.

(ii) 5-Cent Coins: $4.5359 per pound.

(iii) Dime, Quarter-Dollar, and Half-Dollar Coins: $20.00 per pound.

(iv) $1 Coins: $20.00 per pound.

(2) *Exceptions.* (i) The United States Mint will redeem one-cent coins inscribed with a year after 1982 at the rate set forth at paragraph (d)(1)(i) of this section unless such one-cent coins are presented unmixed from one-cent coins inscribed with a year before 1983. The United States Mint will redeem unmixed one-cent coins inscribed with a year after 1982 at a rate of $1.8100 per pound.

(ii) The United States Mint will redeem $1 coins inscribed with a year after 1978 at the rate set forth at paragraph (d)(1)(iv) of this section unless such $1 coins are presented

unmixed from $1 coins inscribed with a year before 1979. The United States Mint will redeem unmixed $1 coins inscribed with a year after 1978 at a rate of $56.00 per pound.

(e) *Redemption sites.* Coins are shipped at the sender's risk of loss and expense.

(1) Bent and partial coins submitted in quantities less than or equal to a threshold established annually will be redeemed only at the United States Mint at Philadelphia, P.O. Box 400, Philadelphia, PA 19105.

(2) Bent and partial coins submitted in quantities greater than a threshold established annually should be scheduled with the United States Mint to be sent directly to the authorized recycler(s) of the United States Mint.

§ 100.12 Exchange of fused or mixed coin.

(a) *Definitions.* (1) Fused coins are U.S. coins which are melted to the extent that they are bonded together.

(2) Mixed coins are U.S. coins of several alloy categories which are presented together, but are readily and clearly identifiable as U.S. coins.

(b) *Fused and mixed coins.* The United States Mint will not accept fused coins for redemption. The United States Mint will not accept mixed coins for redemption, except as provided for in § 100.11(d)(2).

§ 100.13 Notices.

(a) Additional information and procedures about the United States Mint's redemption of bent or partial coins can be found on the United States Mint's website.

(b) Criminal penalties connected with the defacement or mutilation of U.S. coins are provided in 18 U.S.C. 331.

(c) The Director of the United States Mint may provide information pertaining to any bent or partial coin submissions to law enforcement officials or other third parties for purposes of investigating related criminal activity or for purposes of seeking a civil judgment.

(d) Whoever intentionally files a false claim seeking reimbursement for uncurrent, bent or partial coins may be held criminally liable under a number of statutes including 18 U.S.C. 287 and 18 U.S.C. 1341 and may be held civilly liable under 31 U.S.C. 3729, *et seq.*

Dated: December 11, 2017.

Jean Gentry,

Chief Counsel, United States Mint.

[FR Doc. 2017–27026 Filed 12–19–17; 8:45 am]

BILLING CODE 4810–37–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2017–1007]

2016 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notification of expired temporary rules issued.

SUMMARY: This document provides notice of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This document lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between July 2016 and September 2016, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Yeoman First Class David Hager, Office of Regulations and Administrative Law, telephone (202) 372–3862.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between May 2013–October 2016 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the list below.

Docket No.	Type	Location	Effective date
USCG–2016–0465	Security Zones	Rhode Island	5/27/2016

Docket No.	Type	Location	Effective date
USCG–2016–0455	Safety Zones	Quincy, IL	6/6/2016
USCG–2016–0585	Safety Zones	Port New York Zone	7/1/2016
USCG–2016–0630	Safety Zones	Pigeon, MI	7/1/2016
USCG–2016–0357	Safety Zones	Cincinnati, OH	7/2/2016
USCG–2016–0576	Special Local Regulations	Tuscaloosa, AL	7/2/2016
USCG–2016–0284	Safety Zones	Greenup City, KY	7/2/2016
USCG–2016–0411	Safety Zones	Point Pleasant, WV	7/2/2016
USCG–2016–0470	Safety Zones	Aurora, IN	7/2/2016
USCG–2016–0290	Safety Zones	Newburgh, IN	7/2/2016
USCG–2016–0617	Safety Zones	Knoxville, TN	7/3/2016
USCG–2016–0562	Safety Zones	Clarksville, TN	7/3/2016
USCG–2016–0618	Security Zones	Chattanooga, TN	7/3/2016
USCG–2015–0854	Special Local Regulations	Solomons, MD	7/3/2016
USCG–2016–0530	Drawbridges	Seattle, WA	7/4/2016
USCG–2016–0577	Safety Zones	Put-In-Bay, OH	7/4/2016
USCG–2016–0419	Safety Zones	Demopolis, AL	7/4/2016
USCG–2016–0629	Safety Zones	Naval Base Guam	7/4/2016
USCG–2016–0471	Safety Zones	Bellevue, KY	7/8/2016
USCG–2016–0655	Safety Zones	Middleport, OH	7/8/2016
USCG–2016–0563	Safety Zones	Port Buffalo Zone	7/9/2016
USCG–2016–0558	Security Zones	Rising Sun, IN	7/9/2016
USCG–2016–0659	Safety Zones	Portsmouth, OH	7/9/2016
USCG–2016–0652	Special Local Regulations	Marietta, OH	7/9/2016
USCG–2016–0163	Safety Zones	Portland, OR	7/10/2016
USCG–2016–0681	Safety Zones	Sabine, TX	7/11/2016
USCG–2016–0464	Safety Zones	Wrightsville, NC	7/12/2016
USCG–2016–0683	Security Zones	San Diego, CA	7/13/2016
USCG–2016–0549	Special Local Regulations	Bay City, MI	7/14/2016
USCG–2012–1036	Safety Zones	Groton, CT	7/16/2016
USCG–2016–0684	Safety Zones	Suffolk, VA	7/16/2016
USCG–2016–0592	Safety Zones	Merizo, GU	7/17/2016
USCG–2016–0660	Safety Zones	Lake Erie, Cleveland, OH	7/17/2016
USCG–2012–1036	Safety Zones	Captain of Port Long Island Zone	7/22/2016
USCG–2016–0704	Safety Zones	Panoma Beach, FL	7/23/2016
USCG–2016–0597	Safety Zones	Ghent, KY	7/23/2016
USCG–2016–0170	Special Local Regulations	Nashville, TN	7/24/2016
USCG–2016–0691	Safety Zones	Virginia Beach, VA	7/26/2016
USCG–2016–0701	Safety Zones	Put-In-Bay, OH	7/26/2016
USCG–2016–0654	Safety Zones	Piti, GU	7/27/2016
USCG–2016–0726	Safety Zones	Buffalo, NY	7/28/2016
USCG–2016–0708	Safety Zones	Washington, DC	7/28/2016
USCG–2016–0740	Security Zones	Pittsburg, PA	7/30/2016
USCG–2016–0727	Safety Zones	Buffalo, NY	7/30/2016
USCG–2016–0728	Safety Zones	Calumet, LA	8/2/2016
USCG–2016–0734	Safety Zones	Cincinnati, OH	8/4/2016
USCG–2016–0601	Security Zones	Martha's Vineyard, MA	8/5/2016
USCG–2016–0621	Safety Zones	Elk Rapids, MI	8/6/2016
USCG–2016–0738	Safety Zones	New Albany, IN	8/6/2016
USCG–2016–0713	Special Local Regulations	Ravenswood, WV	8/6/2016
USGC–2016–0672	Special Local Regulations	Cincinnati, OH	8/6/2016
USCG–2016–0407	Special Local Regulations	Ashland City, TN	8/7/2016
USCG–2016–0793	Safety Zones	Sabine, TX	8/8/2016
USCG–2016–0811	Safety Zones	East China, MI	8/12/2016
USCG–2016–0812	Safety Zones	Lake St. Clair	8/12/2016
USCG–2016–0803	Safety Zones	Perry, WA	8/13/2016
USCG–2016–0800	Special Local Regulations	Port Huron, MI	8/14/2016
USCG–2016–0329	Safety Zones	Portland, ME	8/14/2016
USCG–2016–0835	Safety Zones	Lake Arthur, LA	8/17/2016
USCG–2016–0828	Safety Zones	Jacksonville, FL	8/19/2016
USCG–2016–0837	Safety Zones	Waddington, NY	8/21/2016
USCG–2016–0822	Safety Zones	Put-in-Bay, OH	8/26/2016
USCG–2016–0823	Special Local Regulations	Wheeling, WV	8/27/2016
USCG–2016–0750	Special Local Regulations	Knoxville, TN	8/27/2016
USCG–2016–0417	Special Local Regulations	Louisville, KY	8/27/2016
USCG–2016–0448	Safety Zones	Fall River, MA	8/28/2016
USCG–2016–0667	Special Local Regulations	Huntsville, AL	8/28/2016
USCG–2016–0775	Safety Zones	Philippine Sea, GU	8/31/2016
USCG–2016–0806	Safety Zones	Naval Base Guam, GU	8/31/2016
USCG–2016–0873	Safety Zones	Panama City, FL	9/1/2016
USCG–2016–0875	Safety Zones	Pittsburg, PA	9/2/2016
USCG–2016–0664	Safety Zones	Shreveport Regatta, LA	9/2/2016
USCG–2016–0809	Special Local Regulations	Ohio River	9/3/2016
USCG–2016–0759	Special Local Regulations	Allegheny River	9/3/2016
USCG–2016–0766	Safety Zones	Boston, MA	9/3/2016

Docket No.	Type	Location	Effective date
USCG–2015–1081	Safety Zones	Port Lake Michigan Zone	9/4/2016
USCG–2016–0872	Special Local Regulations	Detroit, MI	9/4/2016
USCG–2016–0742	Security Zones	Cincinnati, OH	9/4/2016
USCG–2016–0865	Drawbridges	San Francisco, CA	9/8/2016
USCG–2016–0647	Special Local Regulations	Nashville, TN	9/8/2016
USCG–2016–0794	Safety Zones	Ohio River	9/9/2016
USCG–2016–0789	Safety Zones	Mobile, AL	9/9/2016
USCG–2016–0794	Safety Zones	Ohio River	9/9/2016
USCG–2016–0870	Safety Zones	Cincinnati, OH	9/9/2016
USGC–2016–0860	Safety Zones	Pasco, WA	9/10/2016
USCG–2016–0857	Special Local Regulations	Keweenaw Waterway, MI	9/10/2016
USCG–2016–0838	Special Local Regulations	Shelter Island, NY	9/10/2016
USCG–2016–0820	Special Local Regulations	Mayaguez Bay, PR	9/11/2016
USCG–2016–0861	Safety Zones	Marinette, WI	9/17/2016
USCG–2016–0844	Safety Zones	Biloxi, MS	9/17/2016
USCG–2016–0758	Safety Zones	Chattanooga, TN	9/18/2016
USCG–2016–0898	Safety Zone	Island, MI	9/24/2016
USCG–2016–0850	Safety Zone	Tiburon, CA	9/30/2016

Katia Kroutil,

Office Chief, Office of Regulations and Administrative Law.

[FR Doc. 2017–27404 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Parts 100, 117, 147, and 165

[USCG–2017–0694]

2016 Quarterly Listings; Safety Zones, Security Zones, Special Local Regulations, Drawbridge Operation Regulations and Regulated Navigation Areas

AGENCY: Coast Guard, DHS.

ACTION: Notice of expired temporary rules issued.

SUMMARY: This document provides notice of substantive rules issued by the Coast Guard that were made temporarily effective but expired before they could be published in the **Federal Register**. This notice lists temporary safety zones, security zones, special local regulations, drawbridge operation regulations and regulated navigation areas, all of limited duration and for which timely publication in the **Federal Register** was not possible.

DATES: This document lists temporary Coast Guard rules that became effective, primarily between October 2016 and December 2016, unless otherwise indicated, and were terminated before they could be published in the **Federal Register**.

ADDRESSES: Temporary rules listed in this document may be viewed online, under their respective docket numbers, using the Federal eRulemaking Portal at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: For questions on this notice contact Yeoman First Class David Hager, Office of Regulations and Administrative Law, telephone (202) 372–3862.

SUPPLEMENTARY INFORMATION: Coast Guard District Commanders and Captains of the Port (COTP) must be immediately responsive to the safety and security needs within their jurisdiction; therefore, District Commanders and COTPs have been delegated the authority to issue certain local regulations. *Safety zones* may be established for safety or environmental purposes. A safety zone may be stationary and described by fixed limits or it may be described as a zone around a vessel in motion. *Security zones* limit access to prevent injury or damage to vessels, ports, or waterfront facilities. *Special local regulations* are issued to enhance the safety of participants and spectators at regattas and other marine events. *Drawbridge operation regulations* authorize changes to drawbridge schedules to accommodate bridge repairs, seasonal vessel traffic, and local public events. *Regulated Navigation Areas* are water areas within a defined boundary for which regulations for vessels navigating within the area have been established by the regional Coast Guard District Commander.

Timely publication of these rules in the **Federal Register** may be precluded when a rule responds to an emergency, or when an event occurs without sufficient advance notice. The affected public is, however, often informed of these rules through Local Notices to Mariners, press releases, and other means. Moreover, actual notification is provided by Coast Guard patrol vessels enforcing the restrictions imposed by the rule. Because **Federal Register** publication was not possible before the end of the effective period, mariners were personally notified of the contents of these safety zones, security zones, special local regulations, regulated navigation areas or drawbridge operation regulations by Coast Guard officials on-scene prior to any enforcement action. However, the Coast Guard, by law, must publish in the **Federal Register** notice of substantive rules adopted. To meet this obligation without imposing undue expense on the public, the Coast Guard periodically publishes a list of these temporary safety zones, security zones, special local regulations, regulated navigation areas and drawbridge operation regulations. Permanent rules are not included in this list because they are published in their entirety in the **Federal Register**. Temporary rules are also published in their entirety if sufficient time is available to do so before they are placed in effect or terminated.

The following unpublished rules were placed in effect temporarily during the period between October 2016 and December 2016 unless otherwise indicated. To view copies of these rules, visit *www.regulations.gov* and search by the docket number indicated in the list below.

Docket No.	Type	Location	Effective date
USCG–2016–0485	Safety Zone	Erie, PA	6/4/2016

Docket No.	Type	Location	Effective date
USCG–2016–0583	Security Zones	Buffalo, NY	6/17/2016
USCG–2016–0712	Safety Zone	Cleveland, OH	7/21/2016
USCG–2016–0417	Special Local Regulations	Louisville, KY	8/27/2016
USCG–2016–0881	Safety Zone	Hampton, IL	9/12/2016
USCG–2016–0634	Special Local Regulations	Nashville, TN	9/30/2016
USGC–2016–0826	Safety Zone	Santa Cruz, CA	10/1/2016
USCG–2016–0869	Safety Zone	Florence, AL	10/1/2016
USCG–2016–0777	Special Local Regulations	San Diego, CA	10/2/2016
USCG–2016–0732	Special Local Regulations	Clearwater, FL	10/2/2016
USGC–2016–0927	Safety Zone	Allegheny River	10/2/2016
USCG–2012–0459	Special Local Regulations	San Francisco, CA	10/7/2016
USCG–2016–0944	Safety Zone	Bethel Island, CA	10/7/2016
USCG–2011–0489	Safety Zone	Chicago Burnham Park Harbor	10/7/2016
USCG–2016–0849	Security Zones	Biloxi, MS	10/8/2016
USCG–2016–0862	Safety Zone	Richmond, CA	10/8/2016
USCG–2016–0871	Safety Zone	San Francisco, CA	10/8/2016
USCG–2009–0559	Safety Zone	Rio Vista, CA	10/8/2016
USGC–2016–0901	Special Local Regulations	Chattanooga, TN	10/8/2016
USCG–2016–0958	Safety Zone	Inola, OK	10/12/2016
USGC–2016–0945	Safety Zone	Pittsburgh, PA	10/13/2016
USCG–2016–0910	Drawbridges	New Bern, NC	10/15/2016
USCG–2016–0732	Special Local Regulations	Clearwater, FL	10/15/2016
USCG–2016–0876	Drawbridges	Sacramento, CA	10/16/2016
USCG–2016–0969	Security Zones	Boston, MA	10/19/2016
USCG–2016–0967	Safety	Piti, Guam	10/20/2016
USCG–2016–0971	Security Zones	Cleveland, OH	10/21/2016
USCG–2016–0955	Special Local Regulations	Chattanooga, TN	10/22/2016
USCG–2016–0981	Security Zones	Pittsburgh, PA	10/25/2016
USCG–2016–0820	Special Local Regulations	Mayaguez Bay, PR	10/29/2016
USCG–2016–0970	Safety Zone	Tanguisson, GUAM	10/29/2016
USCG–2016–0960	Safety	Harbor, GU	10/31/2016
USCG–2016–0961	Safety	Harbor, Guam	11/3/2016
USCG–2016–0995	Safety Zone	Bellingham, WA	11/9/2016
USCG–2016–0995	Safety Zone	Bellingham, WA	11/9/2016
USCG–2016–0929	Safety Zone	Portland, OR	11/13/2016
USCG–2016–1028	Safety Zone	Beaufort, NC	11/17/2016
USCG–2016–1032	Safety Zone	Drummonds, TN	11/19/2016
USCG–2016–0947	Safety	Merizo, GU	11/20/2016
USCG–2016–1030	Security Zones	Palm Beach, FL	11/22/2016
USCG–2016–1033	Safety Zone	Moriches Bay, NY	11/22/2016
USCG–2012–1036	Safety Zone	Oak dale, NY	11/26/2016
USCG–2016–0984	Special Local Regulations	Cabo Rojo, Puerto Rico	11/27/2016
USCG–2016–1052	Safety Zone	Helena, AR	12/2/2016
USCG–2016–1051	Safety Zone	Orange, TX	12/2/2016
USCG–2016–0979	Safety Zone	Biloxi, MS	12/3/2016
USCG–2016–1035	Safety Zone	Vicksburg, MS	12/3/2016
USCG–2016–0974	Safety Zone	Savannah, GA	12/4/2016
USCG–2016–1036	Drawbridges	Seattle, WA	12/8/2016
USCG–2016–1070	Safety Zone	Fitler, MS	12/11/2016
USCG–2016–1069	Safety Zones	Calumet, LA	12/13/2016
USCG–2016–1072	Safety Zone	Fitler, MS	12/15/2016
USGC–2016–1075	Safety Zones	Drummonds, TN	12/16/2016
USCG–2009–0559	Special Local Regulations	Rio Vista, CA	12/30/2016
USGC–2016–1082	Safety Zone	Chicago, IL	12/31/2016
USCG–2016–1079	Safety Zone	Tumon, GU	12/31/2016

Katia Kroutil,

Office Chief, Office of Regulations and Administrative Law.

[FR Doc. 2017–27409 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1074]

Drawbridge Operation Regulation; San Leandro Bay, Between Alameda and Bay Farm Island, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the California Department of Transportation Highway and Bicycle drawbridges across San Leandro Bay, mile 0.0 and mile 0.1, between Alameda and Bay Farm Island, CA. The deviation is necessary to allow the bridge owner to perform major rehabilitation and maintenance. This deviation allows the bridges to remain

in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 6 a.m. on January 2, 2018 through 6 p.m. on May 27, 2018.

ADDRESSES: The docket for this deviation, USCG–2017–1074, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Highway and Bicycle drawbridges over San Leandro Bay, mile 0.0 and mile 0.1, between Alameda and Bay Farm Island, CA. The highway drawbridge navigation span provides a vertical clearance of 20 feet above Mean High Water in the closed-to-navigation position. The bicycle drawbridge navigation span provides a vertical clearance of 26 feet above Mean High Water in the closed-to-navigation position. The draws operate as required by 33 CFR 117.193. Navigation on the waterway is commercial and recreational.

The drawspans will be secured in the closed-to-navigation position from 6 a.m. on January 2, 2018 through 6 p.m. on May 27, 2018 to allow the bridge owner to perform major rehabilitation and maintenance work, including repainting the structural steel of the highway drawbridge. A temporary platform will be installed beneath the drawspan of the highway drawbridge, reducing the vertical clearance by 3 feet. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised.

Vessels able to pass through the bridges in the closed position may do so at anytime. If necessary, the draws can open on signal if at least 30 days notice is given to the bridge owner. Oakland Inner Harbor Tidal Canal can be used an alternate route for vessels unable to pass through the bridges in the closed position. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridges so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 14, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–27386 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1027]

Drawbridge Operation Regulation; Sacramento River, Sacramento, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of deviation from drawbridge regulation.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating schedule that governs the Tower Drawbridge across the Sacramento River, mile 59.0, at Sacramento, CA. The deviation is necessary to allow the community to participate in the New Year's Eve Sky Spectacular fireworks show. This deviation allows the bridge to remain in the closed-to-navigation position during the deviation period.

DATES: This deviation is effective from 8 p.m. through 11 p.m. on December 31, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–1027, is available at *http://www.regulations.gov.* Type the docket number in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this deviation.

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

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

The drawspan will be secured in the closed-to-navigation position from 8 p.m. through 11 p.m. on December 31, 2017, to allow the community to participate in the New Year's Eve Sky Spectacular fireworks show. This temporary deviation has been coordinated with the waterway users. No objections to the proposed temporary deviation were raised. Vessels able to pass through the bridge in the closed position may do so at anytime. In the event of an emergency the draw can open on signal if at least one hour notice is given to the bridge operator. There are no immediate alternate routes for vessels to pass. The Coast Guard will also inform the users of the waterway through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so that vessel operators can arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 14, 2017.

Carl T. Hausner,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2017–27323 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0311]

RIN 1625–AA09

Drawbridge Operation Regulation; Quantuck Canal, Westhampton Beach, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is modifying the operating schedule that governs the Beach Lane Bridge across Quantuck Canal, mile 1.1, at Westhampton Beach, New York. This action is necessary to allow for an unexpected delay in the rehabilitation of the bascule leaves and painting of the bridge. A temporary deviation was previously granted for a length of 180 days. As the Coast Guard

may not approve extensions beyond that allotted timeframe nor approve back-to-back or sequential deviations, it is necessary to issue this rule in order to allow the bridge owner to complete the remaining work items.

DATES: This rule is effective without actual notice from December 20, 2017 until 11:59 p.m. on January 11, 2018. For the purposes of enforcement, actual notice will be used from 12:01 on December 1, 2017 until December 20, 2017.''

ADDRESSES: To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0048 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rulemaking.

FOR FURTHER INFORMATION CONTACT: If you have questions on this interim rule, call or email Judy Leung-Yee, Bridge Management Specialist, U.S. Coast Guard; telephone 212–514–4336, email *Judy.K.Leung-Yee@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
DHS Department of Homeland Security
FR Federal Register
OMB Office of Management and Budget
NPRM Notice of Proposed Rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On September 13, 2017, we published a temporary deviation entitled, ''Drawbridge Operation Regulation; Beach Lane Bridge, Quantuck Canal, Westhampton Beach, NY'' in the **Federal Register** (see 82 FR 42940). Although we did not request public comments, outreach conducted with mariners utilizing the waterway indicated no objections to the temporary deviation. No complaints were submitted during the temporary deviation.

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because it is impracticable. Due to unanticipated difficulties and delays impacting the schedule and pace of rehabilitation of the bascule leaves and painting of the bridge additional time is required to finalize and complete the work necessary in order to restore the bridge to full operational capacity. We must modify the operation schedule of the bridge by December 1, 2017 to allow the completion of rehabilitation of the bascule leaves and painting of the bridge. We therefore lack sufficient time to provide a reasonable comment period and then consider those comments before issuing the modification.

We are issuing this rule and under 5 U.S.C. 553(d)(3), and for the reasons stated above, the Coast Guard finds that good cause exists for making it effective in less than 30 days after publication in the **Federal Register**.

III. Legal Authority and Need for the Rule

The Coast Guard is issuing this rule under authority 33 U.S.C. 499. The Coast Guard is modifying the operating schedule that governs the Beach Lane Bridge across Quantuck Canal, mile 1.1, at Westhampton Beach, New York. The Beach Lane Bridge is a double-leaf bascule bridge offering mariners a vertical clearance of 13.9 feet at mean high water and 16.2 feet at mean low water in the closed position.

The existing drawbridge regulations are listed at 33 CFR 117.799(d). The Suffolk County Department of Public Works, the bridge owner, has requested this modification as additional time is required to complete the final rehabilitation of the bascule leaves and painting of the bridge.

The Suffolk County Department of Public Works has also requested that the Beach Lane Bridge be allowed to open on signal only one of two bascule spans for bridge openings with the understanding that dual lift-span operations will occur for vessels requiring such an opening provided a 48 hour advance notice was furnished to the owner of the bridge.

The bridge generally opens for seasonal recreational craft and small scale tug/barge combinations occasionally transit the waterway. Vessels that can pass under the bridge without an opening may do so at all times. The bridge will be able to open for emergencies and there is no alternate route for vessels unable to pass through the bridge when in the closed position.

IV. Discussion of the Rule

The Coast Guard is issuing this rule, which permits a temporary deviation from the operating schedule that governs the Beach Lane Bridge across Quantuck Canal, mile 1.1, at Westhampton Beach, New York. The rule is necessary to accommodate the completion of rehabilitation of the bascule leaves and painting of the bridge. This rule allows for single-leaf operations upon signal and dual lift-span operations will be provided for vessels requiring such an opening given 48 hours of advance notice.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive Orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive Orders, and we discuss First Amendment rights of protesters.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771. This regulatory action determination is based on the ability of the majority of vessels to successfully transit through the draw of the bridge with a single-leaf opening. Vessels requiring dual lift-span operations may continue to transit the draw provided submission of advance notice.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the bridge may be small entities, for the reasons stated in section V.A above, this interim rule will not have a significant

economic impact on any vessel owner or operator. Mariners requiring dual lift-span operations have been able to transit the draw following provision of advance notice. Single-leaf operations will be furnished on signal for those vessels requiring such an opening.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT**, above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Government

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have made a determination that this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule simply promulgates the operating regulations or procedures for drawbridges. This action is categorically excluded from further review, under figure 2–1, paragraph (32)(e), of the Instruction. A preliminary Record of Environmental Consideration and a Memorandum for the Record are not required for this rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 117

Bridges.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 117 as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

■ 1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 33 CFR 1.05–1; Department of Homeland Security Delegation No. 0170.1.

■ 2. In § 117.799, effective from 12:01 a.m. on December 20, 2017, through 11:59 p.m. on January 11, 2018, suspend paragraph (d) and add paragraph (j) to read as follows:

§ 117.799 Long Island, New York Inland Waterway from East Rockaway Inlet to Shinnecock Canal.

* * * * *

(j) The draws of the West Bay bridge, mile 0.1, across Quantuck Canal, Quoque bridge, mile 1.1, across Quoque Canal and the Smith Point bridge, mile 6.1, across Narrow Bay shall open on signal from October 1 through April 30 from 8 a.m. to 4 p.m. and from May 1 through September 30 from 6 a.m. to 10 p.m. At all other times during these periods, the draws shall open as soon as possible but no more than one hour after a request to open is received.

(1) The draw of the Beach Lane bridge, mile 1.1, across Quantuck Canal shall open only one of two bascule spans on signal for bridge openings. Dual lift-span operations will occur for vessels requiring such an opening provided a 48 hour advance to the owner of the bridge.

Dated: December 5, 2017.

S.D. Poulin,

Rear Admiral, U.S. Coast Guard, Commander, First Coast Guard District.

[FR Doc. 2017–27403 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0994]

RIN 1625–AA00

Safety Zone; Spa Creek, Annapolis, MD

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone for certain waters of Spa Creek. This action is necessary to provide for the safety of life on navigable waters during a fireworks display in Anne Arundel County at Annapolis, MD, on December 31, 2017. This rulemaking prohibits persons and vessels from entering the safety zone unless authorized by the Captain of the Port Maryland–National Capital Region or a designated representative.

DATES: This rule is effective from 11 p.m. on December 31, 2017 through 1 a.m. on January 1, 2018.

ADDRESSES: To view documents mentioned in this preamble as being

available in the docket, go to *http://www.regulations.gov,* type USCG–2017–0994 in the ''SEARCH'' box and click ''SEARCH.'' Click on Open Docket Folder on the line associated with this rule.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email Mr. Ronald Houck, Sector Maryland–National Capital Region Waterways Management Division, U.S. Coast Guard; telephone 410–576–2674, email *Ronald.L.Houck@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

CFR Code of Federal Regulations
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
NPRM Notice of proposed rulemaking
§ Section
U.S.C. United States Code

II. Background Information and Regulatory History

On August 29, 2017, the City of Annapolis, MD, notified the Coast Guard that it will be conducting an aerial fireworks display at 11:55 p.m. on December 31, 2017. The fireworks display will be conducted by Pyrotecnico of New Castle, PA and launched from a barge located in Spa Creek, in Anne Arundel County at Annapolis, MD. There is no rain date planned for this fireworks display. In response, on November 21, 2017, the Coast Guard published a notice of proposed rulemaking (NPRM) titled ''Safety Zone; Spa Creek, Annapolis, MD'' (82 FR 55336). There we stated why we issued the NPRM, and invited comments on our proposed regulatory action related to this fireworks display. During the comment period that ended November 28, 2017, we received no comments.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date of this rule would be contrary to public interest because immediate action is needed to respond to the potential safety hazards associated with a fireworks display from a barge on navigable waters.

III. Legal Authority and Need for Rule

The Coast Guard is issuing this rule under authority in 33 U.S.C. 1231. The COTP has determined that potential hazards associated with the fireworks to be used in this December 31, 2017 display will be a safety concern for anyone within 133 yards of the fireworks barge. The purpose of this rule is to ensure safety of vessels and the navigable waters in the safety zone before, during, and after the scheduled event.

IV. Discussion of Comments, Changes, and the Rule

As noted above, we received no comments on our NPRM published November 21, 2017. There are no changes in the regulatory text of this rule from the proposed rule in the NPRM.

This rule establishes a safety zone from 11 p.m. on December 31, 2017 through 1 a.m. on January 1, 2018. The safety zone will cover all navigable waters of Spa Creek within 133 yards of a fireworks barge in approximate position latitude 38°58′33.01″ N, longitude 076°28′58.00″ W, located at Annapolis, MD. The duration of the zone is intended to ensure the safety of vessels and these navigable waters before, during, and after the scheduled 11:55 p.m. fireworks display. No vessel or person will be permitted to enter the safety zone without obtaining permission from the COTP or a designated representative.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771 directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, this rule has not been reviewed by the Office of Management and Budget (OMB), and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771.

This regulatory action determination is based on the duration, time-of-year, and time-of-day of the safety zone. Although vessel traffic will not be able to safely transit around this safety zone, the impact would be for only 2 hours during the late evening when vessel traffic in Spa Creek is normally low. Moreover, the Coast Guard will issue a Broadcast Notice to Mariners via VHF–FM marine channel 16 about the zone.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast Guard received no comments from the Small Business Administration on this rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the safety zone may be small entities, for the reasons stated in section V.A above, this rule will not have a significant economic impact on any vessel owner or operator.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

C. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has 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. We have analyzed this rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves a safety zone lasting less than two hours that would prohibit entry within 133 yards of a fireworks barge. It is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; and Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T05–0994 to read as follows:

§ 165.T05–0994 Safety Zone; Spa Creek, Annapolis, MD.

(a) *Definitions.* As used in this section:

Captain of the Port means the Commander, U.S. Coast Guard Sector Maryland-National Capital Region.

Designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the Captain of the Port Maryland-National Capital Region to assist in enforcing the safety zone described in paragraph (b) of this section.

(b) *Location.* The following area is a safety zone: All navigable waters of Spa Creek, within 133 yards of a fireworks barge in approximate position latitude 38°58′33.01″ N, longitude 076°28′58.00″ W, located at Annapolis, MD. All coordinates refer to North American Datum 83 (NAD 1983).

(c) *Regulations.* The general safety zone regulations found in subpart C of this part apply to the safety zone created by this section.

(1) All persons are required to comply with the general regulations governing safety zones found in § 165.23.

(2) Entry into or remaining in this zone is prohibited unless authorized by the Captain of the Port (COTP) or designated representative. All vessels underway within this safety zone at the time it is implemented are to depart the zone.

(3) Persons desiring to transit the area of the safety zone must first obtain authorization from the COTP or designated representative. To request permission to transit the area, the COTP and or designated representatives can be contacted at telephone number 410–576–2693 or on Marine Band Radio VHF–FM channel 16 (156.8 MHz). The Coast Guard vessels enforcing this section can be contacted on Marine Band Radio VHF–FM channel 16 (156.8 MHz). If permission is granted, persons and vessels must comply with the instructions of the COTP or designated representative and proceed as directed while within the zone.

(4) The U.S. Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

(d) *Enforcement period.* This section will be enforced from 11 p.m. on December 31, 2017 through 1 a.m. on January 1, 2018.

Dated: December 14, 2017.

Michael W. Batchelder,

Commander, U.S. Coast Guard, Acting Captain of the Port Maryland-National Capital Region.

[FR Doc. 2017–27381 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Part 8360

[LLCOF02000.L12200000.DU0000–17X]

Final Supplementary Rules for Guffey Gorge in Park County, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Final supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) Royal Gorge Field Office is implementing supplementary rules to regulate certain activities on public lands within Guffey Gorge in Park County, Colorado. These supplementary rules are necessary to implement decisions found in the Guffey Gorge Management Plan approved on June 29, 2015, to provide for the protection of persons, property, and public lands and resources located within the 80-acre site. These supplementary rules will result in changes to some currently authorized activities related to the possession or use of alcohol, amplified music, vehicle parking, and visitors with dogs.

DATES: These supplementary rules are effective January 19, 2018.

ADDRESSES: You may send inquiries by mail or hand delivery to Linda Skinner, Outdoor Recreation Planner, BLM Royal Gorge Field Office, 3028 E. Main Street,

Cañon City, CO 81212. You may also send inquiries via email to *rgfo_comments@blm.gov* (include ''Final Supplementary Rules-Guffey Gorge'' in the subject line).

FOR FURTHER INFORMATION CONTACT: Linda Skinner, Outdoor Recreation Planner; see address in the **ADDRESSES** section of this notice; telephone (719) 269–8732. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Relay Service at 800–877–8339 to contact Linda Skinner during normal business hours. The Service is available 24 hours a day, seven days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

SUPPLEMENTARY INFORMATION:

I. Background

Guffey Gorge is an 80 acre tract of public land in Park County, Colorado. It is surrounded by private land with Park County Road 102 providing legal public access. Until ten years ago, recreational use of this area was light, and the area was used primarily by local residents for picnicking, hiking, and swimming. Recreational use of the area has increased significantly over the past five years, resulting in resource damage, user conflicts, and safety hazards for visitors and surrounding private landowners. In 2013, the BLM began the public process for developing a management plan for the 80 acre parcel to manage the increasing visitor use and associated issues. This process included presentations and site tours with the Rocky Mountain (formerly Front Range) Resource Advisory Council (RAC) and collaboration with stakeholders and concerned citizens. On August 11, 2014, the BLM initiated a 30-day public scoping period. Based on feedback received during this process, the BLM developed a proposed action and released a preliminary Environmental Assessment (EA) for a 30-day public review on November 20, 2014. The BLM incorporated comments into the Final EA and corresponding Decision Record, signed on June 29, 2015.

II. Discussion of Public Comments and the Final Supplementary Rules

The proposed supplementary rules were published in the **Federal Register** on June 1, 2016 (81 FR 35039). The BLM received three letters with comments during the 60-day comment period. One commenter supported a proposed fee; therefore, the comment was not relevant to the proposed supplementary rules. A second commenter submitted a general statement in support of controlling cars, trash, and people in Guffey Gorge. In response to this comment, the concern for controlling cars supports the rule that prohibits parking a motor vehicle outside of designated parking areas. The trash issue was addressed through the Guffey Gorge Management Plan, approved on June 29, 2015, by creating a standard amenity site with trash collection; therefore, no revision to the rules was needed. The third commenter shared a story about her negative experience at Guffey Gorge. This commenter supports a strict ban on alcohol consumption while visiting Guffey Gorge. The comment was noted as supporting the rule prohibiting the possession or consumption of alcoholic beverages.

These final supplementary rules implement certain decisions from the Guffey Gorge Management Plan on lands administered by the Royal Gorge Field Office. The planning area consists of approximately 80 acres of public lands within Park County, Colorado, in the following described townships:

Park County, Colorado, Sixth Principal Meridian

T. 15 S., R. 71 W,
Section 4: SE¼SE¼ Section 9: NE¼NE¼

These final supplementary rules are needed to address significant public safety concerns and resource protection issues resulting from increased and unsafe public use on public lands known as Guffey Gorge. The authority for these supplementary rules is set forth at section 310 of the Federal Land Policy and Management Act (FLPMA), 43 U.S.C. 1740, and 43 CFR 8365.1–6. This notice, with a detailed map, will be posted at the Royal Gorge Field Office.

These final supplementary rules will help the BLM achieve management objectives for the area in the following ways:

- Supplementary rule number one prohibits possession and consumption of alcoholic beverages. As visitation at Guffey Gorge has increased, alcohol and drug use has also increased, leading to public health and safety concerns. This supplementary rule will help reduce disruptive behavior associated with alcohol use, improve public safety, and reduce litter in the area.
- Supplementary rule number two prohibits visitors from parking a motor vehicle outside of designated parking areas. Visitor parking is limited at Guffey Gorge and frequently overflows onto the shoulder of Park County Road 102. Park County Road 102 is a narrow, two-lane road with limited visibility near the Guffey Gorge trailhead. Restricting parking to designated parking areas only is essential for public health and safety.
- Supplementary rule number three requires animals brought into the area to be on a leash and under the control of a person, or otherwise physically restricted. This rule will help reduce problems associated with unrestrained dogs observed by staff in recent years. Currently, BLM regulations only require dogs to be restrained in developed recreation sites. Guffey Gorge is not a developed site, so existing BLM regulations do not apply. This supplementary rule will help reduce conflicts between visitors; reduce conflicts between domestic animals and wildlife; and control domestic animal waste.
- Supplementary rule number four prohibits the operation of any device producing amplified sound, such as stereos, speakers, and public address systems. This supplementary rule will help restore opportunities for quiet recreational activities recognized as one of Guffey Gorge's attributes.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

These supplementary rules are not significant regulatory actions and not subject to review by the Office of Management and Budget under Executive Order 12866. These supplementary rules will not have an annual effect of $100 million or more on the economy. They will not adversely affect in a material way the economy; productivity; competition; jobs; environment; public health or safety; or State, local or tribal governments or communities. These supplementary rules do not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. These supplementary rules do not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients; nor do they raise novel legal or policy issues. These supplementary rules merely establish rules of conduct for public use of a limited area of public lands.

National Environmental Policy Act

During the National Environmental Policy Act (NEPA) review for the Guffey Gorge Management Plan, the BLM fully analyzed the substance of these supplementary rules in an EA, DOI–BLM–CO–200–2013–040 EA. The BLM signed the Decision Record for the EA on June 29, 2015, and found that these supplementary rules would not constitute a major Federal action

significantly affecting the quality of the human environment under Section 102(2)(C) of NEPA (42 U.S.C. 4332(2)(C)). These supplementary rules merely establish rules of conduct for public use of a limited area of public lands in order to protect natural resources and public health and safety. Although some activities will be prohibited in the area, the area will still be open to other recreation uses. A detailed statement under NEPA is not required. The BLM has placed the EA and Finding of No Significant Impact on file in the BLM Administrative Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980 (RFA), as amended, 5 U.S.C. 601–612, to ensure that government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. These supplementary rules will have no effect on business entities of any size. These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM has determined under the RFA that these supplementary rules will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

These supplementary rules are not a ''major rule'' as defined at 5 U.S.C. 804(2). These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. These supplementary rules will not:

(1) Have an annual effect on the economy of $100 million or more;

(2) Cause a major increase in costs or prices for consumers; individual industries; Federal, State, or local agencies; or geographic regions; or

(3) Have significant adverse effects on competition, employment, investment, productivity, or innovation; or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets.

Unfunded Mandates Reform Act

These supplementary rules do not impose an unfunded mandate on the private sector; or State, local, or tribal governments of more than $100 million per year, nor will these supplementary rules have a significant or unique effect on State, local, or tribal governments or the private sector. These supplementary rules merely impose reasonable restrictions on certain recreational activities on certain public lands to protect natural resources and the environment and human health and safety. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

These supplementary rules do not constitute a government action capable of interfering with constitutionally protected property rights. These supplementary rules will not address property rights in any form, and will not cause the impairment of constitutionally protected property rights. Therefore, the BLM has determined that these supplementary rules will not cause a ''taking'' of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

These supplementary rules 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. Therefore, in accordance with Executive Order 13132, the BLM has determined that these supplementary rules will not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the BLM Colorado State Director has determined that these supplementary rules will not unduly burden the judicial system, and that they meet the requirements of Sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that these supplementary rules do not include policies that have tribal implications, and will have no bearing on trust lands or on lands for which title is held in fee status by Indian Tribes or U.S. Government-owned lands managed by the Bureau of Indian Affairs.

Information Quality Act

In developing these supplementary rules, the BLM did not conduct or use a study, experiment or survey requiring peer review under the Information Quality Act (Section 515 of Pub. L. 106–554).

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

These supplementary rules do not constitute a significant energy action. These supplementary rules will not have an adverse effect on energy supply, production, or consumption and have no connection with energy policy.

Executive Order 13352, Facilitation of Cooperative Conservation

In accordance with Executive Order 13352, the BLM has determined that these supplementary rules will not impede facilitating cooperative conservation; will take appropriate account of and consider the interests of persons with ownership or other legally recognized interests in land or other natural resources; will properly accommodate local participation in the Federal decision-making process; and will provide that the programs, projects, and activities are consistent with protecting public health and safety.

Paperwork Reduction Act

These supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3521.

Author

The principal author of these final supplementary rules is Linda Skinner, Outdoor Recreation Planner, BLM, Royal Gorge Field Office.

For the reasons stated in the preamble, and under the authorities for supplementary rules found at 43 U.S.C. 1740 and 43 CFR 8365.1–6, the BLM Colorado State Director establishes supplementary rules for approximately 80 acres of public lands in Guffey Gorge, to read as follows:

Final Supplementary Rules for Guffey Gorge

Prohibited Acts

Unless otherwise authorized, the following acts are prohibited on all public lands, roads, trails, and waterways administered by the BLM within the Guffey Gorge Management Area:

1. You must not possess or consume alcoholic beverages;

2. You must not park a motor vehicle outside of designated parking areas;

3. You must not bring an animal into the area, unless the animal is on a leash not longer than six feet and secured to a fixed object or under control of a person, or is otherwise physically restricted at all times; and

4. You must not operate any device producing amplified sound such as a stereo, speaker, public address system, or other similar device.

Exemptions

The following persons are exempt from these supplementary rules: Any Federal, State, local and/or military persons acting within the scope of their duties; members of any organized rescue or fire-fighting force in performance of an official duty; or individuals expressly authorized by the BLM.

Enforcement

Any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined in accordance with 18 U.S.C. 3571, imprisoned no more than 12 months under 43 U.S.C. 1733(a) and 43 CFR 8360.0–7, or both. In accordance with 43 CFR 8365.1–7, State or local officials may also impose penalties for violations of Colorado law.

Gregory P. Shoop,

Acting BLM Colorado State Director.

[FR Doc. 2017–27413 Filed 12–19–17; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

Hours of Service; Electronic Logging Devices; Limited 90-Day Waiver for the Transportation of Agricultural Commodities

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notification; grant of waiver.

SUMMARY: FMCSA grants a limited 90-day waiver from the Federal hours-of-service (HOS) regulations pertaining to electronic logging devices (ELDs) for the transportation of agricultural commodities as defined in the Federal Motor Carrier Safety Regulations (FMCSRs). The Agency takes this action in response to a waiver request from the National Pork Producers Council (NPPC) on behalf of eight organizations representing transporters of livestock and other agricultural commodities, as defined in the FMCSRs. The Agency has determined that the waiver is in the public interest and would likely achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent such exemption, based on the terms and conditions imposed. The waiver will also through notice and public comment, provide FMCSA with time to consider certain exemption applications from segments of the agricultural industry concerning the use of ELDs to document drivers' hours of service and clarify applicability of the requirements and the need for certain carriers to begin using ELDs by the December 18, 2017, deadline.

DATES: This waiver is applicable beginning December 18, 2017, and expires on March 18, 2018.

FOR FURTHER INFORMATION CONTACT: Thomas L. Yager, Chief, Driver and Carrier Operations Division, Office of Bus and Truck Standards and Operations, Federal Motor Carrier Safety Administration, 1200 New Jersey Ave. SE, Washington, DC 20590. Email: *MCPSD@dot.gov.* Phone: (614) 942–6477.

SUPPLEMENTARY INFORMATION:

Legal Basis

The Transportation Equity Act for the 21st Century (TEA–21) (Pub. L. 105–178, 112 Stat. 107, June 9, 1998) provides the Secretary of Transportation (the Secretary) the authority to grant waivers from any of the FMCSRs issued under Chapter 313 of Title 49 of the United States Code or 49 U.S.C. 31136, to a person(s) seeking regulatory relief. (49 U.S.C. 31136(e), 31315(a)). The Secretary must make a determination that the waiver is in the public interest, and that it is likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. Individual waivers may be granted only for a specific unique, non-emergency event, for a period up to three months. TEA–21 authorizes the Secretary to grant waivers without requesting public comment, and without providing public notice.

The Administrator of FMCSA has been delegated authority under 49 CFR 1.87(e) to carry out the functions vested in the Secretary by 49 U.S.C. chapter 311, subchapters I and III, relating to commercial motor vehicle programs and safety regulation.

Background

The FMCSA received an application for an exemption and waiver from the NPPC on behalf of eight organizations that represent transporters of livestock and other agricultural commodities. Notice of the request for exemption from the requirement that a motor carrier require each of its drivers to use an electronic logging device (ELD) no later than December 18, 2017, to record the driver's hours-of-service (HOS), was published in the **Federal Register** on October 31, 2017 (82 FR 50358). Comments to that document were due by November 30, 2017 (*www.regulations.gov,* Docket FMCSA–2017–0297).

The NPPC focused on the impact of the ELD requirement on its members, given unique aspects of its industry, including ''exposed incompatibilities between the HOS rules and the . . . industry . . . causing disruption . . . and endangering the health and welfare of . . . animals transported . . .''

FMCSA has also received from the Agricultural Retailers Association (ARA) an exemption, waiver, and petition document dated October 25, 2017, requesting that transporters of agricultural commodities and farm supplies not be required to use ELDs during an exemption period. That exemption request has not yet been published for comment. While this waiver is issued in response to the application submitted by the NPPC, it also applies to other eligible motor carriers, including ARA members, to the extent they are handling agricultural commodities as defined under 49 CFR 395.2, as discussed in the Terms and Conditions of the Waiver section below.

In addition to NPPC's request, FMCSA received numerous inquiries from parties involved in the transport of agricultural commodities about the correct application of the HOS agricultural exception in 49 CFR 395.1(k)(1), leading to an ongoing review of the exception. FMCSA is considering providing new guidance on the agricultural exception in the near future.

Safety Determination

In an October 6, 2010, **Federal Register** document (75 FR 61626), FMCSA granted a limited 90-day waiver from the HOS requirements for the

distribution of an agricultural supply—anhydrous ammonia. At that time, the Agency compared safety performance data for agricultural carriers then operating under the statutory HOS agricultural exception in 49 CFR 395.1(k) to non-agricultural carriers that were not exempt from HOS regulations to determine whether the waiver would be likely to achieve a level of safety that is equivalent to, or greater than, the level of safety that would be obtained in the absence of the waiver. The data were collected as part of a study, ''Agricultural Commodity and Utility Carriers Hours of Service Exemption Analysis.'' The final report from the study is available online.[1]

The study was conducted in two phases. Phase 1 compared the safety performance of agricultural and non-agricultural carriers for the period 2005 through 2008, and also examined two additional industries, livestock and utility carriers, whose operations were not exempt from HOS regulations prior to the passage of SAFETEA–LU. The Phase 1 analysis used carrier registration, inspection and crash data from FMCSA's Motor Carrier Management Information System (MCMIS). The study used cargo classification information on the FMCSA Motor Carrier Identification Report (Form MCS–150) [2] in MCMIS to identify the carrier's industry group (agricultural, livestock, or utility carrier), and used MCS–150 information to identify carriers operating within and beyond a 100-air-mile radius. The operating radius information was used to create two agricultural carrier subgroups: (1) Agricultural carriers with 100 percent of drivers operating within a 100-air-mile radius; and (2) agricultural carriers with 100 percent of drivers operating beyond a 100-air-mile radius. The analysis used the first subgroup as representative of agricultural carriers exempt from the HOS requirements, and the second subgroup as representative of agricultural carriers not exempt from the HOS requirements.

For the Phase 2 analysis, inspection data of agricultural commodity and utility carriers (which are also exempt from HOS regulations) were collected during an FMCSA special study of a sample of States. These data included only those inspections occurring during the States' planting and harvesting seasons and indicated both the commodity being transported and whether the driver was operating within or beyond the 100-air-mile radius exempt from HOS regulations. The Phase 2 analysis assessed the safety performance of the HOS exempt agricultural commodity and utility service carriers identified in the survey in comparison with non-HOS exempt carriers based on their out of service (OOS) violation rates and crash rates.

For the purposes of considering whether to issue a limited waiver, FMCSA focused on the crash rate data from the study. The Agency placed less emphasis on the out-of-service (OOS) rates because there were no HOS violation data to consider given that the agricultural carriers for which data were available were operating under a statutory exemption from the HOS rule. Differences between the OOS rates for other issues such as driver qualifications and vehicle defects and deficiencies, while important in considering overall safety management controls of the carriers, were not necessarily related to the potential safety impact of the waiver.

The Phase 1 analysis indicated that nationally, agricultural carriers operating within a 100-air-mile radius had lower crash rates per 100 power units than those operating beyond this radius, except in 2008, when there was no difference in the crash rates.

To provide additional validation of the crash analysis, which uses power unit data reported on the Form MCS–150, a separate analysis was performed using data only for carriers domiciled in States participating in the Performance and Registration Information Systems Management (PRISM) program that enforces MCS–150 updating. PRISM links State motor vehicle registration systems with carrier safety data in order to identify unsafe commercial motor carriers. The PRISM State carriers are required to update their MCS–150 annually. By contrast, non-PRISM State carriers are required by FMCSA to update their MCS–150 biennially. As a result, the PRISM State data are considered more current and reliable than non-PRISM State data where there is no direct implication for not updating the data. Data from PRISM States that enforce MCS–150 updating show that agricultural carriers operating within a 100-air-mile radius had more varied results, with crash rates higher than carriers operating beyond a 100-air-mile radius in 2008, lower in 2006 and 2007, and nearly the same in 2005.

The Phase 2 analysis indicated that in the four States participating in the survey (ID, KS, MD, MI), agricultural carriers that were subject to the HOS requirements had higher crash rates per 100 power units than agricultural carriers exempt from the HOS requirements.

Although this study was conducted in 2010 and relied upon data from 2005 through 2008, FMCSA has no reason to believe that the conclusions would be different if updated using more recent data. Although these studies did not focus on benefits achieved by use of ELDS, given the limited population of motor carriers affected by the waiver and the brief period of time a waiver is in effect, FMCSA believes that the level of safety maintained by haulers of agricultural commodities will be equivalent to the safety of operations that would be obtained absent the granting of a waiver. Furthermore, the Agency believes the sense of urgency in this matter requires a decision based on the best available data, albeit dated, rather than delaying a decision until a new study can be conducted.

FMCSA Determination

Considering the above study, the ongoing review of the HOS agricultural commodities exception, and the pending exemption request from NPPC, FMCSA has determined that it is in the public interest to provide a limited waiver from the use of ELDs for interstate motor carriers engaged in the transportation of agricultural commodities as defined in 49 CFR 395.2. This waiver will allow FMCSA time to evaluate the HOS exception applicable to the transport of agricultural commodities and review the concerns unique to the agricultural industry identified by NPPC and others. FMCSA grants the waiver requested by NPPC, but also extends it to all motor carriers transporting an agricultural commodity.

Terms and Conditions of the Waiver

(1) *Duration of the waiver.* This waiver is applicable December 18, 2017, through March 18, 2018.

(2) Motor carriers transporting agricultural commodities under the provisions of 49 CFR 395.1(k)(1), are exempt from the ELD requirements in 49 CFR 395.8(a) during the period of this waiver, regardless of the distance traveled.

(3) Carriers operating under this waiver must comply with all other applicable requirements of the Federal Motor Carrier Safety Regulations (49 CFR parts 390 through 399), including the preparation of records of duty status (RODS) for operations which are currently considered to be subject to the HOS rules and the record retention requirements associated with those RODs and supporting documents.

[1] *https://ntlrepository.blob.core.windows.net/lib/42000/42700/42776/FMCSA-RRA-10-048.pdf.*

[2] This registration form has subsequently been replaced with Form MCSA–1.

(4) Motor carriers operating under this waiver must have a ''satisfactory'' safety rating from FMCSA or be unrated; motor carriers with ''conditional'' or ''unsatisfactory'' safety ratings are prohibited from taking advantage of the waiver.

(5) Drivers operating under this waiver must carry a copy of this **Federal Register** notification and present it to motor carrier safety enforcement officials upon request.

(6) *Crash Notification to FMCSA*

Carriers operating under this waiver must notify FMCSA within 5 business days of any accident (as defined in 49 CFR 390.5), involving any of the motor carrier's drivers operating under the terms of this waiver. The notification must include the following information:

(a) Identity of Waiver: ''AG''

(b) Date of the accident,

(c) City or town, and State, in which the accident occurred, or closest to the accident scene,

(d) Driver's name and license number,

(e) Co-driver's name and license number (if applicable),

(f) Vehicle number and State license number,

(g) Number of individuals suffering physical injury,

(h) Number of fatalities,

(i) The police-reported cause of the accident,

(j) Whether the driver was cited for violation of any traffic laws, motor carrier safety regulations, and

(k) The total driving time and total on-duty time period prior to the accident.

Accident notifications must be emailed to *MCPSD@dot.gov.*

Safety Considerations

Considering the limited period of this waiver and that it does not alter any of the HOS regulations other than the method of recording HOS, and the Agency's previous review of data concerning the safety performance of motor carriers engaged in the transportation of agricultural commodities, the Agency has determined that the waiver from the ELD requirements for 90 days is likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation.

FMCSA expects that any drivers and their employing motor carrier operating under the terms and conditions of the exemption will maintain their safety record. Should any safety problems be discovered, however, FMCSA will take all steps necessary to protect the public interest. Use of this waiver is voluntary, and FMCSA will immediately revoke the waiver for any interstate driver or motor carrier for failure to comply with the terms and conditions of the waiver.

Preemption of State Requirements

Consistent with 49 U.S.C. 31315(d), this waiver preempts inconsistent State or local requirements applicable to interstate commerce.

Issued on: December 13, 2017.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2017–27311 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF889

Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Atka Mackerel in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of the 2017 Bering Sea subarea and Eastern Aleutian Island District (BS/EAI) Atka mackerel total allowable catch (TAC) assigned to the Bering Sea and Aleutian Islands (BSAI) trawl limited access sector to the Amendment 80 cooperative in the BS/EAI of the BSAI. This action is necessary to allow the 2017 TAC of Atka mackerel in the BSAI to be fully harvested.

DATES: Effective 1200 hrs Alaska local time (A.l.t.), December 15, 2017, through 2400 hrs, A.l.t., December 31, 2017.

FOR FURTHER INFORMATION CONTACT: Steve Whitney, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The 2017 Atka mackerel TAC in the BS/EAI assigned to the BSAI trawl limited access sector is 2,966 metric tons (mt) and 2017 Atka mackerel TAC assigned to the Amendment 80 cooperatives is 27,594 mt as established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and reallocation (82 FR 45740, October 2, 2017.)

The Administrator, Alaska Region, NMFS, has determined that 6 mt of the Atka mackerel TAC for the BS/EAI assigned to the BSAI trawl limited access sector will not be harvested. Therefore, in accordance with § 679.91(f), NMFS reallocates 6 mt of Atka mackerel in the BS/EAI from the BSAI trawl limited access sector to the Amendment 80 cooperatives in the BSAI. In accordance with § 679.91(f), NMFS will reissue cooperative quota permits for the reallocated Atka mackerel following the procedures set forth in § 679.91(f)(3).

The harvest specifications for Atka mackerel included in the harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) and reallocation (82 FR 45740, October 2, 2017) are revised as follows: 2,960 mt of Atka mackerel in the BS/EAI for the BSAI trawl limited access sector and 27,600 mt for the Amendment 80 cooperative allocations in the BS/EAI. Table 6 is revised and republished in its entirety as follows:

TABLE 6—FINAL 2017 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2017 allocation by area		
		Eastern Aleutian District/Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	34,500	18,000	12,500
CDQ reserve	Total	3,692	1,926	1,338
	A	1,846	963	669
	Critical Habitat	n/a	578	401
	B	1,846	963	669
	Critical Habitat	n/a	578	401
Non-CDQ TAC	n/a	30,809	16,074	11,163
ICA	Total	100	75	20
Jig [6]	Total	149	0	0
BSAI trawl limited access	Total	2,960	1,600	0
	A	1,480	800	0
	Critical Habitat	n/a	480	0
	B	1,480	800	0
	Critical Habitat	n/a	480	0
Amendment 80 sectors	Total	27,600	14,399	11,143
	A	13,800	7,200	5,571
	B	13,800	7,200	5,571
Alaska Groundfish Cooperative	Total [6]	15,632	8,545	6,852
	A	7,816	4,273	3,426
	Critical Habitat	n/a	2,564	2,056
	B	7,816	4,273	3,426
	Critical Habitat	n/a	2,564	2,056
Alaska Seafood Cooperative	Total [6]	11,967	5,854	4,291
	A	5,984	2,927	2,146
	Critical Habitat	n/a	1,756	1,287
	B	5,984	2,927	2,146
	Critical Habitat	n/a	1,756	1,287

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs, to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to 50 CFR part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; section 679.20(a)(8)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and section 679.20(a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

This will enhance the socioeconomic well-being of harvesters dependent upon Atka mackerel in this area. The Regional Administrator considered the following factors in reaching this decision: (1) The current catch of Atka mackerel by the BSAI trawl limited access sector in the BS/EAI, and (2) the harvest capacity and stated intent on future harvesting patterns of the Amendment 80 cooperatives that participate in this BS/EAI fishery.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the reallocation of Atka mackerel in the BS/EAI from the BSAI trawl limited access sector to the Amendment 80 cooperatives in the BSAI. Since the fishery is currently open, it is important to immediately inform the industry as to the revised allocations. Immediate notification is necessary to allow for the orderly conduct and efficient operation of this fishery, to allow the industry to plan for the fishing season, and to avoid potential disruption to the fishing fleet as well as processors. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 11, 2017.

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

This action is required by § 679.91 and is exempt from review under Executive Order 12866.

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

Dated: December 15, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–27427 Filed 12–15–17; 4:15 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 160920866–7167–02]

RIN 0648–XF867

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2018 Gulf of Alaska Pollock and Pacific Cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2018 total allowable catch (TAC) amounts for the Gulf of Alaska (GOA) pollock and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the GOA pollock and Pacific cod TACs are the appropriate amounts based on the best available scientific information for pollock and Pacific cod in the GOA. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Gulf of Alaska.

DATES: Effective 0000 hours, Alaska local time (A.l.t.), January 1, 2018, until the effective date of the final 2018 and 2019 harvest specifications for GOA groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 4, 2018.

ADDRESSES: You may submit comments on this document, identified by FDMS Docket Number NOAA–NMFS–2016–0127 by any of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2016-0127,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Address written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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), 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). Attachments to electronic comments will be accepted in Microsoft Word, Excel, or Adobe PDF file formats only.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council (Council) under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2017 and 2018 harvest specifications for groundfish in the GOA (82 FR 12032, February 27, 2017) set the 2018 pollock TAC at 163,479 metric tons (mt) and the 2018 Pacific cod TAC at 57,825 mt in the GOA. In December 2017, the North Pacific Fishery Management Council (Council) recommended a 2018 pollock TAC of 166,228 mt for the GOA, which is more than the 163,479 mt established by the final 2017 and 2018 harvest specifications for groundfish in the GOA. The Council also recommended a 2018 Pacific cod TAC of 13,096 mt for the GOA, which is less than the 57,825 mt established by the final 2017 and 2018 harvest specifications for groundfish in the GOA. The Council's recommended 2018 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2017, which NMFS has determined is the best available scientific information for these fisheries.

Steller sea lions occur in the same location as the pollock and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock and Pacific cod are a principal prey species for Steller sea lions in the GOA. The seasonal apportionment of pollock and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. The regulations at § 679.20(a)(5)(iv) specify how the pollock TAC will be apportioned. The regulations at § 679.20(a)(6)(ii) and § 679.20(a)(12)(i) specify how the Pacific cod TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv) the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2017 SAFE report for this fishery, the current GOA pollock and Pacific cod TACs are incorrectly specified. Consequently, pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2018 GOA pollock TAC to 166,228 mt and the 2018 GOA Pacific cod TAC to 13,096 mt. Therefore, Table 2 of the final 2017 and 2018 harvest specifications for groundfish in the GOA (82 FR 12032, February 27, 2017) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(iv), Table 4 of the final 2017 and 2018 harvest specifications for groundfish in the GOA (82 FR 12032, February 27, 2017) is revised for the 2018 TACs of pollock in the Central and Western Regulatory Area of the GOA.

TABLE 4—FINAL 2018 DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC

[Values are rounded to the nearest metric ton and percentages are rounded to the nearest 0.01]

Season [1]	Shumagin (Area 610)		Chirikof (Area 620)		Kodiak (Area 630)		Total [2]
A (Jan 20–Mar 10)	1,317	3.497%	27,314	72.537%	9,025	23.966%	37,656
B (Mar 10–May 31)	1,317	3.497%	32,155	85.392%	4,184	11.111%	37,656
C (Aug 25–Oct 1)	13,777	36.587%	10,013	26.591%	13,865	36.821%	37,656

TABLE 4—FINAL 2018 DISTRIBUTION OF POLLOCK IN THE WESTERN AND CENTRAL REGULATORY AREAS OF THE GOA; SEASONAL BIOMASS DISTRIBUTION, AREA APPORTIONMENTS; AND SEASONAL ALLOWANCES OF ANNUAL TAC—Continued

[Values are rounded to the nearest metric ton and percentages are rounded to the nearest 0.01]

Season [1]							
D (Oct 1–Nov 1)	13,777	36.587%	10,013	26.591%	13,865	36.821%	37,656
Annual Total	30,188		79,495		40,939		150,622

[1] As established by § 679.23(d)(2)(i) through (iv), the A, B, C, and D season allowances are available from January 20 to March 10, March 10 to May 31, August 25 to October 1, and October 1 to November 1, respectively. The amounts of pollock for processing by the inshore and offshore components are not shown in this table.

[2] The WYK and SEO District pollock TACs are not allocated by season and are not included in the total pollock TACs shown in this table.

Pursuant to § 679.20(a)(6)(ii) and § 679.20(a)(12)(i), Table 6 of the final 2017 and 2018 harvest specifications for groundfish in the GOA (82 FR 12032, February 27, 2017) is revised for the 2018 seasonal apportionments and allocation of Pacific cod TAC in the GOA consistent with this adjustment.

TABLE 6—FINAL 2018 SEASONAL APPORTIONMENTS AND ALLOCATION OF PACIFIC COD TOTAL ALLOWABLE CATCH AMOUNTS IN THE GOA; ALLOCATIONS FOR THE WESTERN GOA AND CENTRAL GOA SECTORS AND THE EASTERN GOA INSHORE AND OFFSHORE PROCESSING COMPONENTS

[Values are rounded to the nearest metric ton and percentages to the nearest 0.01. Seasonal allowances may not total precisely to annual allocation amount]

Regulatory area and sector	Annual allocation (mt)	A Season		B Season	
		Sector percentage of annual non-jig TAC	Seasonal allowances (mt)	Sector percentage of annual non-jig TAC	Seasonal allowances (mt)
Western GOA					
Jig (2.5% of TAC)	141	N/A	85	N/A	57
Hook-and-line CV	77	0.70	39	0.70	39
Hook-and-line C/P	1,092	10.90	601	8.90	491
Trawl CV	2,118	27.70	1,528	10.70	590
Trawl C/P	132	0.90	50	1.50	83
All Pot CV and Pot C/P	2,096	19.80	1,092	18.20	1,004
Total	5,657	60.00	3,394	40.00	2,263
Central GOA					
Jig (1.0% of TAC)	61	N/A	37	N/A	24
Hook-and-line <50 CV	880	9.32	562	5.29	319
Hook-and-line ≥50 CV	404	5.61	338	1.10	66
Hook-and-line C/P	308	4.11	248	1.00	60
Trawl CV [1]	2,507	21.14	1,274	20.45	1,233
Trawl C/P	253	2.00	121	2.19	132
All Pot CV and Pot C/P	1,676	17.83	1,075	9.97	601
Total	6,089	60.00	3,653	40.00	2,436
Eastern GOA		Inshore (90% of Annual TAC)		Offshore (10% of Annual TAC)	
	1,350		1,215		135

Note: Seasonal apportionments may not total precisely due to due to rounding.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock and Pacific cod based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 13, 2017, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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

prior notice and opportunity for public comment.

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 4, 2018.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 15, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–27429 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 161020985–7181–02]

RIN 0648–XF866

Fisheries of the Exclusive Economic Zone Off Alaska; Inseason Adjustment to the 2018 Bering Sea and Aleutian Islands Pollock, Atka Mackerel, and Pacific Cod Total Allowable Catch Amounts

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

ACTION: Temporary rule; inseason adjustment; request for comments.

SUMMARY: NMFS is adjusting the 2018 total allowable catch (TAC) amounts for the Bering Sea and Aleutian Islands (BSAI) pollock, Atka mackerel, and Pacific cod fisheries. This action is necessary because NMFS has determined these TACs are incorrectly specified, and will ensure the BSAI pollock, Atka mackerel, and Pacific cod TACs are the appropriate amounts based on the best available scientific information. Also, NMFS is announcing the Aleutian Islands Catcher Vessel (CV) Harvest Set-Aside and Bering Sea Trawl CV A-Season Sector Limitation will be in effect for 2018, and TACs in this inseason adjustment will apply for 2018. This action is consistent with the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area.

DATES: Effective 0000 hours, Alaska local time (A.l.t.), January 1, 2018, until the effective date of the final 2018 and 2019 harvest specifications for BSAI groundfish, unless otherwise modified or superseded through publication of a notification in the **Federal Register**.

Comments must be received at the following address no later than 4:30 p.m., A.l.t., January 4, 2018.

ADDRESSES: You may submit comments on this document, identified by *NOAA–NMFS–2016–0140,* by any 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-2016-0140,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Submit written comments to Glenn Merrill, Assistant Regional Administrator, Sustainable Fisheries Division, Alaska Region NMFS, Attn: Ellen Sebastian. Mail comments to P.O. Box 21668, Juneau, AK 99802–1668.

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), 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: Mary Furuness, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone according to the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) set the 2018 Bering Sea (BS) pollock TAC at 1,345,000 mt, the 2018 BSAI Atka mackerel TAC at 65,000 mt, the 2018 BS Pacific cod TAC at 223,704 mt, and the 2018 AI Pacific cod TAC at 15,695 mt. In December 2017, the North Pacific Fishery Management Council (Council) recommended a 2018 BS pollock TAC of 1,364,341 mt, which is more than the 1,345,000 mt TAC established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council also recommended a 2018 BSAI Atka mackerel TAC of 71,000 mt, which is more than the 65,000 mt TAC established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council recommended a 2018 BS Pacific cod TAC of 188,136 mt, and an AI Pacific cod TAC of 15,695 mt, which is less than the BS Pacific cod TAC of 223,704 mt, and the same as the AI Pacific cod TAC of 15,695 mt established by the final 2017 and 2018 harvest specifications for groundfish in the BSAI. The Council's recommended 2018 TACs, and the area and seasonal apportionments, are based on the Stock Assessment and Fishery Evaluation report (SAFE), dated November 2017, which NMFS has determined is the best available scientific information for these fisheries.

Amendment 113 to the FMP (81 FR 84434, November 23, 2016) and regulations at § 679.20(a)(7)(viii) require NMFS to announce whether the Aleutian Islands incidental catch allowance, directed fishing allowance, CV Harvest Set-Aside, and Unrestricted Fishery, as well as the Bering Sea Trawl CV A-Season Sector Limitation will be in effect for 2018. NMFS received notification from Adak that a shoreplant will be processing Aleutian Islands Pacific cod in 2018. Therefore, the Pacific cod TACs in Table 9A of this inseason adjustment will be effective for 2018 and the harvest limits will apply in 2018.

Steller sea lions occur in the same location as the pollock, Atka mackerel, and Pacific cod fisheries and are listed as endangered under the Endangered Species Act (ESA). Pollock, Atka mackerel, and Pacific cod are a principal prey species for Steller sea lions in the BSAI. The seasonal apportionment of pollock, Atka mackerel, and Pacific cod harvest is necessary to ensure the groundfish fisheries are not likely to cause jeopardy of extinction or adverse modification of critical habitat for Steller sea lions. NMFS published regulations and the revised harvest limit amounts for Atka mackerel, Pacific cod, and pollock fisheries to implement Steller sea lion protection measures to insure that groundfish fisheries of the BSAI are not likely to jeopardize the continued existence of the western distinct population segment of Steller sea lions or destroy or adversely modify their designated critical habitat (79 FR 70286, November 25, 2014). The regulations at

§ 679.20(a)(5)(i) specify how the BS pollock TAC will be apportioned. The regulations at § 679.20(a)(7) specify how the BSAI Pacific cod TAC will be apportioned. The regulations at § 679.20(a)(8) specify how the BSAI Atka mackerel TAC will be apportioned.

In accordance with § 679.25(a)(1)(iii), (a)(2)(i)(B), and (a)(2)(iv), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that, based on the November 2017 SAFE report for this fishery, the current BSAI pollock, Atka mackerel, and Pacific cod TACs are incorrectly specified. Pursuant to § 679.25(a)(1)(iii), the Regional Administrator is adjusting the 2018 BS pollock TAC to 1,364,341 mt, the 2018 BSAI Atka mackerel TAC to 71,000 mt, and the 2018 BS Pacific cod TAC to 188,136 mt. Therefore, Table 2 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised consistent with this adjustment.

Pursuant to § 679.20(a)(5)(i), Table 5 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 BS allocations of pollock TAC to the directed pollock fisheries and to the Community Development Quota (CDQ) directed fishing allowances consistent with this adjustment. The Steller sea lion protection measure final rule (79 FR 70286, November 25, 2014), sets harvest limits for pollock in the A season (January 20 to June 10) in Areas 543, 542, and 541, see § 679.20(a)(5)(iii)(B)(*6*). In Area 541, the 2018 A season pollock harvest limit is no more than 30 percent, or 12,236 mt, of the AI ABC of 40,788 mt. In Area 542, the 2018 A season pollock harvest limit is no more than 15 percent, or 6,118 mt, of the AI ABC of 40,788 mt. In Area 543, the 2018 A season pollock harvest limit is no more than 5 percent, or 2,039 mt, of the AI pollock ABC of 40,788 mt.

TABLE 5—FINAL 2018 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2018 allocations	2018 A season [1]		2018 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea TAC [1]	1,364,341	n/a	n/a	n/a
CDQ DFA	164,434	61,395	38,202	75,093
ICA [1]	47,888	n/a	n/a	n/a
Total Bering Sea non-CDQ DFA	1,180,019	531,008	330,405	649,010
AFA Inshore	590,009	265,504	165,203	324,505
AFA Catcher/Processors [3]	472,007	212,403	132,162	259,604
Catch by C/Ps	431,887	194,349	n/a	237,538
Catch by CVs [3]	40,121	18,054	n/a	21,754
Unlisted C/P Limit [4]	2,360	1,062	n/a	1,280
AFA Motherships	118,002	53,101	33,041	64,901
Excessive Harvesting Limit [5]	206,503	n/a	n/a	n/a
Excessive Processing Limit [6]	354,006	n/a	n/a	n/a
Aleutian Islands subarea ABC	40,788	n/a	n/a	n/a
Aleutian Islands subarea TAC [1]	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140
ICA	2,400	1,200	n/a	1,200
Aleut Corporation	14,700	12,355	n/a	345
Area harvest limit: [7]				
541	12,236	n/a	n/a	n/a
542	6,118	n/a	n/a	n/a
543	2,039	n/a	n/a	n/a
Bogoslof District ICA [8]	500	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the BS subarea pollock, after subtracting the CDQ DFA (10 percent) and the ICA (3.9 percent), is allocated as a DFA as follows: Inshore sector—50 percent, catcher/processor sector (C/P)—40 percent, and mothership sector—10 percent. In the BS subarea, 45 percent of the DFA is allocated to the A season (January 20–June 10) and 55 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (2,400 mt), is allocated to the Aleut Corporation for a pollock directed fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the pollock directed fishery.

[2] In the BS subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the non-CDQ pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the non-CDQ pollock DFAs.

[7] Pursuant to § 679.20(a)(5)(iii)(B)(*6*), NMFS establishes harvest limits for pollock in the A season in Area 541 no more than 30 percent, in Area 542 no more than 15 percent, and in Area 543 no more than 5 percent of the Aleutian Islands pollock ABC.

[8] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only and are not apportioned by season or sector.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(8), Table 7 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 seasonal and spatial allowances, gear shares, CDQ reserve, incidental catch allowance, and Amendment 80 allocation of the BSAI

Atka mackerel TAC consistent with this adjustment.

TABLE 7—FINAL 2018 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, CDQ RESERVE, INCIDENTAL CATCH ALLOWANCE, AND AMENDMENT 80 ALLOCATIONS OF THE BSAI ATKA MACKEREL TAC

[Amounts are in metric tons]

Sector [1]	Season [2 3 4]	2018 Allocation by area		
		Eastern Aleutian District/ Bering Sea	Central Aleutian District [5]	Western Aleutian District
TAC	n/a	36,500	21,000	13,500
CDQ reserve	Total	3,906	2,247	1,445
	A	1,953	1,124	722
	Critical Habitat	n/a	674	433
	B	1,953	1,124	722
	Critical Habitat	n/a	674	433
Non-CDQ TAC	n/a	32,595	18,753	12,056
Jig [6]	Total	163	0	0
ICA	Total	800	75	20
BSAI trawl limited access	Total	3,163	1,868	0
	A	1,582	934	0
	Critical Habitat	n/a	560	0
	B	1,582	934	0
	Critical Habitat	n/a	560	0
Amendment 80 sector	Total [6]	28,468	16,810	12,036
	A	14,234	8,405	6,018
	Critical Habitat	n/a	5,043	3,611
	B	14,234	8,405	6,018
	Critical Habitat	n/a	5,043	3,611

[1] Section 679.20(a)(8)(ii) allocates the Atka mackerel TACs, after subtracting the CDQ reserves, jig gear allocation, and ICAs to the Amendment 80 and BSAI trawl limited access sectors. The allocation of the ITAC for Atka mackerel to the Amendment 80 and BSAI trawl limited access sectors is established in Table 33 to part 679 and § 679.91. The CDQ reserve is 10.7 percent of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(ii)(C) and 679.31).

[2] Sections 679.20(a)(8)(ii)(A) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.

[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.

[4] Section 679.23(e)(3) authorizes directed fishing for Atka mackerel with trawl gear during the A season from January 20 to June 10 and the B season from June 10 to December 31.

[5] Section 679.20(a)(8)(ii)(C)(*1*)(*i*) limits no more than 60 percent of the annual TACs in Areas 542 and 543 to be caught inside of critical habitat; (a)(ii)(C)(*1*)(*ii*) equally divides the annual TACs between the A and B seasons as defined at § 679.23(e)(3); and (a)(8)(ii)(C)(*2*) requires the TAC in Area 543 shall be no more than 65 percent of ABC.

[6] Section 679.20(a)(8)(i) requires that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea TAC be allocated to jig gear after subtracting the CDQ reserve and ICA. The amount of this allocation is 0.5 percent. The jig gear allocation is not apportioned by season.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7), Table 9 of the final 2017 and 2018 harvest specifications for groundfish in the BSAI (82 FR 11826, February 27, 2017) is revised for the 2018 gear shares and seasonal allowances of the BSAI Pacific cod TAC consistent with this adjustment.

TABLE 9—FINAL 2018 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC

[Amounts are in metric tons]

Gear sector	Percent	2018 share of gear sector total	2018 share of sector total	2018 seasonal apportionment	
				Seasons	Amount
BS TAC	n/a	188,136	n/a	n/a	n/a
BS CDQ	n/a	20,131	n/a	see § 679.20(a)(7)(i)(B)	n/a
BS non-CDQ TAC	n/a	168,005	n/a	n/a	n/a
AI TAC	n/a	15,695	n/a	n/a	n/a
AI CDQ	n/a	1,679	n/a	see § 679.20(a)(7)(i)(B)	n/a
AI non-CDQ TAC	n/a	14,016	n/a	n/a	n/a
Western Aleutian Island Limit	n/a	4,018	n/a	n/a	n/a
Total BSAI non-CDQ TAC [1]	100	182,021	n/a	n/a	n/a
Total hook-and-line/pot gear	60.8	110,669	n/a	n/a	n/a
Hook-and-line/pot ICA [2]	n/a	400	n/a	see § 679.20(a)(7)(ii)(B)	n/a
Hook-and-line/pot sub-total	n/a	110,269	n/a	n/a	n/a
Hook-and-line catcher/processor	48.7	n/a	88,324	Jan 1–Jun 10	45,045
				Jun 10–Dec 31	43,279
Hook-and-line catcher vessel ≥60 ft LOA.	0.2	n/a	363	Jan 1–Jun 10	185
				Jun 10–Dec 31	178
Pot catcher/processor	1.5	n/a	2,720	Jan 1–Jun 10	1,387

TABLE 9—FINAL 2018 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD TAC—Continued

[Amounts are in metric tons]

Gear sector	Percent	2018 share of gear sector total	2018 share of sector total	2018 seasonal apportionment	
				Seasons	Amount
				Sept 1–Dec 31	1,333
Pot catcher vessel ≥60 ft LOA	8.4	n/a	15,235	Jan 1–Jun 10	7,770
				Sept 1–Dec 31	7,465
Catcher vessel <60 ft LOA using hook-and-line or pot gear.	2	n/a	3,627	n/a	n/a
Trawl catcher vessel	22.1	40,227	n/a	Jan 20–Apr 1	29,768
				Apr 1–Jun 10	4,425
				Jun 10–Nov 1	6,034
AFA trawl catcher/processor	2.3	4,186	n/a	Jan 20–Apr 1	3,140
				Apr 1– Jun 10	1,047
				Jun 10–Nov 1	0
Amendment 80	13.4	24,391	n/a	Jan 20–Apr 1	18,293
				Apr 1– Jun 10	6,098
				Jun 10–Nov 1	0
Jig	1.4	2,548	n/a	Jan 1–Apr 30	1,529
				Apr 30–Aug 31	510
				Aug 31–Dec 31	510

[1] The gear shares and seasonal allowances for BSAI Pacific cod TAC are based on the sum of the BS and AI Pacific cod TACs, after the subtraction of CDQ. If the TAC for Pacific cod in either the AI or BS is reached, then directed fishing for Pacific cod in that subarea may be prohibited, even if a BSAI allowance remains.

[2] The ICA for the hook-and-line and pot sectors will be deducted from the aggregate portion of Pacific cod TAC allocated to the hook-and-line and pot sectors. The Regional Administrator approves an ICA of 400 mt for 2018 based on anticipated incidental catch in these fisheries.

Note: Seasonal or sector apportionments may not total precisely due to rounding.

Pursuant to § 679.20(a)(7)(viii), the Pacific cod TACs in Table 9A of this inseason adjustment will be effective for 2018 and the harvest limits will apply in 2018.

TABLE 9a—FINAL 2018 BSAI A-SEASON PACIFIC COD LIMITS ALEUTIAN ISLANDS FOR SHOREPLANTS INTENTION TO PROCESS PACIFIC COD [1]

2018 allocations under Aleutian Islands CV Harvest Set-Aside	Amount (mt)
AI non-CDQ TAC	14,016
AI ICA	2,500
AI DFA	11,516
BS non-CDQ TAC	168,005
BSAI Trawl CV A-Season Allocation	29,768
BSAI Trawl CV A-Season Allocation minus Sector Limitation [2]	24,768
BS Trawl CV A-Season Sector Limitation	5,000
AI CV Harvest Set-Aside	5,000
AI Unrestricted Fishery	6,516

[1] These allocations will apply in 2018 because NMFS received notice of intent to process AI Pacific cod by October 31 of the previous year, pursuant to § 679.20(a)(7)(viii), and the performance requirements set forth in § 679.20(a)(7)(viii) are likewise met. Prior to October 31, 2017, NMFS received timely notice from the City of Adak indicating intent to process AI Pacific cod for the 2018 season. Accordingly, the harvest limits in Table 9a will be in effect in 2018, subject to the performance requirements outlined in § 679.20(a)(7)(viii).

[2] This is the amount of the BSAI trawl CV A season allocation that may be harvested in the Bering Sea prior to March 21, 2018, unless modified because the performance requirements were not met.

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would allow for harvests that exceed the appropriate allocations for pollock, Atka mackerel, and Pacific cod in the BSAI based on the best scientific information available. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of December 20, 2017, and additional time for prior public comment would result in conservation concerns for the ESA-listed Steller sea lions.

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

Under § 679.25(c)(2), interested persons are invited to submit written comments on this action to the above address until January 4, 2018.

This action is required by § 679.20 and § 679.25 and is exempt from review under Executive Order 12866.

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

Dated: December 15, 2017.

Emily H. Menashes,

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

[FR Doc. 2017–27428 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 243
Wednesday, December 20, 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.

FEDERAL TRADE COMMISSION

16 CFR Part 311

RIN 3084–AB48

Test Procedures and Labeling Standards for Recycled Oil

AGENCY: Federal Trade Commission (''FTC'' or ''Commission'').

ACTION: Advance notice of proposed rulemaking; request for public comment.

SUMMARY: The Federal Trade Commission (''FTC'' or ''Commission'') requests public comment on the overall costs, benefits, and regulatory and economic impact of its rule specifying Test Procedures and Labeling Standards for Recycled Oil (''Recycled Oil Rule'' or ''Rule''), as part of the Commission's systematic review of all current FTC rules and guides.

DATES: Comments must be received on or before February 12, 2018.

ADDRESSES: Interested parties may file a comment online or on paper, by following the instructions in the Request for Comment part of the **SUPPLEMENTARY INFORMATION** section below. Write ''16 CFR part 311—Recycled Oil, Matter No. R811006'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/RecycledOilReview,* by following the instructions on the web-based form. If you prefer to file your comment on paper, mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex A), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Hampton Newsome, (202) 326–2889, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–9528, Washington, DC 20580.

SUPPLEMENTARY INFORMATION:

I. Background

The Recycled Oil Rule, mandated by the Energy Policy and Conservation Act (''EPCA'') (42 U.S.C. 6363), contains testing and labeling requirements for recycled engine oil. As indicated in the statute, the Rule's purpose is to encourage used oil recycling, promote recycled oil use, reduce new oil consumption, and reduce environmental hazards and wasteful practices associated with used oil disposal.[1] The Rule, initially promulgated in 1995 (60 FR 55414 (Oct. 31, 1995)), allows manufacturers to represent that processed used engine oil is substantially equivalent to new oil as long as they substantiate such claims using American Petroleum Institute (API) Publication 1509 (Engine Oil Licensing and Certification System).[2] The Rule does not require manufacturers to explicitly state that their engine oil is substantially equivalent to new oil, nor does it mandate any specific qualifiers or disclosures.[3]

II. Regulatory Review Program

The Commission reviews its rules and guides periodically to seek information about their costs and benefits, regulatory and economic impact, and general effectiveness in protecting consumers and helping industry avoid deceptive claims. These reviews assist the Commission in identifying rules and guides that warrant modification or rescission. As part of its last review in 2007, the Commission determined to retain the Rule and updated the reference to API Publication 1509, Fifteenth Edition, and added an explanation of incorporation by reference in § 311.4.[4]

With the present Notice, the Commission initiates a new review. The Commission solicits comments on, among other things, the economic impact of, and the continuing need for, the Recycled Oil Rule; the Rule's benefits to consumers; and the burdens it places on industry members subject to the Rule's requirements, including small businesses.

III. Issues for Comments

To aid commenters in submitting information, the Commission has prepared the following specific questions related to the Recycled Oil Rule. The Commission seeks comments on these and any other issues related to the Rule's current requirements. In their replies, commenters should provide any available evidence and data that supports their position, such as empirical data, consumer perception studies, and consumer complaints.

(1) *Need:* Is there a continuing need for the Rule? Why or why not?

(2) *Benefits and Costs to Consumers:* What benefits has the Rule provided to consumers, and does the Rule impose any significant costs on consumers?

(3) *Benefits and Costs to Industry Members:* What benefits, if any, has the Rule provided to businesses, and does the Rule impose any significant costs, including costs of compliance, on businesses, including small businesses?

(4) *Recommended Changes:* What modifications, if any, should the Commission make to the Rule to increase its benefits or reduce its costs? How would these modifications affect the costs and benefits of the Rule for consumers? How would these modifications affect the costs and benefits of the Rule for businesses, particularly small businesses?

(5) *Impact on Information:* What impact has the Rule had on the flow of truthful information to consumers and on the flow of deceptive information to consumers?

(6) *Compliance:* Provide any evidence concerning the degree of industry compliance with the Rule. Does this evidence indicate that the Rule should be modified? If so, why, and how? If not, why not?

(7) *Unnecessary Provisions:* Provide any evidence concerning whether any of the Rule's provisions are no longer necessary. Explain why these provisions are unnecessary.

(8) *Technological or Economic Changes:* What modifications, if any, should be made to the Rule to account for current or impending changes in

[1] 42 U.S.C. 6363(a).

[2] Under EPCA (42 U.S.C. 6363(c)), the National Institute of Standards and Technology (''NIST'') must develop (and report to the FTC) applicable standards for determining the substantial equivalence of processed used engine oil with new engine oil. NIST recommended API 1509 when the Commission originally promulgated the Rule.

[3] 60 FR at 55418–55419.

[4] 72 FR 14410, 14413 (March 28, 2007).

technology or economic conditions? How would these modifications affect the costs and benefits of the Rule for consumers and businesses, particularly small businesses?

(9) *Conflicts With Other Requirements:* Does the Rule overlap or conflict with other federal, state, or local laws or regulations? If so, how? Provide any evidence that supports your position. With reference to the asserted conflicts, should the Rule be modified? If so, why, and how? If not, why not? Are there any Rule changes necessary to help state law enforcement agencies combat deceptive practices in the recycled engine oil market? Provide any evidence concerning whether the Rule has assisted in promoting national consistency with respect to the advertising of recycled engine oil.

(10) *Update Rule Reference to API Document:* Should the Commission update the Rule to incorporate by reference the current version (*i.e.,* the Seventeenth Edition) of the API Publication 1509? [5] If so, should the incorporation include a specific date or other information to identify the seventeenth edition of API Publication 1509?

IV. Comment Submissions

You can file a comment online or on paper. For the Commission to consider your comment, we must receive it on or before February 12, 2018. Write ''16 CFR part 311—Recycled Oil, Matter No. R811006'' on your comment. Your comment—including your name and your state—will be placed on the public record of this proceeding, including, to the extent practicable, on the public Commission website, at *http://www.ftc.gov/os/publiccomments.shtm.* Postal mail addressed to the Commission is subject to delay due to heightened security screening. As a result, we encourage you to submit your comments online, or to send them to the Commission by courier or overnight service. To make sure that the Commission considers your online comment, you must file it at *https://ftcpublic.commentworks.com/ftc/RecycledOilReview,* by following the instructions on the web-based form. When this Notice appears at *https://www.regulations.gov,* you also may file a comment through that website.

If you prefer to file your comment on paper, write ''16 CFR part 311—Recycled Oil, Matter No. R811006'' on your comment and on the envelope, and mail your comment to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex A), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex A), Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service.

Because your comment will be placed on the publicly accessible FTC website at *https://www.ftc.gov,* you are solely responsible for making sure that your comment does not include any sensitive or confidential information. In particular, your comment should not include any sensitive personal information, such as your or anyone else's Social Security number; date of birth; driver's license number or other state identification number, or foreign country equivalent; passport number; financial account number; or credit or debit card number. You are also solely responsible for making sure that your comment does not include any sensitive health information, such as medical records or other individually identifiable health information. In addition, your comment should not include any ''trade secret or any commercial or financial information which . . . is privileged or confidential''—as provided by Section 6(f) of the FTC Act, 15 U.S.C. 46(f), and FTC Rule 4.10(a)(2), 16 CFR 4.10(a)(2)—including, in particular, competitively sensitive information such as costs, sales statistics, inventories, formulas, patterns, devices, manufacturing processes, or customer names.

Comments containing material for which confidential treatment is requested must be filed in paper form, must be clearly labeled ''Confidential,'' and must comply with FTC Rule 4.9(c), 16 CFR 4.9(c). In particular, the written request for confidential treatment that accompanies the comment must include the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. *See* FTC Rule 4.9(c). Your comment will be kept confidential only if the General Counsel grants your request in accordance with the law and the public interest. Once your comment has been posted on the public FTC website—as legally required by FTC Rule 4.9(b)—we cannot redact or remove your comment from the FTC website, unless you submit a confidentiality request that meets the requirements for such treatment under FTC Rule 4.9(c), and the General Counsel grants that request.

Visit the FTC website to read this Notice and the news release describing it. The FTC Act and other laws that the Commission administers permit the collection of public comments to consider and use in this proceeding, as appropriate. The Commission will consider all timely and responsive public comments that it receives on or before February 12, 2018. For information on the Commission's privacy policy, including routine uses permitted by the Privacy Act, see *https://www.ftc.gov/site-information/privacy-policy.*

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. 2017–27374 Filed 12–19–17; 8:45 am]

BILLING CODE 6750–01–P

[5] The current Rule (Section 311.4) references the Fifteenth Edition of API Publication 1509.

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AE62

Retail Commodity Transactions Involving Virtual Currency

AGENCY: Commodity Futures Trading Commission.

ACTION: Proposed interpretation; request for comment.

SUMMARY: The Commodity Futures Trading Commission (the ''Commission'' or ''CFTC'') is issuing this proposed interpretation of the term ''actual delivery'' as set forth in a certain provision of the Commodity Exchange Act (''CEA'') pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act''). Specifically, this proposed interpretation is being issued to inform the public of the Commission's views as to the meaning of actual delivery within the specific context of retail commodity transactions in virtual currency. The Commission requests comment on this proposed interpretation and further invites comment on specific questions related to the Commission's treatment of virtual currency transactions.

DATES: Comments must be received on or before March 20, 2018.

ADDRESSES: You may submit comments, identified by RIN 3038–AE62, by any of the following methods:

- *CFTC website: http://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission,

Commodity Futures Trading Commission, Three Lafayette Center, 1155 21st Street NW, Washington, DC 20581.

- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English or, if not, accompanied by an English translation. Comments will be posted as received to *http://www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (''FOIA''),[1] a petition for confidential treatment of the exempt information may be submitted according to the procedures established in Commission Regulation 145.9.[2]

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

FOR FURTHER INFORMATION CONTACT: Philip W. Raimondi, Special Counsel, (202) 418–5717, *praimondi@cftc.gov;* or David P. Van Wagner, Chief Counsel, (202) 418–5481, *dvanwagner@cftc.gov;* Office of the Chief Counsel, Division of Market Oversight, Commodity Futures Trading Commission, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. Background

With certain exceptions, the CFTC has been granted exclusive jurisdiction over commodity futures, options, and all other derivatives that fall within the definition of a swap.[3] Further, the Commission has been granted general anti-fraud and anti-manipulation authority over ''any swap, or a contract of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity.'' [4] The Commission's mission is to foster open, transparent, competitive and financially sound markets; and protect the American public from fraudulent schemes and abusive practices in those markets and products over which it has been granted jurisdiction.

Pursuant to CEA section 2(c)(2)(D),[5] the marketplace for ''retail commodity transactions'' is one such area over which the Commission has been granted explicit oversight authority.[6] CEA section 2(c)(2)(D) applies to any agreement, contract or transaction in any commodity that is entered into with, or offered to (even if not entered into with), a person that is neither an eligible contract participant [7] nor an eligible commercial entity [8] (''retail'') on a leveraged or margined basis, or financed by the offeror, the counterparty or a person acting in concert with the offeror or counterparty on a similar basis.[9] CEA section 2(c)(2)(D) further provides that such an agreement, contract or transaction is subject to CEA sections 4(a),[10] 4(b),[11] and 4b [12] ''as if the agreement, contract or transaction was a contract of sale of a commodity for future delivery.'' [13] The statute, however, excepts certain transactions from its application. In particular, CEA section 2(c)(2)(D)(ii)(III)(aa) [14] excepts a contract of sale that ''results in actual delivery within 28 days or such other longer period as the Commission may determine by rule or regulation based upon the typical commercial practice in cash or spot markets for the commodity involved.'' [15] If no exception is applicable, these retail transactions are ''commodity interests'' subject to Commission regulations together with futures, options, and swaps.[16] Under this authority, the Commission regulates retail commodity transactions, with the exception of contracts of sale that result in actual delivery within 28 days.[17]

The Dodd-Frank Act added CEA section 2(c)(2)(D) to address certain judicial uncertainty involving the Commission's regulatory oversight capabilities. The Commission has long held that certain speculative commodity transactions involving leverage or margin may have indicia of futures contracts, subjecting them to Commission oversight.[18] However, judicial decisions emerged that called into question the Commission's oversight over certain leveraged retail transactions in currencies and other commodities.[19] In 2008, Congress addressed this judicial uncertainty by providing the Commission with more explicit authority over retail foreign currency transactions in CEA section 2(c)(2)(C).[20] These new statutory provisions established a two-day actual delivery exception for such transactions.[21] Two years later, Congress provided the Commission with explicit oversight authority over all other ''retail commodity transactions'' in CEA section 2(c)(2)(D).[22] As noted,

[1] 5 U.S.C. 552.

[2] 17 CFR 145.9. Commission regulations referred to herein are found at 17 CFR chapter I.

[3] 7 U.S.C. 2(a)(1)(A). The CFTC shares its swap jurisdiction in certain aspects with the Securities and Exchange Commission (''SEC''). *See* 7 U.S.C. 2(a)(1)(C).

[4] 7 U.S.C. 9(1).

[5] 7 U.S.C. 2(c)(2)(D).

[6] The authority provided to the Commission by CEA section 2(c)(2)(D) is in addition to, and independent from, the jurisdiction over contracts of sale of a commodity for future delivery and transactions subject to regulation pursuant to CEA section 19 that the CEA has historically granted to the Commission. It is also in addition to, and independent from, the jurisdiction over swaps granted to the Commission by the Dodd-Frank Act. Further, the authority granted under CEA section 2(c)(2)(D) is in addition to, and independent of, the Commission's ability to bring enforcement actions for fraud or manipulation in connection with swaps, contracts of sale of any commodity in interstate commerce, or for future delivery on or subject to the rules of any registered entity. 7 U.S.C. 9(1), 9(3), 13(a)(2); 17 CFR 180.1, 180.2.

[7] 7 U.S.C. 1a(18).

[8] 7 U.S.C. 1a(17); *see also* 7 U.S.C. 2(c)(2)(D)(iv).

[9] 7 U.S.C. 2(c)(2)(D)(i).

[10] 7 U.S.C. 6(a) (prohibiting the off-exchange trading of futures transactions by U.S. persons unless the transaction is conducted on or subject to the rules of a designated contract market).

[11] 7 U.S.C. 6(b) (permitting foreign boards of trade registered with the Commission with the ability to provide direct access to U.S. persons).

[12] 7 U.S.C. 6b (prohibiting fraudulent conduct in connection with any contract of sale of any commodity in interstate commerce, among other things).

[13] 7 U.S.C. 2(c)(2)(D)(iii).

[14] 7 U.S.C. 2(c)(2)(D)(ii)(III)(aa).

[15] The Commission has not adopted any regulations permitting a longer actual delivery period for any commodity pursuant to this statute. Accordingly, the 28-day actual delivery period remains applicable to all commodities, while retail foreign currency transactions remain subject to a 2-day actual delivery period pursuant to CEA section 2(c)(2)(C).

[16] 17 CFR 1.3(yy).

[17] In addition, certain commercial transactions and securities are excepted pursuant to CEA section 2(c)(2)(D)(ii).

[18] *See In re Stovall,* CFTC Docket No. 75–7 [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941, at 23,777 (CFTC Dec. 6, 1979) (applying traditional elements of a futures contract to a purported cash transaction).

[19] *See, e.g., CFTC* v. *Zelener,* 373 F.3d 861 (7th Cir. 2004); *CFTC* v. *Erskine,* 512 F.3d 309 (6th Cir. 2008).

[20] *See* Food, Conservation and Energy Act of 2008, Public Law 110–246, 122 Stat. 1651 (2008).

[21] 7 U.S.C. 2(c)(2)(C)(i)(II)(bb)(AA).

[22] *See* Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Public Law 111–203, 124 Stat. 1376 (2010); *see also Hearing to Review Implications of the CFTC* v. *Zelener Case Before the Subcomm. on General Farm Commodities and Risk Management of the H. Comm. on Agriculture,* 111th Cong. 52–664 (2009) (statement of Rep. Marshall, Member, H. Comm. on Agriculture) (''If in substance it is a futures contract, it is going to be regulated. It doesn't matter how

these new statutory provisions established an exception for instances when actual delivery of the commodity occurs within 28 days.[23]

In connection with its retail commodity transaction oversight, the Commission previously issued a proposed interpretation of the term ''actual delivery'' in the context of CEA section 2(c)(2)(D), accompanied by a request for comment.[24] In that interpretation, the Commission provided several examples of what may and may not satisfy the actual delivery exception. After reviewing public comments, the Commission issued a final interpretation in 2013 (the ''2013 Guidance'').[25]

The 2013 Guidance explained that the Commission will consider evidence ''beyond the four corners of contract documents'' to assess whether actual delivery of the commodity occurred.[26] The Commission further noted that it will ''employ a functional approach and examine how the agreement, contract, or transaction is marketed, managed, and performed, instead of relying solely on language used by the parties in the agreement, contract, or transaction.'' [27] The 2013 Guidance also included a list of relevant factors the Commission will consider in an actual delivery determination [28] and again provided examples [29] of what may and may not constitute actual delivery. As per the 2013 Guidance, the only satisfactory examples of actual delivery involve transfer of title and possession of the commodity to the purchaser or a depository acting on the purchaser's behalf.[30] Among other things, mere book entries and certain instances where a purchase is ''rolled, offset, or otherwise netted with another transaction'' do not constitute actual delivery.[31]

Within a year after the 2013 Guidance was released, the Eleventh Circuit issued an opinion affirming a preliminary injunction obtained by the Commission in *CFTC* v. *Hunter Wise Commodities, LLC.*[32] *Hunter Wise* further reinforced the Commission's interpretation of actual delivery in the 2013 Guidance. Specifically, the Eleventh Circuit recognized that delivery ''denotes a transfer of possession and control.'' [33] Indeed, ''[i]f 'actual delivery' means anything, it means something other than simply 'delivery,' for we must attach meaning to Congress's use of the modifier 'actual.' '' [34] Accordingly, the Court stated that actual delivery ''denotes '[t]he act of giving real and immediate possession to the buyer or the buyer's agent'' and constructive delivery does not suffice.[35] Notably, the Eleventh Circuit found that its own holding harmonized with the 2013 Guidance and recognized that the legislative history behind CEA section 2(c)(2)(D) also ''complements'' its decision.[36]

Soon after the *Hunter Wise* decision, the Commission established that virtual currency is a commodity as that term is defined by CEA section 1a(9).[37] Subsequently, the Commission brought its first enforcement action against a platform that offered virtual currency transactions to retail customers on a leveraged, margined, or financed basis without registering with the Commission.[38] In the *Bitfinex* settlement order, the Commission found that the virtual currency platform violated CEA sections 4(a) and 4d because the unregistered entity ''did not actually deliver bitcoins purchased from them'' as prescribed within the actual delivery exception.[39] Rather, the entity ''held the purchased bitcoins in bitcoin deposit wallets that it owned and controlled.'' [40]

After *Bitfinex,* the Commission received requests for guidance with regard to the meaning of the actual delivery exception in the specific context of virtual currency transactions. Accordingly, the Commission has decided to issue this proposed interpretation and seek public comment. The Commission is issuing this proposed interpretation to inform the public of the Commission's views as to the meaning of the term ''actual delivery'' in the context of virtual currency and to provide the public with guidance on how the Commission intends to assess whether any given retail commodity transaction in virtual currency (whereby an entity or platform offers margin trading or otherwise facilitates [41] the use of margin, leverage, or financing arrangements for their retail market participants) results in actual delivery, as the term is used in CEA section 2(c)(2)(D)(ii)(III)(aa).[42] The Commission requests comment generally on this proposed interpretation and further invites comment on specific questions, as outlined within this release.

II. Commission Interpretation of Actual Delivery for Virtual Currency

A. Virtual Currency as a Commodity

As noted previously, the Commission considers virtual currency to be a commodity,[43] like many other intangible commodities that the Commission has recognized over the course of its existence (*e.g.,* renewable energy credits and emission allowances, certain indices, and certain debt instruments, among others).[44] Indeed, since their inception, virtual currency

clever your draftsmanship is.''); 156 Cong. Rec. S5,924 (daily ed. July 15, 2010) (statement of Sen. Lincoln) (''Section 742 corrects [any regulatory uncertainty] by extending the Farm Bill's ''*Zelener* fraud fix'' to retail off-exchange transactions in *all* commodities.'') (emphasis added).

[23] 7 U.S.C. 2(c)(2)(D)(ii)(III)(aa).

[24] Retail Commodity Transactions Under Commodity Exchange Act, 76 FR 77670 (Dec. 14, 2011).

[25] Retail Commodity Transactions Under Commodity Exchange Act, 78 FR 52426 (Aug. 23, 2013).

[26] *Id.* at 52,428.

[27] *Id.*

[28] ''Relevant factors in this determination include the following: Ownership, possession, title, and physical location of the commodity purchased or sold, both before and after execution of the agreement, contract, or transaction, including all related documentation; the nature of the relationship between the buyer, seller, and possessor of the commodity purchased or sold; and the manner in which the purchase or sale is recorded and completed.'' 78 FR at 52428.

[29] In the 2013 Guidance, Examples 1 and 2 illustrate circumstances where actual delivery is made, while Examples 3, 4 and 5 illustrate circumstances where actual delivery is not made. In setting forth the examples, the Commission made clear that they are non-exclusive and were intended to provide the public with guidance on how the Commission would apply the interpretation. 78 FR at 52427–28.

[30] *Id.*

[31] *Id.*

[32] *CFTC* v. *Hunter Wise Commodities, LLC, et al.,* 749 F.3d 967 (11th Cir. 2014) (hereinafter, *Hunter Wise*).

[33] 749 F.3d at 978–79, (citing *Black's Law Dictionary* 494 (9th ed. 2009)).

[34] 749 F.3d at 979.

[35] *Id.*

[36] 749 F.3d at 977.

[37] *In re Coinflip, Inc., d/b/a Derivabit, and Francisco Riordan,* CFTC Docket No. 15–29, 2015 WL 5535736, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 33,538 (CFTC Sept. 17, 2015) (consent order); *In re TeraExchange LLC,* CFTC Docket No. 15–33, 2015 WL 5658082, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 33,546 (CFTC Sept. 24, 2015) (consent order).

[38] *In re BFXNA INC. d/b/a BITFINEX,* CFTC Docket No. 16–19 (June 2, 2016) (consent order) (hereinafter, *Bitfinex*).

[39] *Id.*

[40] *Id.*

[41] Specifically, CEA section 2(c)(2)(D)(i) captures any such retail commodity transaction ''entered into, or offered . . . on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.''

[42] 7 U.S.C. 2(c)(2)(D)(ii)(III)(aa).

[43] *In re Coinflip, Inc., d/b/a Derivabit, and Francisco Riordan,* CFTC Docket No. 15–29, 2015 WL 5535736, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 33,538 (CFTC Sept. 17, 2015) (consent order); *In re TeraExchange LLC,* CFTC Docket No. 15–33, 2015 WL 5658082, [Current Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 33,546 (CFTC Sept. 24, 2015) (consent order).

[44] *See generally* Further Definition of ''Swap,'' ''Security-Based Swap,'' and ''Security-Based Swap Agreement''; Mixed Swaps; Security-Based Swap Agreement Recordkeeping, 77 FR 48208 at 48233 (Aug. 13, 2012) (discussing application of the swap forward exclusion to intangible commodities).

structures were proposed as digital alternatives to gold and other precious metals.[45] As a commodity, virtual currency is subject to applicable provisions of the CEA and Commission regulations.

The Commission interprets the term virtual currency broadly. In the context of this interpretation, virtual or digital currency: [46] Encompasses any digital representation of value (a ''digital asset'') that functions as a medium of exchange, and any other digital unit of account that is used as a form of a currency (*i.e.,* transferred from one party to another as a medium of exchange); may be manifested through units, tokens, or coins, among other things; and may be distributed by way of digital ''smart contracts,'' among other structures.[47] However, the Commission notes that it does not intend to create a bright line definition at this time given the evolving nature of the commodity and, in some instances, its underlying public distributed ledger technology (''DLT'' or ''blockchain'').

B. The Commission's Interest in Virtual Currency

The Commission recognizes that certain virtual currencies and their underlying blockchain technologies have the potential to yield notable advancements in applications of financial technology (''FinTech''). Indeed, as part of its efforts to facilitate beneficial FinTech innovation and help ensure market integrity, the Commission launched the LabCFTC initiative.[48] This initiative provides the Commission with a platform to engage the FinTech community and promote market-enhancing innovation in furtherance of improving the quality, resiliency, and competitiveness of the markets overseen by the Commission. As such, the Commission is closely following the development and continuing evolution of blockchain technologies and virtual currencies.

Moreover, since virtual currency can serve as an underlying component of derivatives transactions, the Commission maintains a close interest in the development of the virtual currency marketplace generally. As a practical matter, virtual currency, by virtue of its name, represents a digital medium of exchange for goods and services, similar to fiat currency.[49] Over time, numerous centralized platforms have emerged as markets to convert virtual currency into fiat currency or other virtual currencies. These platforms provide a place to immediately exchange one commodity for another ''on the spot.''

Some of these centralized platforms also attempt to cater to those that wish to speculate on the price movements of a virtual currency against other currencies. For example, a speculator may purchase virtual currency using borrowed money in the hopes of covering any outstanding balance owed through profits from favorable price movements in the future. This interpretation is specifically focused on such ''retail commodity transactions,'' whereby an entity or platform: (i) Offers margin trading or otherwise facilitates [50] the use of margin, leverage, or financing arrangements for their retail market participants; (ii) typically to enable such participants to speculate or capitalize on price movements of the commodity—two hallmarks of a regulated futures marketplace.[51]

Beyond their practical and speculative functions, the emergence of these nascent markets has also been negatively marked by a variety of retail customer harm that warrants the Commission's attention, including, among other things, flash crashes and other market disruptions,[52] delayed settlements,[53] alleged spoofing,[54] hacks,[55] alleged internal theft,[56] alleged manipulation,[57] smart contract coding vulnerabilities,[58] bucket shop

---

[45] Nick Szabo, *Bit gold,* Unenumerated (Dec. 27, 2008), *http://unenumerated.blogspot.com/2005/12/bit-gold.html.*

[46] The Commission uses the term ''virtual currency'' and ''digital currency'' interchangeably for purposes of this proposed interpretation. However, the Commission acknowledges that the two terms may have certain practical differences in other contexts. For example, one view is that ''digital currency'' includes fiat currencies, while ''virtual currency'' does not. *See* The Financial Action Task Force [FATF], *Virtual Currencies: Key Definitions and Potential AML/CFT Risks,* at 4 (June 27, 2014), *http://www.fatf-gafi.org/media/fatf/documents/reports/Virtual-currency-key-definitions-and-potential-aml-cft-risks.pdf.* Further, this interpretation is not intended to encompass transactions otherwise covered by CEA section 2(c)(2)(C) and related Commission regulations.

[47] One prominent type of virtual currency is cryptocurrency. Cryptocurrency is described as ''an electronic payment system based on cryptographic proof instead of trust, allowing any two willing parties to transact directly with each other without the need for a trusted third party.'' Satoshi Nakamoto, *Bitcoin: A Peer-to-Peer Electronic Cash System* (Oct. 31, 2008), *https://bitcoin.org/bitcoin.pdf.* Transactions are represented by a hash or ''chain of digital signatures,'' which takes into account the previous owner and the next owner. Given the lack of a centralized authority, transaction verification is ''publicly announced'' in a transparent ledger ''system for participants to agree on a single history'' of transactions. *Id.* Each transaction moves from one digital wallet to another, recognized as ''nodes'' on a distributed ledger network. This structure represents one form of DLT or blockchain technology, which underlies bitcoin—a widely traded virtual currency.

[48] *See* Press Release, Commodity Futures Trading Commission, CFTC Launches LabCFTC as Major FinTech Initiative (May 17, 2017), *http://www.cftc.gov/PressRoom/PressReleases/pr7558-17.*

[49] Michael J. Casey and Paul Vigna, *Bitcoin and the Digital-Currency Revolution,* The Wall Street Journal (Jan. 23, 2015), *https://www.wsj.com/articles/the-revolutionary-power-of-digital-currency-1422035061* (''Once inside the coffee shop, you will open your wallet's smartphone app and hold its QR code reader up to the coffee shop's device'' to buy a cup of coffee).

[50] As noted earlier, CEA section 2(c)(2)(D)(i) captures any such retail transaction ''entered into, or offered . . . on a leveraged or margined basis, or financed by the offeror, the counterparty, or a person acting in concert with the offeror or counterparty on a similar basis.'' The Commission views any financing arrangements facilitated, arranged, or otherwise endorsed by the offeror or counterparty to satisfy this statutory definition for purposes of this interpretation.

[51] *See, e.g., CFTC* v. *Int'l Foreign Currency, Inc.,* 334 F. Supp. 2d 305, 310 (E.D.N.Y. 2004) (listing elements typically found in a futures contract); *In re Stovall,* CFTC Docket No. 75–7 [1977–1980 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 20,941, at 23,777 (CFTC Dec. 6, 1979) (describing how futures contracts, being traded on margin, ''are entered into primarily for the purpose of assuming or shifting the risk of change in value of commodities, rather than for transferring ownership of the actual commodities.''); David J. Gilberg, *Regulation of New Financial Instruments Under the Federal Securities and Commodities Laws,* 39 Vand. L. Rev. 1599, 1603–04, n.14 (1986) (typically, futures ''traders are interested only in obtaining cash payments of price differentials, not actual commodities'').

[52] *See, e.g.,* Paul Vigna, *Virtual Currencies Bitcoin and Ether Wrap Up a Wild Quarter,* The Wall Street Journal, Jul. 3, 2017, at B6 (describing a recent flash crash affecting the price of virtual currency Ether, caused by ''a multimillion-dollar sell order'' that subsequently ''sparked a cascade of stop-loss orders''); Paul Vigna, *BitBeat: Bitcoin Price Drops on Block-Size Debate, 'Flash Crash,'* The Wall Street Journal (Aug. 20, 2015), *http://blogs.wsj.com/moneybeat/2015/08/20/bitbeat-bitcoin-price-drops-on-block-size-debate-flash-crash/* (''bitcoin's speculative traders love this kind of stuff [margin trading]; these guys could easily give Wall Street's casino hotshots a run for their money'').

[53] Paul Vigna, *Virtual Currencies Bitcoin and Ether Wrap Up a Wild Quarter,* The Wall Street Journal, Jul. 3, 2017, at B6 (''[t]here were delays of hours and even days.'').

[54] Lionel Laurent, *Bitcoin Wrestles With Spoofy the Trader,* Bloomberg Gadfly (Aug. 7, 2017), *https://www.bloomberg.com/gadfly/articles/2017-08-07/bitcoin-has-a-spoofy-problem.*

[55] *See, e.g.,* Paul Vigna and Gregor Stuart Hunter, *Bitcoin Sinks After Exchange Reports Hack,* The Wall Street Journal (Aug. 3, 2016), *http://www.wsj.com/articles/bitcoin-sinks-after-exchange-reports-hack-1470195727;* Nathaniel Popper and Rachel Abrams, *Apparent Theft Rattles the Bitcoin World,* N.Y. Times, Feb. 25, 2014, at B1; Alex Hern, *A History of Bitcoin Hacks,* The Guardian (Mar. 18, 2014), *http://www.theguardian.com/technology/2014/mar/18/history-of-bitcoin-hacks-alternative-currency.*

[56] Jessica Lipscomb, *Cryptsy Founder Paul Vernon Disappeared, Along With Millions of His Customers' Cash,* Miami New Times (Jun. 28, 2016), *http://www.miaminewtimes.com/news/cryptsy-founder-paul-vernon-disappeared-along-with-millions-of-his-customers-cash-8557571.*

[57] Izabella Kaminska, *When OTC markets backfire, bitcoin edition,* Financial Times—Alphaville (Mar. 8, 2017), *https://ftalphaville.ft.com/2017/03/08/2185731/when-otc-markets-backfire-bitcoin-edition.*

[58] Matthew Leising, *The Ether Thief,* Bloomberg Markets Magazine (Jun. 13, 2017), *https://www.bloomberg.com/features/2017-the-ether-thief/* (while not technically an event specific to any one

arrangements and other conflicts of interest.[59] These types of activities perpetrated by bad actors can inhibit market-enhancing innovation, undermine market integrity, and stunt further market development.

C. Actual Delivery of Virtual Currency

As underscored by its efforts to engage the FinTech community, the Commission emphasizes that it does not intend to impede market-enhancing innovation or otherwise harm the evolving virtual currency marketplace with this interpretation. To the contrary, the Commission believes this interpretation can help advance a healthy ecosystem and support further market-enhancing innovation. Additionally, the Commission takes seriously its goal of protecting U.S. retail market participants engaged in the virtual currency marketplace that falls within the Commission's jurisdiction—as it would with respect to retail market participants trading in any other retail commodity marketplace that falls within its jurisdiction. The Commission drafted this interpretation with such a balance in mind.

As discussed above, a retail commodity transaction may be excepted from CEA section 2(c)(2)(D) (and thus not subject to CEA sections 4(a), 4(b), and 4b) if actual delivery of the commodity occurs within 28 days of the transaction.[60] The longstanding Model State Commodity Code also contains an exception from its ''commodity contract'' regulation when physical settlement occurs within 28 days.[61] However, the Model State Commodity Code provides for the ability to lengthen *or shorten* its 28-day physical delivery exception time period, while CEA section 2(c)(2)(D) only provides the Commission with the ability to lengthen its actual delivery exception time period.[62] Therefore, absent Congressional action, the Commission is unable to reduce the actual delivery exception period for speculative, leverage-based retail commodity transactions in virtual currency. The one-size-fits-all 28 day delivery period in CEA section 2(c)(2)(D) may not properly account for innovation or customary practice in certain cash markets, such as virtual currency transactions that would presumably take much less than 28 days to deliver to a purchaser in a typical spot transaction.[63] Without the application of CEA section 2(c)(2)(D), retail market participants that transact on platforms offering speculative transactions in virtual currency (involving margin, leverage, or other financing) will not be afforded many of the protections that flow from registration under the CEA. Despite the statutory limitations, the Commission will utilize its current statutory authority as best it can to prevent fraud in retail commodity transactions involving virtual currency.

The Commission, in interpreting the term actual delivery for the purposes of CEA section 2(c)(2)(D)(ii)(III)(aa), will continue to follow the 2013 Guidance and ''employ a functional approach and examine how the agreement, contract, or transaction is marketed, managed, and performed, instead of relying solely on language used by the parties in the agreement, contract, or transaction.'' [64]

Further, the Commission will continue to assess all relevant factors [65] to aid in such an actual delivery determination. More specifically, the Commission's view of when ''actual delivery'' has occurred within the context of virtual currency requires:

(1) A customer having the ability to: (i) Take possession and control of the entire quantity of the commodity, whether it was purchased on margin, or using leverage, or any other financing arrangement, and (ii) use it freely in commerce (both within and away from any particular platform) no later than 28 days from the date of the transaction; and

(2) The offeror and counterparty seller (including any of their respective affiliates or other persons acting in concert with the offeror or counterparty seller on a similar basis) [66] not retaining any interest in or control over any of the commodity purchased on margin, leverage, or other financing arrangement at the expiration of 28 days from the date of the transaction.[67]

Consistent with the 2013 Guidance, a sham delivery does not constitute actual delivery for purposes of this interpretation. The offeror and counterparty seller, including their agents, must retain no interest or control whatsoever in the virtual currency acquired by the purchaser at the expiration of 28 days from the date of entering into the transaction. Indeed, in its simplest form, actual delivery of virtual currency connotes the ability of a purchaser to utilize the virtual currency purchased ''on the spot'' to immediately purchase goods or services with the currency elsewhere.

In the context of an ''actual delivery'' determination in virtual currency, physical settlement of the commodity must occur. A cash settlement or offset mechanism, as described in Example 4 below, will not satisfy the actual delivery exception of CEA section 2(c)(2)(D). The distinction between physical settlement and cash settlement in this context is akin to settlement of a spot foreign currency transaction at a commercial bank or hotel in a foreign nation—the customer receives physical foreign currency, not U.S. dollars. As mentioned, such physical settlement must occur within 28 days from the date on which the ''agreement, contract, or transaction is entered into'' to constitute ''actual delivery.'' [68]

Consistent with the interpretation above, the Commission provides the following non-exclusive examples to further clarify the meaning of actual delivery in the virtual currency context:

platform, this hack illustrates an event that dramatically affected the price and status of a virtual currency traded on such platforms).

[59] *See, e.g.,* Vitalik Buterin, *Bitfinex: Bitcoinica Rises From The Grave,* Bitcoin Magazine (Nov. 22, 2012), *http://bitcoinmagazine.com/articles/bitfinex-bitcoinica-rises-from-the-grave-1353644122;* Matt Levine, *How A Bank Should Be?,* Bloomberg View (Mar. 11, 2015), *https://www.bloomberg.com/view/articles/2015-03-11/how-should-a-bank-be-* (''Just because you mumble the word 'blockchain' doesn't make otherwise illegal things legal''); Matt Levine, *Bitcoin Bucket Shop Kicks Bucket,* Bloomberg View (Jun. 19, 2015), *https://www.bloomberg.com/view/articles/2015-06-19/bitcoin-bucket-shop-kicks-bucket.*

[60] 7 U.S.C. 2(c)(2)(D)(ii)(III)(aa).

[61] *See* Model State Commodity Code section 1.01(e), [1984–1986 Transfer Binder] Comm. Fut. L. Rep. (CCH) ¶ 22,568 (Apr. 5, 1985).

[62] To date, the Commission has not chosen to extend the 28-day actual delivery period in any instance.

[63] Notably, Congress provided a 2-day actual delivery exception for retail foreign currency transactions. *See* 7 U.S.C. 2(c)(2)(C)(i)(II)(bb)(AA).

[64] 78 FR at 52428.

[65] This list includes, but is not limited to ''[o]wnership, possession, title, and physical location of the commodity purchased or sold, both before and after execution of the agreement, contract, or transaction, including all related documentation; the nature of the relationship between the buyer, seller, and possessor of the commodity purchased or sold; and the manner in which the purchase or sale is recorded and completed.'' *Id.*

[66] The Commission recognizes that the offeror of the transaction and the ultimate counterparty may be two separate entities or may be the same. For example, the Commission would consider as the offeror of the transaction a virtual currency platform that makes the transaction available to the retail customer or otherwise facilitates the transaction. That virtual currency platform could also be considered a counterparty to the transaction if, for example, the platform itself took the opposite side of the transaction or the purchaser of the virtual currency enjoyed privity of contract solely with the platform rather than the seller. Additionally, the Commission recognizes that some virtual currency platforms may provide a purchaser with the ability to source financing or leverage from other users or third parties. The Commission would consider such third parties or other users to be acting in concert with the offeror or counterparty seller on a similar basis.

[67] Among other things, the Commission may look at whether the offeror or seller retain any ability to access or withdraw any quantity of the commodity purchased from the purchaser's account or wallet.

[68] 78 FR at 52427.

Example 1: Actual delivery of virtual currency will have occurred if, within 28 days of entering into an agreement, contract, or transaction, there is a record on the relevant public distributed ledger network or blockchain of the transfer of virtual currency, whereby the entire quantity of the purchased virtual currency, including any portion of the purchase made using leverage, margin, or other financing, is transferred from the counterparty seller's blockchain wallet [69] to the purchaser's blockchain wallet, the counterparty seller retains no interest in or control over the transferred commodity, and the counterparty seller has transferred title [70] of the commodity to the purchaser. When a matching platform or other third party offeror acts as an intermediary, the virtual currency's public distributed ledger must reflect the purchased virtual currency transferring from the counterparty seller's blockchain wallet to the third party offeror's blockchain wallet and, separately, from the third party offeror's blockchain wallet to the purchaser's blockchain wallet, provided that the purchaser's wallet is not affiliated with or controlled by the counterparty seller or third party offeror in any manner.

Example 2: Actual delivery will have occurred if, within 28 days of entering into a transaction: (1) The counterparty seller has delivered the entire quantity of the virtual currency purchased, including any portion of the purchase made using leverage, margin, or financing, into the possession of a depository (*i.e.,* wallet or other relevant storage system) other than one owned, controlled, or operated by the counterparty seller (including any parent companies, partners, agents, affiliates, and others acting in concert with the counterparty seller) [71] that has entered into an agreement with the purchaser to hold virtual currency as agent for the purchaser without regard to any asserted interest of the offeror, the counterparty seller, or persons acting in concert with the offeror or counterparty seller on a similar basis; (2) the counterparty seller has transferred title of the commodity to the purchaser; (3) the purchaser has secured full control over the virtual currency (*i.e.,* the ability to immediately remove the full amount of purchased commodity from the depository); and (4) no liens (or other interests of the offeror, counterparty seller, or persons acting in concert with the offeror or counterparty seller on a similar basis) resulting from the use of margin, leverage, or financing used to obtain the entire quantity of the commodity purchased will continue forward at the expiration of 28 days from the date of the transaction.

Example 3: Actual delivery will *not* have occurred if, within 28 days of entering into a transaction, a book entry is made by the offeror or counterparty seller purporting to show that delivery of the virtual currency has been made to the purchaser, but the counterparty seller or offeror has *not,* in accordance with the methods described in Example 1 or Example 2, actually delivered the entire quantity of the virtual currency purchased, including any portion of the purchase made using leverage, margin, or financing, and transferred title to that quantity of the virtual currency to the purchaser, regardless of whether the agreement, contract, or transaction between the purchaser and offeror or counterparty seller purports to create an enforceable obligation [72] to deliver the commodity to the purchaser.

Example 4: Actual delivery will *not* have occurred if, within 28 days of entering into a transaction, the agreement, contract, or transaction for the purchase or sale of virtual currency is rolled, offset against, netted out, or settled in cash or virtual currency (other than the purchased virtual currency) between the purchaser and the offeror or counterparty seller (or persons acting in concert with the offeror or counterparty seller).

III. Request for Comment

The Commission requests comment from the public regarding the Commission's proposed interpretation of ''actual delivery'' in the context of virtual currency and further invites comments on specific questions related to the Commission's treatment of virtual currency transactions. The Commission encourages all comments including background information, actual market examples, best practice principles, expectations for the possible impact on further innovation, and estimates of any asserted costs and expenses. Specifically, the Commission requests comment on the following questions:

Question 1: As noted in this proposed interpretation, the Commission is limited in its ability to shorten the length of the actual delivery exception period for retail commodity transactions in virtual currency—which presumably take much less than 28 days to deliver to a purchaser. Would a 2-day actual delivery period, such as the actual delivery exception in CEA section 2(c)(2)(C), more accurately apply to such transactions in virtual currency? Would another actual delivery period be more appropriate? What additional information should the Commission consider in determining an appropriate actual delivery exception period for retail commodity transactions in virtual currency? If the Commission were to decide that a shorter actual delivery exception period would be more appropriate in the context of virtual currency, should the Commission engage Congress to consider an adjustment to CEA section 2(c)(2)(D)'s the actual delivery exception? For example, should the Commission seek that Congress amend CEA section 2(c)(2)(D)'s actual delivery exception to be more aligned with the broader delivery period adjustment language in the Model State Commodity Code?

Question 2: With respect to the Commission's proposed interpretation, are there additional examples the Commission should consider in satisfaction of the ''actual delivery'' exception to CEA section 2(c)(2)(D)?

Question 3: The Commission is concerned about offerors of virtual currency retail commodity transactions that may be subject to conflicts of interest, including situations such as an offeror or its principals taking the opposite side of a customer transaction, either directly or through an affiliated liquidity provider or market maker. These arrangements may, in certain circumstances, resemble bucket shops.[73] How should the Commission evaluate such circumstances if a platform seeks to avail itself of the actual delivery exception? Are there any additional factors that the Commission should consider in its determination of whether

[69] The source of the virtual currency is provided for purposes of this example. However, the focus of this analysis remains on the actions that would constitute actual delivery of the virtual currency to the purchaser.

[70] For purposes of this interpretation, title may be reflected by linking an individual purchaser with proof of ownership of the particular wallet or wallets that contain the purchased virtual currency.

[71] The Commission recognizes that an offeror could act in concert with both the purchaser and the counterparty seller in the ordinary course of business if it intermediates a transaction. It is not intended that such activity would prevent an offeror from associating with a depository, as otherwise allowed by this example.

[72] This ''enforceable obligation'' language is provided in reference to an exception to CEA section 2(c)(2)(D) that is limited by its terms to a commercial transaction involving two commercial entities with a pre-existing line of business in the commodity at issue that is separate and distinct from the business of engaging in a retail commodity transaction. *See* 7 U.S.C. 2(c)(2)(D)(ii)(III)(bb).

[73] Vitalik Buterin, *Bitfinex: Bitcoinica Rises From The Grave,* Bitcoin Magazine (Nov. 22, 2012), *http://bitcoinmagazine.com/articles/bitfinex-bitcoinica-rises-from-the-grave-1353644122* (describing a bucket shop arrangement whereby a platform ''steps in and acts as the counterparty to some of its users,'' creating ''perverse incentives'').

the ''actual delivery'' exception is available?

Question 4: As noted above, CEA sections 4(a), 4(b), and 4b apply to retail commodity transactions ''as if'' the transaction was a futures contract.[74] Therefore, absent an exception, a retail commodity transaction must be offered on or subject to the rules of a designated contract market (''DCM'').[75] Separately, an entity soliciting or accepting orders for retail commodity transactions and accepting money, securities, or property (or extending credit in lieu thereof) to margin, guarantee, or secure such transactions must register with the Commission as a futures commission merchant (''FCM'').[76] As a result of these requirements, the Commission recognizes that certain entities or platforms will choose not to offer virtual currency retail commodity transactions. This business decision is not unique to any particular commodity. However, as noted earlier, the Commission does not intend to stifle innovation. Rather, it is acting to protect U.S. retail customers regarding transactions that fall within its jurisdiction. Therefore, the Commission requests comments as to what factors may be relevant to consider regarding the Commission's potential use of its exemptive authority under CEA section 4(c)[77] in this regard. For example, please note any advantages and disadvantages regarding the potential to establish a distinct registration and compliance regime for entities that seek to offer retail commodity transactions in virtual currency. Why would such treatment be uniquely warranted[78] in the context of virtual currency? Please also note any other issues that the Commission should consider regarding such an analysis. What other alternatives should the Commission consider instead of establishing a distinct registration and compliance regime?

Question 5: In Example 2, the Commission sets forth a proposed set of facts that permits actual delivery to a depository instead of the purchaser. What should the Commission consider in further clarifying the meaning of ''depository'' for purposes of this interpretation? For example, could the depository maintain certain licenses or registrations in order to qualify for this example? In addition, should the Commission further prohibit the depository from being owned or operated by the offeror (including any offeror parent company, partner, agent, and other affiliates)? Please note any factors the Commission should consider in making this determination (such as the effect of contractual agreements between the depository and the offeror).

Question 6: Example 2 also requires the purchaser to secure full control over the virtual currency once it is deposited in a depository in order for the fact pattern to constitute actual delivery. The Commission requests comment regarding what types of circumstances would ensure a purchaser has obtained ''full control'' of the commodity. For example, is possession of a unique key or other credentials that allow full access and ability to transfer virtual currency sufficient to provide full control? Similarly, how should the Commission view full control by a user in light of commonly used cybersecurity techniques and money transmitter procedures otherwise required by law?

Question 7: Example 2 also requires that no liens resulting from the use of margin, leverage, or financing used to obtain the entire quantity of the commodity purchased by the buyer continue forward at the expiration of 28 days from the date of the transaction. The Commission requests comment regarding circumstances under which a lien would be considered terminated for purposes of this interpretation. For example, are there circumstances where the Commission should consider allowing ''forced sale'' scenarios, whereby the purchased virtual currency is used to satisfy any resulting liens from the retail commodity transaction, while still interpreting the transaction as having resulted in actual delivery to the purchaser? Should the Commission consider other types of lien scenarios or interests, such as those liens that would not provide a right to repossession of the commodity?

Question 8: As noted above, the status of ''title'' is one of the factors the Commission considers in an actual delivery determination for retail commodity transactions.[79] In Examples 1 and 2, this interpretation notes that ''title'' may be reflected by linking an individual purchaser with proof of ownership of the particular wallet or wallets that contain the purchased virtual currency. What additional examples, if any, should the Commission consider to address the status of ''title'' for the purposes of an actual delivery determination?

Question 9: While this interpretation is solely focused on the actual delivery exception to CEA section 2(c)(2)(D), the Commission recognizes other exceptions may be available.[80] Specifically, the Commission recognizes that the SEC recently issued a statement regarding the application of federal securities laws to certain initial coin offerings (''ICOs'').[81] Depending on their use, the tokens or units issued in an ICO may be commodities, commodity options, derivatives, or otherwise fall within the Commission's virtual currency definition described in this interpretation. However, any such tokens that are deemed securities (and trade in a manner that qualifies as a retail commodity transaction) would be excepted from the retail commodity transaction definition pursuant to section 2(c)(2)(D)(ii)(II) of the Act. Are there concerns with the scope of this exception with regard to retail commodity transactions? What factors should the Commission consider if it were to issue further guidance regarding this exception?

Issued in Washington, DC, on December 15, 2017 by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

Appendix to Retail Commodity Transactions Involving Virtual Currency—Commission Voting Summary

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

[FR Doc. 2017–27421 Filed 12–19–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2017–0234]

RIN 1625–AA00

Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI

AGENCY: Coast Guard, DHS.

ACTION: Supplemental notice of proposed rulemaking.

[74] 7 U.S.C. 2(c)(2)(D)(iii).

[75] 7 U.S.C. 6(a).

[76] 7 U.S.C. 1a(28); 7 U.S.C. 6d(a).

[77] 7 U.S.C. 6(c).

[78] Arguably, beyond the distributed ledger technologies, entities offering virtual currency retail commodity transactions operate in a similar manner to any other entity offering retail commodity transactions online.

[79] *See* 78 FR at 52428.

[80] *See generally* 7 U.S.C. 2(c)(2)(D)(ii).

[81] Report of Investigation Pursuant to Section 21(a) of the Securities Exchange Act of 1934: The DAO, Exchange Act Release No. 81207 (Jul. 25, 2017).

SUMMARY: On April 3, 2017, the Coast Guard published a notice of proposed rulemaking to establish a permanent safety zone surrounding the entry of lava from the Kilauea volcano into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. The safety zone is needed to protect persons and vessels from the potential hazards associated with molten lava entering the ocean. After considering comments received from the public, the Coast Guard analyzed the economic impact of the proposed rule and made minor modifications to the proposed rule. This supplemental notice requests comments on the analysis and revised proposal.

DATES: Comments and related material must be received by the Coast Guard on or before February 20, 2018.

ADDRESSES: You may submit and view comments identified by docket number USCG–2017–0234 using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander John Bannon, Waterways Management Division, Coast Guard; telephone 808–541–4359, email *John.E.Bannon@uscg.mil.*

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

BLS Bureau of Labor Statistics
COTP Captain of the Port
DHS Department of Homeland Security
FR Federal Register
IRFA Initial Regulatory Flexibility Analysis
NAICS North American Industry Classification System
NPRM Notice of proposed rulemaking
OMB Office of Management and Budget
RFA Regulatory Flexibility Act
§ Section symbol
SNPRM Supplemental notice of proposed rulemaking
TFR Temporary final rule
U.S.C. United States Code

II. Background

Lava flow that enters the ocean is potentially hazardous to anyone near it, particularly when lava deltas collapse. A lava delta is new land that forms when lava accumulates above sea level, and extends from the existing base of a sea cliff. Persons and vessels near active lava flow ocean-entry sites face potential hazards, which include, but are not limited to: Plumes of hot, corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs; explosions of debris and eruptions of scalding water from hot rock entering the ocean; sudden lava delta collapses; and waves associated with these explosions and collapses.

Lava has been entering the ocean at the Kamokuna lava delta on Kilauea volcano's south coast since July 2016. On December 31, 2016, a large portion of the new lava delta collapsed into the ocean, producing waves and explosions of debris near 19°19′12″ N, 155°02′24″ W at the Kamokuna entry point. Following this collapse, portions of the adjacent sea cliff continued to collapse into the ocean, producing localized waves and showers of debris. The lava delta continues to undergo a series of formation and subsequent collapses as lava pours into the Pacific Ocean. Additionally, cracks parallel to the sea cliff in the surrounding area persist, indicating further collapses with very little or no warning are possible. As of March 2017, a new delta began to form at the Kamokuna ocean-entry point. As it continues to grow and collapse, cracks parallel to the sea cliff surrounding it persist, indicating the possibility of further collapses.

On March 28, 2017, the Captain of the Port (COTP) Honolulu issued a temporary final rule (TFR) under docket USCG–2017–0172. The TFR was published in the **Federal Register** (82 FR 16109) on April 3, 2017 and an extension of the TFR was published in the **Federal Register** (82 FR 45461) on September 29, 2017. The TFR established a safety zone to immediately protect persons and vessels from the potential hazards associated molten lava entering the ocean. The safety zone encompassed all waters extending 300 meters (984 feet) in every direction around all ocean-entry points of lava. The Coast Guard prohibited entry of persons or vessels into the safety zone, unless authorized by the COTP Honolulu, or his designated representative.

In addition to the TFR, the Coast Guard also published a notice of proposed rulemaking (NPRM) on April 3, 2017, proposing to make the temporary safety zone a final rule. Its purpose was to mitigate the potential threats that molten lava posed to the maritime public when it entered the ocean by implementing the safety zone as a permanent control measure for vessels operating near the lava entry points. The NPRM addressed these concerns, and invited the public to comment during the comment period, which ended June 2, 2017. Subsequently, the Coast Guard extended the TFR to allow the Coast Guard to analyze the economic impact of the safety zone and allow for public comments on this supplemental NPRM. The TFR will remain in effect through March 28, 2018, unless the COTP Honolulu cancels or modifies the TFR.

III. Legal Authority and Need for Rule

The Coast Guard is proposing this SNPRM under authority in 33 U.S.C. 1231. The COTP Honolulu has determined that there are potential hazards associated with the molten lava at the Kamokuna lava delta, which pose potential safety concerns for anyone within 300 meters of the ocean-entry point. The purpose of this proposed rule is to clarify the regulatory language for the entry requirements of the safety zone, and emphasize the safety concerns related to boating near lava ocean-entry points. The regulatory text we are proposing appears at the end of this document. It differs from the text proposed in the NPRM, primarily in its discussion of enforcement and how to gain permission to enter the safety zone.

This proposed rule would establish a permanent safety zone around the lava flow at the Kamokuna lava delta. Additionally, this proposed rule would allow the Coast Guard to impose and enforce restrictions on vessels operating near the lava flow that enters the ocean. This action is necessary to promote safe navigation, and to preserve the safety of life and property. Vessels capable of safely operating inside the safety zone may be authorized to enter by the COTP Honolulu, or his designated representative. Vessels approved for transiting within the safety zone, such as approved lava tour-boat operations, are required to adhere to specific conditions set by the COTP Honolulu. Mariners who seek first time authorization to enter the safety zone must submit a written request, by email or letter. The request must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for operating near the lava ocean-entry points. Once initial authorization is received, a vessel owner or operator only needs to contact COTP Honolulu by phone or radio to request permission to enter the safety zone.

IV. Discussion of Comments, Changes, and the Rule

In response to the NPRM, the Coast Guard received 67 public comments. On May 8, 2017, at a public meeting held in Hilo, HI, meeting participants discussed the proposed rule as well as the dangers associated with lava ocean-

entry points. The public comments and meeting summary are available in the public docket for this proposed rule where indicated under **ADDRESSES**. Because several comments raised similar concerns, we will address the main comment topic, followed by our responses. Unless we receive recommendations for change during the SNPRM comment period, we plan to adopt the regulations proposed in the NPRM with minor modifications as reflected in this SNPRM. The SNPRM provides an additional comment period to shape the final regulatory action. Concerns received in the NPRM and this SNPRM will be addressed in the final rule.

The Coast Guard received nine comments in support of the proposed rule. One commenter noted that he had taken a lava boat tour and felt that the vessel got too close to the entry point and that he experienced adverse health symptoms from being in the lava plume. Several commenters agreed that the safety zone should be consistent with that of the landside restriction of 300 meters. Other commenters supported the safety zone due to the hazards resulting from the entry of volcanic lava into the ocean.

The Coast Guard received 18 comments regarding the safety zone's size and location. These comments ranged from being in favor of the 300-meter safety zone as well as opposed. Nine opposing views stated that 300 meters is excessively restrictive. One comment from the National Oceanic Atmospheric Administration stated that the Coast Guard should ''provide definitive bounding coordinates for the safety zone, instead of a general statement that the safety zone will encompass all waters extending 300 meters in all directions around the entry point of lava flow into the ocean associated with the lava flow at the Kamokuna lava delta.''

We believe that because of the unpredictable and varying nature of the active lava flowing into the ocean at this area, the Coast Guard cannot issue specific geographic coordinates of the safety zone in the final rulemaking, but will discuss the current entry site in the final rule. We have noted, with the concurrence of NOAA's Nautical Data Branch, Marine Chart Division, the position 19°19′08″ N, 155°02′36″ W for their charting systems. That is the coordinate provided for Kamokuna Beach in the U.S. Geological Survey's Geographic Names Information System.

Additionally, because of the varying dangers of the lava entry and fragile bench shelf development, the Coast Guard cannot provide a specific distance at which a vessel can safely operate. However, the COTP Honolulu has permitted vessels to operate within the 300-meter safety zone under certain conditions.

The Coast Guard received one comment from Hawaii Volcanoes National Park supporting a safety zone ''that is flexible to account for whatever location the lava may occur since it is not a static event in time or space. As such, we recommend that the proposed rule apply not just to the Kamokuna ocean-entry point, but any location in the future where lava enters the ocean.''

We agree, and the proposed final rule includes language stating that all locations associated with the Kilauea lava flow entering the Pacific Ocean on the eastern side of the Island of Hawaii, HI, are included under the safety zone.

Sixteen commenters recommended that the Coast Guard reduce the 300-meter radius of the safety zone.

We believe that based on Sector Honolulu's review of the historical observations of delta collapses and ejecta distances from the Hawaii Volcano Observatory (HVO) records, a radius of 300 meters remains a safe and reasonable distance for a high-hazard zone for the general boating public. The Hawaiian Volcano Observatory reports that explosions from delta collapses ''have hurled hot rocks nearly a meter (yard) in size as far as about 250 m (273 yards) inland from the collapsed delta and scattered rock debris onshore over an area the size of several football fields. These explosions also hurl rocks seaward, probably to similar distances.'' [1]

The 300-meter safety zone also mirrors land and air restrictions for lava flow viewing. Furthermore, the 300 meter restriction was discussed at the public meeting held on this rulemaking and staff from the Hawaiian Volcano Observatory reiterated the need for a 300 meter restriction. Accordingly, the Coast Guard proposes to maintain the safety zone's 300-meter radius, with the option of allowing operators to request authorization to enter the safety zone from the COTP Honolulu.

The Coast Guard received 30 comments in favor of allowing the lava tour-boat owners and operators to enter and operate in the safety zone.

Prior to the NPRM, the Coast Guard promulgated a TFR for a 300-meter safety zone at the Kamokuna lava delta. Pursuant to the TFR, the COTP Honolulu granted four lava tour-boat owners and operators and one photographer access to operate within the safety zone. We believe that because of the potential hazards associated with the active lava flow and cliff fragility at lava ocean-entry points, specific distances from the lava flow a vessel can safely operate cannot be provided. Under this proposed final rule, any vessel owner or operator may submit a written request to the COTP Honolulu, or his designated representative, for authorization to enter the safety zone. Such written requests must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for operating near the lava ocean-entry points. Once initial authorization is received, a vessel owner or operator only needs to contact COTP Honolulu by phone or radio to request permission to enter the safety zone.

The Coast Guard received three comments regarding access or exclusive access to the lava flow by Hawaiian natives. This rule is concerned with the safety aspect of access to the lava flow area. Mandating exclusive access to the lava flow is outside the scope of this rulemaking and is outside the Coast Guard's authority. This proposed rule provides for access after requesting permission from the COTP to enter the zone. We encourage persons or vessel owners and operators seeking access to the safety zone to make their request by following the guidance above.

The Coast Guard received one comment regarding the lack of reliable VHF radio communications near the lava flow area, thereby, preventing lava tour-boat owners and operators from hailing the Coast Guard via VHF radio.

We are aware of the VHF radio limitations in this area, and are currently researching how to improve radio coverage. The COTP Honolulu and Coast Guard Base Honolulu are attempting to install equipment in the vicinity to enhance communications in this area. In the meantime, vessel owners and operators are encouraged to use alternate means to communicate effectively near the lava flow ocean-entry points. They are also encouraged to contact the Coast Guard in advance of their transits to the lava ocean-entry points in order to facilitate effective communications as well as timely processing any written request for authorization to enter the safety zone.

The Coast Guard received four comments regarding general unsafe conditions at the boat ramp where tour operators launch.

Boat ramps and associated safe boating concerns are a state management issue. We have forwarded

[1] *https://volcanoes.usgs.gov/observatories/hvo/hawaii_ocean_entry.html.*

this comment to the appropriate state office.

One comment proposed the safety zone be stationary, and move with the lava shelf, essentially creating a moving safety zone.

Title 33 CFR 165.20 defines a safety zone as a water area to which, for safety purposes, access is limited to authorized persons or vessels. It further states that a safety zone may be stationary and described by fixed limits. We believe that in this situation, the entry point of the lava changes based on flow, and as such, the safety zone would encompass all waters extending 300 meters (984 feet) in all directions around the entry point of lava flow into the ocean. The Coast Guard does not define this as a moving safety zone around a moving object, but rather as a necessary adjustment to a dynamic environmental occurrence, which may have multiple lava entry points.

The Coast Guard also received a comment stating that our certification under 5 U.S.C. 605(b), concerning the economic impact on small entities, was potentially arbitrary as it lacked any factual basis for the certification. This SNPRM includes an Initial Regulatory Flexibility Analysis (IRFA) in Section V. B. in accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612).

The Coast Guard received two comments regarding Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') directing a reduction of the promulgation of new regulations. As discussed in the next section, this rule is exempt from this Executive order.

V. Regulatory Analyses

We developed this rule after considering numerous statutes and Executive orders related to rulemaking. Below, we summarize our analyses based on a number of these statutes and Executive orders and discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866, Regulatory Planning and Review,'' and 13563, ''Improving Regulation and Regulatory Review,'' direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. Executive Order 13771, ''Reducing Regulation and Controlling Regulatory Costs,'' directs agencies to control regulatory costs through a budgeting process. This rule has not been designated a ''significant regulatory action,'' under Executive Order 12866. Accordingly, it has not been reviewed by the Office of Management and Budget (OMB) and pursuant to OMB guidance it is exempt from the requirements of Executive Order 13771. See OMB's Memorandum ''Guidance Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs' '' (April 5, 2017).

Costs

This SNPRM proposes to make permanent the existing TFR safety zone for the navigable waters surrounding the entry of lava from Kilauea volcano into the Pacific Ocean. The safety zone would remain to include waters within 300 meters (984 feet) of where lava enters the ocean. Entry of persons or vessels into the safety zone may only occur if granted permission by the COTP Honolulu, or his designated representative.

Lava has been entering the ocean at Kamokuna lava delta on Kilauea volcano's south coast since July of 2016 and will continue to do so in the future. When lava enters the ocean, hazards emerge. The hazards include, but are not limited to, plumes of corrosive seawater, which can irritate the skin, eyes, and lungs; explosions of debris and scalding water, which can injure passengers; and sudden collapses of lava deltas, which can cause large waves potentially capsizing vessels. This SNPRM seeks to establish a minimum safe operating distance to protect individuals and vessel owners and operators from the hazards of the Kilauea lava flow at sea.

Prior to the original TFR, any vessel could enter within 300 meters of the point where lava reaches the ocean. This SNPRM proposes to make permanent the original TFR so that any vessel wishing to enter the safety zone must request permission in writing to enter the safety zone from the COTP Honolulu.

Therefore, this proposed rule affects any vessel that would normally travel within 300 meters of points where lava reaches the ocean. Due to the hazards and relative remoteness of such an area, the Coast Guard is not aware of any vessel operations within 300 meters of a point where lava enters the ocean other than those by lava tour-boat owners and operators. So far, the COTP Honolulu has granted four lava tour-boat owners and operators as well as one photographer authorization to enter the safety zone under certain conditions while the TFR is still in effect. These entities are required to notify the COTP Honolulu by phone before departing for each tour in which they plan on entering the 300-meter safety zone.

When the Coast Guard published the original TFR concurrently with the NPRM on April 3, 2017, vessel owners and operators were required to prepare and submit a written request to the COTP Honolulu to enter the safety zone. Because this SNPRM is consistent with the requirements in the TFR, we are presenting the costs associated with this SNPRM.

The written request requirement was contained in the previous TFR and each lava tour-boat owner and operator seeking authorization to enter the safety zone has complied. Based on discussions with COTP Honolulu personnel, we estimated it takes about 4-hours for a vessel owner or operator to submit a written request to enter the safety zone. This includes the time it would take lava tour-boat owners and operators to respond to questions from the COTP concerning the written request. Lava tour-boat owners and operators would only be required to make a written request once rather than for each voyage. The Coast Guard is not aware that any voyages were terminated due to a lack of authorization to enter the safety zone during the period operators requested to enter.

We obtained the mean hourly wage rate for a captain of a lava tour-boat from the May 2016 Bureau of Labor Statistics (BLS) Occupational Employment Statistics National Occupational Employment and Wage Estimates. Based on BLS' data, the mean hourly wage rate for captains, mates, and pilots of water vessels with the North American Industry Classification System (NAICS) occupational code of 53–5021 in the ''Scenic and Sightseeing Transportation, Water'' industry is $24.42.[2] Because this is an unloaded hourly wage rate, we added a load factor of 1.52 derived from the May 2016 BLS ''Employer Cost for Compensation'' databases to obtain a loaded hourly wage rate of $37.12.[3] Using this

[2] Captains, mates, and pilots may work in numerous industries. We use the BLS industry-specific mean hourly wage rate for the affected tour boat operators from the ''Scenic and Sightseeing Transportation, Water'' industry. See *http://www.bls.gov/oes/2016/may/oes535021.htm.*

[3] A loaded wage rate is what a company pays per hour to employ a person, not an hourly wage. The loaded wage rate includes the cost of benefits (health insurance, vacation, etc.). The load factor for wages is calculated by dividing total compensation by wages and salaries. For this analysis, we used BLS Employer cost of employee compensation/Transportation and Materials Moving Occupations, Private Industry Report (Series IDs, CMU2010000520000D and CMU2020000520000D) for all workers using the multi-screen data search. Using 2016 Q4 data for the cost of compensation per hour worked, we divided the total compensation amount of $28.15 by the wage and salary amount of $18.53 to obtain the load factor of about 1.52, rounded. See the following websites: *https://beta.bls.gov/data*

information, we estimated the one-time initial cost for an owner or operator to prepare a written request and respond to comments from the Coast Guard to be about $148.47 ($37.12 per hour × 4 hours). Therefore, we estimated the total cost of the proposed rule on industry to be about $593.88 ($148.47 × 4 lava tour-boat owners or operators).

Since all four lava tour-boat owners and operators (and one photographer, who this proposed rule would not affect) were each granted permission to enter the safety zone through an initial written request, the only potential cost to these lava tour-boat owners and operators would be the cost of the initial request. Each owner or operator would also be required to notify the COTP Honolulu by phone during the normal course of their duty before entering the safety zone. These entities shall notify the Coast Guard by phone; however, we did not estimate a cost for the call because the equipment already exists onboard the vessel.

The Federal government would also incur costs of this proposed rule. Government costs to implement this proposed rule include the one-time cost of reviewing the written requests (we did not estimate a cost for the time to receive a call from an owner or operator to when entering a safety zone because the COTP Honolulu conducts this review in the normal course of the COTP duties). To process the written request, we estimated one non-commissioned officer with a rank of E–7, and three officers with ranks of O–4, O–5, and O–6 would take about one hour each to review the written request. Based on the labor rates listed in Table 1,[4] we estimated the total cost of the proposed rule to the Federal government to be about $378.00.

TABLE 1—TOTAL GOVERNMENT COSTS OF THE TEMPORARY FINAL RULE

Rank	Wage rate	Labor hours	Total cost
E–7	$65	1	$65
O–4	92	1	92
O–5	104	1	104
O–6	117	1	117
Total	.....	4	378

We estimated the total cost of this proposed rule to lava tour-boat owners and operators and the government to be about $972 ($593.88 for lava tour-boat owners or operators + $378 for the government).

Benefits

Lava flow that enters the ocean is potentially hazardous and presents a danger to vessels navigating within close proximity of where the flow enters the ocean, particularly when lava deltas collapse.[5] These hazards include, but are not limited to, plumes of hot, corrosive seawater laden with hydrochloric acid and fine volcanic particles that can irritate the skin, eyes, and lungs; explosions of debris and eruptions of scalding water from hot rock entering the ocean; sudden lava delta collapses; and waves associated with these explosions and collapses.

The primary benefit of this SNPRM is to promote safe navigation, and preserve the safety of life and property. If vessel operators wish to transit through the safety zone they will be required to first contact the COTP Honolulu for permission with an explanation of how their safety and lifesaving equipment is adequate to meet the greater risks present.

B. Impact on Small Entities

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Coast Guard prepared this Initial Regulatory Flexibility Analysis (IRFA) that examines the impacts of the rule on small entities (5 U.S.C. 601 *et seq.*). Due to the proposed rule's anticipated impacts on small entities, the Coast Guard is including an analysis of the SNPRM requirements for informational purposes.

A small entity may be: A small independent business, defined as independently owned and operated, is organized for profit, and is not dominant in its field per the Small Business Act (5 U.S.C. 632); a small not-for-profit organization (any not-for-profit enterprise which is independently owned and operated and is not dominant in its field); or a small governmental jurisdiction (locality with fewer than 50,000 people) per the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612.

An IRFA addresses the following:

(1) A description of the reasons why action by the agency is being considered;

(2) A succinct statement of the objectives of, and legal basis for, the rule;

(3) A description of and, where feasible, an estimate of the number of small entities to which the rule would apply;

(4) A description of the projected reporting, recordkeeping and other compliance requirements of the rule, including an estimate of the classes of small entities that would be subject to the requirement and the type of professional skills necessary for preparation of the report or record;

(5) An identification, to the extent practicable, of all relevant Federal rules that may duplicate, overlap or conflict with the rule; and

(6) A description of any significant alternatives to the rule that accomplish the stated objectives of applicable statutes and that minimize any significant economic impact of the rule on small entities.

We address each of these six elements below:

1. A description of the reasons why action by the agency is being considered.

Lava has been entering the ocean at Kamokuna on Kilauea volcano's south coast since July of 2016 and will continue to do so in the foreseeable future. When lava enters the ocean, potential hazards emerge such as: Plumes of corrosive seawater can irritate the skin, eyes, and lungs; explosions of debris and scalding water can injure passengers; collapses of lava deltas can cause large waves potentially capsizing

Query/find?fq=survey:[oe]s=popularity:D and *https://data.bls.gov/cgi-bin/dsrv?cm*. Multiplying 1.52 by $24.42, we obtained a loaded hourly wage rate of about $37.12, rounded.

[4] We obtained the hourly wage rates from Enclosure (2) of Commandant Instruction 7310.1R (29 March 2017) using the ''In Government Rate.''

[5] A lava delta is new land that forms when lava accumulates above sea level and extends from an existing base of a sea cliff.

vessels. Unless vessels have the proper equipment and their operators take sufficient precautions, passengers, and operators face significant hazards to their lives as well as property. This SNPRM is necessary to promote navigational safety, provide for the safety of life and property, and facilitate and accommodate the reasonable demands of commerce related to tourism surrounding the lava ocean-entry points.

2. A succinct statement of the objective of, and legal basis for, the proposed rule.

This safety zone proposes to protect the safety of mariners, lava tour-boat passengers, and the protection of property by establishing a 300 meter safety zone from every direction and all points where lava enters the ocean.

The Coast Guard is issuing this rule under authority 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1. The COTP Honolulu has determined that potential hazards exist that are associated with Kilauea's active lava flow entry into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. The Coast Guard considers this area to be a safety concern for anyone who transits within 300 meters (984 feet) in every direction and around all points where the lava flow enters the ocean. The objective of this proposed rule is to protect the public including mariners and passengers aboard lava tour-boat owners and operators traveling in the navigable waters inside the safety zone.

3. A description of and, where feasible, an estimate of the number of small entities to which the proposed rule would apply.

This proposed rule affects any vessel that would normally travel within 300 meters of points where lava reaches the ocean. Due to the hazards and relative remoteness of such an area, the Coast Guard believes only lava tour operators would regularly operate within 300 meters of a point where lava enters the ocean. Based on the Coast Guard's understanding, there are four known lava tour-boat owners and operators (and one photographer) who regularly come within 300 meters of the Kilauea lava flow.

Of the four lava tour-boat owners and operators who would transit within the safety zone, we could not find publically available information such as annual revenues and number of employees for three of the four operators. We assumed these three operators qualified as small entities. We found revenue information on the fourth lava tour-boat owner. Using Manta, a publicly available database for businesses in the United States, we found this lava tour-boat owner to have annual revenues of $220,000 and a NAICS code of 561520, ''Tour Operators.'' [6] This NAICS code has a size threshold of $20.5 million for annual revenues, based on the Small Business Administration's table of size standards.[7] Based on this information, this lava tour-boat operator also qualified as a small entity.

Based on discussions with COTP Honolulu personnel and using the wage rates and labor hour estimates as established above, we estimated it would take about 4-hours for an owner or operator of a lava tour-boat to prepare a written request to enter the safety zone. This includes the time it would take lava tour-boat owners or operators to respond to questions from the COTP concerning the written request. Lava tour-boat owners and operators would be only required to make this request once rather than for every voyage.

Above we obtained a loaded hourly wage rate of $37.12 for captains, mates, and pilots of water vessels. We estimated the one-time initial cost for an owner or operator to prepare a written request and respond to comments from the Coast Guard to be about $148.47 ($37.12 per hour × 4 hours). We estimated the total cost of the SNPRM to be about $593.88 ($148.47 × 4 lava tour-boat owners or operators).

As mentioned above, we only found revenue data on one of the four operators. Therefore, we estimate the initial revenue impact of this proposed rule on this lava tour-boat owner to be about $148.47, which is 0.07% of the company's revenue. There are no annual revenue impacts because the written request needs to be made once, after which each lava tour-boat operator would notify the COTP Honolulu by phone to obtain permission to enter the safety on a given day.

4. A description of the projected reporting, recordkeeping, and other compliance requirements of the proposed rule, including an estimate of the classes of small entities, which would be subject to the requirements and the type of professional skills necessary for preparation of the report or record.

This proposed rule calls for no new collection of information under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501–3520.

5. An identification, to the extent practicable, of all relevant Federal rules, which may duplicate, overlap, or conflict with the rule.

There are no relevant Federal rules that duplicate, overlap, or conflict with this SNPRM.

6. A description of any significant alternatives to the rule which accomplish the stated objectives of applicable statutes and which minimize any significant economic impact of the rule on small entities.

The Coast Guard considered the alternative of not establishing a safety zone. However, without a safety zone, vessel owners and operators would be unprepared for the greater hazards that are present near the Kilauea lava flow ocean-entry point. These vessel owners and operators and passengers could suffer grave injury or in the extreme case death, in addition to damage to or loss of property, if adequate protection is not provided. Therefore, the Coast Guard decided a safety zone was necessary to promote navigational safety, provide for the safety of life and property, and to accommodate and facilitate the reasonable demands of commerce relating to tourism surrounding the lava entry points. No cost to industry or government would be associated with this alternative; nevertheless, we rejected this alternative because it would not ensure that the boating public would operate within a safe distance of where the lava flow enters the ocean.

Therefore, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. We are interested in the potential impacts from this proposed rule on small businesses and we request public comment on these potential impacts. If you think that this proposed rule would have a significant economic impact on you, your business, or your organization, please submit a comment to the docket at the address under **ADDRESSES** in the proposed rule. In your comment, explain why, how, and to what degree you think this rule would have an economic impact on you.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct

[6] Accessed July 17, 2017 from *https://www.manta.com.*

[7] *https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf.*

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. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Management Directive 023–01, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves establishing a safety zone that would prohibit persons and vessels from entry into the 300 meters (984 feet) safety zone extending in all directions around the entry of lava flow into the Pacific Ocean. Normally such actions are categorically excluded from further review under paragraph L60(a) of Appendix A, Table 1, of DHS Instruction Manual 023–01–001–01, Rev. 01. A Record of Environmental Consideration supporting this determination is available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

VI. 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, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at *http://www.regulations.gov.* If your material cannot be submitted using *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 personal information you have provided. For more about privacy and the docket, you may review a Privacy Act notice regarding the Federal Docket Management System in the March 24, 2005, issue of the **Federal Register** (70 FR 15086).

Documents mentioned in this NPRM are available in the 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.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard proposes to amend 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 50 U.S.C. 191; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.1414 to read as follows:

§ 165.1414 Safety Zone; Pacific Ocean, Kilauea Lava Flow Ocean Entry on Southeast Side of Island of Hawaii, HI.

(a) *Location.* The safety zone area is located within the Captain of the Port (COTP) Honolulu Zone (See 33 CFR 3.70–10) and encompasses all primary areas from the surface of the water to the ocean floor at the Kilauea active lava flow entry into the Pacific Ocean on the southeast side of the Island of Hawaii, HI. The entry point of the lava may change based on flow. The safety zone encompasses all waters extending 300 meters (984 feet) in all directions around entry points of lava flow into the ocean associated with the lava flow at the Kamokuna lava delta.

(b) *Definitions.* As used in this section, designated representative means any Coast Guard commissioned, warrant, or petty officer who has been authorized by the COTP Honolulu to assist in enforcing the safety zone described in paragraph (a).

(c) *Regulations.* The general regulations governing safety zones contained in § 165.23 apply to the safety zone created by this notice of proposed rulemaking.

(1) All persons and vessels are required to comply with the general regulations governing safety zones found this part.

(2) Entry into or remaining in this safety zone is prohibited unless authorized by the COTP Honolulu, or his designated representative.

(3) Persons or vessels desiring to enter the safety zone identified in paragraph (a) should submit a written request to the COTP Honolulu before initial entry into the safety zone. The request must explain how the vessel will operate safely in proximity to lava. A typical request should note the vessel's condition, the operator's familiarity with the surrounding waters, and any specific safety practices for operating near the lava ocean-entry points. Persons authorized initial entry may, thereafter, contact the COTP Honolulu through his designated representatives at the Command Center via telephone:

808–842–2600 and 808–842–2601; fax: 808–842–2642; or on VHF channel 16 (156.8 Mhz) to request permission to transit the safety zone.

(4) If permission is granted, all persons and vessels must comply with the instructions of the COTP Honolulu, or his designated representative, and proceed at the minimum speed necessary to maintain a safe course while transiting through or in the safety zone as well as maintain a safe distance from the lava hazards.

(5) The COTP Honolulu will provide notice of enforcement of the safety zone described in this section by verbal radio broadcasts and written notice to mariners. The Coast Guard vessels enforcing this section can be contacted on marine band radio VHF–FM channel 16 (156.8 MHZ). The COTP and his or her designated representatives can be contacted at telephone number listed in (c)(3) of this section.

(6) The Coast Guard may be assisted in the patrol and enforcement of the safety zone by Federal, State, and local agencies.

Dated: December 13, 2017.

M.C. Long,

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

[FR Doc. 2017–27297 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2017–0140; FRL–9972–31–Region 9]

Approval of California Air Plan Revisions, San Diego County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to approve revisions to the San Diego County Air Pollution Control District (SDCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern volatile organic compound (VOC) emissions from polyester resin operations. We are proposing to approve a local rule to regulate these emission sources under the Clean Air Act (CAA or ''the Act''), as well as a rule rescission. We are taking comments on this proposal and plan to follow with a final action.

DATES: Any comments must arrive by January 19, 2018.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–R09–OAR–2017–0140 at *http://www.regulations.gov,* or via email to Doris Lo, Rulemaking Office Chief at *lo.doris@epa.gov.* For comments submitted at *Regulations.gov*, follow the online instructions for submitting comments. Once submitted, comments cannot be removed or edited from *Regulations.gov*. For either manner of submission, the EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.* on the web, cloud, or other file sharing system). For additional submission methods, please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section. For the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *http://www2.epa.gov/dockets/commenting-epa-dockets.*

FOR FURTHER INFORMATION CONTACT: Arnold Lazarus, EPA Region IX, (415) 972–3024, *lazarus.arnold@epa.gov.*

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

Table of Contents

I. The State's Submittal
A. What rules did the State submit?
B. Are there other versions of these rules?
C. What is the purpose of the submitted rule and rule rescission?
II. The EPA's Evaluation and Action
A. How is the EPA evaluating the rule?
B. Do the rule and rule rescission meet the evaluation criteria?
C. The EPA's Recommendations to Further Improve the Rule
D. Public Comment and Proposed Action
III. Incorporation by Reference
IV. Statutory and Executive Order Reviews

I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules addressed by this action with the date that they were adopted and repealed by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1—SUBMITTED RULES

Local agency	Rule No.	Rule title	Adopted/ amended	Repealed/ rescinded	Submitted
SDCAPCD	67.12	Polyester Resin Operations	5/15/1996	5/11/2016	8/22/16
SDCAPCD	67.12.1	Polyester Resin Operations	5/11/2016		8/22/16

On September 27, 2016, the EPA determined that the submittals for SDCAPCD Rules 67.12 and 67.12.1 met the completeness criteria in 40 CFR part 51 Appendix V, which must be met before formal review by the EPA.

B. Are there other versions of these rules?

There are no previous versions of Rule 67.12.1 in the SIP. We approved Rule 67.12 on March 27, 1997 (62 FR 14639).

C. What is the purpose of the submitted rule and rule rescission?

VOCs help produce ground-level ozone, smog and particulate matter, which harm human health and the environment. Section 110(a) of the CAA requires states to submit regulations that control VOC emissions. Rule 67.12.1, and the rescinded Rule 67.12, control VOCs emitted from polyester resin

operations. The EPA's technical support document (TSD) has more information about these rules.

II. The EPA's Evaluation and Action

A. How is the EPA evaluating the rule?

SIP rules must be enforceable (see CAA section 110(a)(2)), must not interfere with applicable requirements concerning attainment and reasonable further progress or other CAA requirements (see CAA section 110(l)), and must not modify certain SIP control requirements in nonattainment areas without ensuring equivalent or greater emissions reductions (see CAA section 193).

Generally, SIP rules must require Reasonably Available Control Technology (RACT) for each category of sources covered by a Control Techniques Guidelines (CTG) document as well as each major source of VOCs in ozone nonattainment areas classified as Moderate or above (see CAA section 182(b)(2)). The SDCAPCD regulates an ozone nonattainment area classified as ''Moderate'' for the 2008 8-hour ozone National Ambient Air Quality Standard (NAAQS) (40 CFR 81.305). Rule 67.12.1 regulates activities covered by the CTG titled ''Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials,'' EPA–453/R–08–004, September 2008. However, none of the sources regulated by Rule 67.12.1 meet the applicability threshold for the Fiberglass Boat Manufacturing CTG.

Guidance and policy documents that we use to evaluate enforceability, revision/relaxation and rule stringency requirements for the applicable criteria pollutants include the following:

1. ''State Implementation Plans; General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990'' (57 FR 13498, April 16, 1992 and 57 FR 18070, April 28, 1992).
2. ''Issues Relating to VOC Regulation Cutpoints, Deficiencies, and Deviations'' (''the Bluebook,'' U.S. EPA, May 25, 1988; revised January 11, 1990).
3. ''Guidance Document for Correcting Common VOC & Other Rule Deficiencies'' (''the Little Bluebook'', EPA Region 9, August 21, 2001).
4. ''Control Techniques Guidelines for Fiberglass Boat Manufacturing Materials,'' EPA–453/R–08–004, September 2008.

B. Do the rule and rule rescission meet the evaluation criteria?

This rule and rule rescission are consistent with the CAA requirements and relevant guidance regarding enforceability, RACT, and SIP relaxations. Based on information provided by the SDCAPCD, the District does not appear to have facilities that are subject to the fiberglass boat manufacturing CTG and therefore the District's RACT analysis for Rule 67.12.1 is not required to address the presumptive RACT limits included in the CTG.[1] The TSD has more information on our evaluation.

C. The EPA's Recommendations to Further Improve the Rule

The TSD describes additional rule revisions that we recommend for the next time the local agency modifies the rule.

We recommend the SDCAPCD consider adopting a negative declaration for the fiberglass boat manufacturing operations CTG since the District's data indicate it does not have facilities meeting the CTG's applicability threshold of 15 lb/day or 2.7 tpy.

D. Public Comment and Proposed Action

As authorized in section 110(k)(3) of the Act, the EPA proposes to fully approve the submitted rule and rule rescission because they fulfill all relevant requirements. We will accept comments from the public on this proposal until January 19, 2018. If we take final action to approve the submitted rule and rule rescission, our final action will incorporate the rule and rule rescission into the federally enforceable SIP.

III. Incorporation by Reference

In this rule, the EPA is proposing to include in a final EPA rule regulatory text that includes incorporation by reference. In accordance with requirements of 1 CFR 51.5, the EPA is proposing to incorporate by reference the SDCAPCD rule described in Table 1 of this preamble. The EPA has made, and will continue to make, these materials 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).

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, the EPA's role is to approve state choices, provided that they meet the criteria of the Clean Air Act. Accordingly, this proposed action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposed 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 (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 the EPA with the discretionary authority to address disproportionate human health or environmental effects with practical, appropriate, 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 the 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

[1] Email dated July 12, 2017, from Angela Ortega (SDCAPCD) to Arnold Lazarus (USEPA), RE: ''RE: Response to EPA regarding Rule 67.12.1 06_30_17 revised.docx'' with attachment. See Table 1. ''Summary of Total Emission Reduction.''

specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

List of Subjects in 40 CFR Part 52

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

Dated: December 5, 2017.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. 2017–27432 Filed 12–19–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 73, 74 and 76

[GN Docket No. 16–142; FCC 17–158]

Authorizing Permissive Use of the "Next Generation" Broadcast Television Standard

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, we seek further comment on issues related to exceptions to and waivers of the local simulcasting requirement, whether we should let full power broadcasters use channels in the television broadcast band that are vacant to facilitate the transition to 3.0, and finally, we tentatively conclude that local simulcasting should not change the significantly viewed status of a Next Gen TV station.

DATES: Comments are due on or before February 20, 2018; reply comments are due on or before March 20, 2018.

ADDRESSES: You may submit comments, identified by GN Docket No. 16–142, by any of the following methods:

- *Federal Communications Commission's website: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *Mail:* Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- *People With Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov* or phone: (202) 418–0530 or TTY: (202) 418–0432. For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: For additional information, contact Evan Baranoff, *Evan.Baranoff@fcc.gov,* of the Media Bureau, Policy Division, (202) 418–7142, or Matthew Hussey, *Matthew.Hussey@fcc.gov,* of the Office of Engineering and Technology, (202) 418–3619. Direct press inquiries to Janice Wise at (202) 418–8165. For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Further Notice of Proposed Rulemaking* (FNPRM), FCC 17–158, adopted on November 16, 2017 and released on November 20, 2017. The full text of this document is available electronically via the FCC's Electronic Document Management System (EDOCS) website at *http://fjallfoss.fcc.gov/edocs_public/* or via the FCC's Electronic Comment Filing System (ECFS) website at *http://fjallfoss.fcc.gov/ecfs2/.* (Documents will be available electronically in ASCII, Microsoft Word, and/or Adobe Acrobat.) This document is also available for public inspection and copying during regular business hours in the FCC Reference Information Center, which is located in Room CY–A257 at FCC Headquarters, 445 12th Street SW, Washington, DC 20554. The Reference Information Center is open to the public Monday through Thursday from 8:00 a.m. to 4:30 p.m. and Friday from 8:00 a.m. to 11:30 a.m. The complete text may be purchased from the Commission's copy contractor, 445 12th Street SW, Room CY–B402, Washington, DC 20554. Alternative formats are available for people with disabilities (Braille, large print, electronic files, audio format), by sending an email to *fcc504@fcc.gov* or calling the Commission's Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Synopsis

I. Further Notice of Proposed Rulemaking

A. Introduction

1. In this Further Notice of Proposed Rulemaking, we seek further comment on three topics related to the rules adopted in the companion Report and Order. First, we seek further comment on issues related to exceptions to and waivers of the local simulcasting requirement. Second, we seek comment on whether we should let full power broadcasters use channels in the television broadcast band that are vacant to facilitate the transition to 3.0. Finally, we tentatively conclude that local simulcasting should not change the significantly viewed status of a Next Gen TV station.

B. Discussion

1. Local Simulcasting Waivers and Exceptions

2. *Simulcast Waivers.* In the Report and Order, we explain that we will consider requests for waiver of our local simulcasting requirement on a case-by-case basis, including (1) requests seeking to transition directly from 1.0 to 3.0 service on the station's existing facility without simulcasting in 1.0 and (2) requests to air a 1.0 simulcast channel from a host location that does not cover all or a portion of the station's community of license or from which the station can provide only a lower signal threshold over the community than that required by the rules.[1] With respect to such requests, we state: ''We are inclined to consider favorably requests for waiver of our local simulcasting requirement where the Next Gen TV station can demonstrate that it has no viable local simulcasting partner in its market and where the station agrees to make reasonable efforts to preserve 1.0 service to existing viewers in its community of license and/or otherwise minimize the impact on such viewers (for example, by providing free or low cost ATSC 3.0 converters to viewers).''

3. We seek comment on what further guidance we should provide about the circumstances in which we will grant a waiver of the local simulcasting requirement. How should we determine if a station has a ''viable'' simulcast partner? Given that we specify in the Report and Order that a Next Gen TV broadcaster's 1.0 simulcast channel must continue to cover its entire community of license, should we consider a station to have no viable partner only if there is no potential simulcasting partner in the same DMA that can cover the station's entire community of license? Alternatively, should we consider adopting a broader definition of viability? For example, should we specify that waiver

[1] The Commission may waive its rules if good cause is shown. *See* 47 CFR 1.3. We explain in the Report and Order that we are not inclined to consider favorably requests to change community of license solely to enable simulcasting.

applicants located in DMAs in which there are fewer than a threshold number of full power and/or Class A or LPTV broadcasters will be considered to have no viable partner? If so, what threshold should we adopt? How should we consider cases in which there are no stations that can cover a station's community of license, and therefore serve as an ATSC 1.0 simulcast host under our rules, but there are stations in the DMA that are transitioning to ATSC 3.0 and therefore could potentially serve as a 3.0 lighthouse? If there is a potential partner in the same DMA, are there other circumstances that would make such potential partner not viable, such as, for example, if the potential partner refused to agree to being a simulcasting partner? Should we have different levels of scrutiny for waiver requests depending on whether the petition seeks to transition directly as opposed to simulcast from a facility that will not cover its community of license? For stations that seek to simulcast from a facility that will not cover its community of license, should a factor be how far the host location is from the petitioner's community of license? Are there special circumstances we should consider for NCE stations, including those that are in isolated areas or are not centrally located in DMAs? [2] We seek comment on the same issues for Class A stations if they cannot find a host that allows them to satisfy the simulcasting requirements in the Report and Order. We also seek comment on the potential impact that any definition of viability would have on local viewers.

4. In addition, we seek comment on what type of ''reasonable efforts'' we should require a waiver applicant to undertake in order to preserve 1.0 service to existing viewers in its community of license and/or otherwise minimize the impact on viewers in its coverage area. Should it be favorable to our determination if waiver applicants volunteer to provide free or low cost ATSC 3.0 converters to viewers in their coverage area? Should we require such a commitment as a condition for waiver? Are there other efforts to minimize disruption to consumers that we should consider or require? We also invite comment on other circumstances in which we should consider granting waivers of the local simulcasting requirement.

5. *Simulcast Exceptions.* We also seek comment on whether to exempt NCE and/or Class A stations as a class from our local simulcasting requirement or adopt a presumptive waiver standard for such stations. In the Report and Order, we exempt LPTV and TV translator stations from our local simulcasting requirement and allow these stations to transition directly to 3.0 service. Class A and NCE stations could also face more difficulty than commercial full power stations face when seeking a local simulcasting partner. Could allowing Class A and NCE stations to transition directly to 3.0 make them more attractive ''lighthouse'' candidates? We seek comment on whether, as a general matter, allowing NCE and Class A stations to transition directly would serve the public interest. Under what circumstances would direct transitions be appropriate? What effect would this have on consumers and on MVPDs? What criteria distinguish these stations from full power commercial broadcasters to justify disparate treatment?

2. Temporary Use of Vacant Channels

6. In the *Next Gen TV NPRM,* we asked whether we should ''consider allowing broadcasters [that wish to deploy ATSC 3.0 service] to use vacant in-band channels remaining in the market after the incentive auction repack to serve as temporary host facilities for ATSC 1.0 or 3.0 programming by multiple broadcasters.'' ONE Media requests that in markets with vacant channels, the Commission should allow full power broadcasters to use the vacant channels as ''dedicated transition channels to ensure maximum continuity of service, just as it did during the transition from analog to digital.'' It suggests that these vacant channels should be made available during the post-auction transition period, and that only after the full power broadcaster has vacated the channel should the channel be made available to others, such as displaced LPTV and translator license applicants. ONE Media asserts that as primary users in the television band, full power licensees have priority to obtain licenses for vacant channels over any LPTV and translator licensees, and therefore full power licensees should be able to use such a channel as a transition channel during the voluntary ATSC 3.0 deployment period, even if it is the only channel to which a displaced LPTV or translator station could relocate. The LPTV Spectrum Rights Coalition opposes ONE Media's proposal on the ground that it would diminish LPTV licensing rights in the middle of the displacement process. The Wi-Fi Alliance, Microsoft, the Consumers Union et al., and Dynamic Spectrum Alliance also oppose any approach that would expand broadcasters' spectrum rights in conjunction with ATSC 3.0 deployment, and they express concern about damaging the potential success of white space use in the television bands.

7. Given the diversity of comments on this issue, we seek additional comment on the extent to which we should allow full power broadcasters to use vacant channels in the television broadcast band to facilitate the transition to 3.0, and, if so, when they should be able to use these channels, and what procedures we should use to authorize that use. As a threshold matter, how should we define a ''vacant'' channel for this purpose? We seek specific comment on ONE Media's proposal, and how it potentially would affect the post-incentive auction transition/repacking process and the various other users in the repacked television band.[3] That is, given that vacant channels might be needed by stations transitioning to new channel assignments, how does ONE Media's proposal impact that and the post-auction process in general? For example, if we allow usage of vacant channels, should we only allow temporary access to a vacant channel after the repacking process is completed? Or, should we permit such access after the LPTV displacement window is closed?

8. If we were to permit full power licensees priority to use vacant channels as dedicated transition channels, we seek comment on the process for doing so. Specifically, how would broadcasters apply for an authorization to use a vacant channel? Should the request be for Special Temporary Authority (STA)? Should we instead consider a request for a temporary channel to be a minor change of the station's existing license and require a minor change application? If we treat these requests as minor changes, should we process such requests on a first-come, first-served basis? Should we

[2] Several commenters express concern that some broadcasters would not be able to satisfy a local simulcasting requirement because of the lack of availability of potential simulcasting partners. For example, PBS states that ''[p]ublic stations may be unable to share facilities with another station, particularly in rural and isolated communities, because they are often not centrally located in a television market. . . .'' PBS further explains that this is because ''noncommercial educational must-carry rights are not tied to Designated Market Areas, so such stations are not necessarily sited near their commercial counterparts, and given that 16 states are covered by statewide public television networks that are designed to serve their entire state regardless of DMA boundaries.''

[3] In the *Incentive Auction R&O,* the Commission provided for a 39-month post-incentive auction transition pertaining to the various secondary broadcast and unlicensed operations in the TV bands—including LPTV and TV translator stations, broadcast auxiliary service, wireless microphones, and unlicensed white space devices—with the goal of promoting a smooth and effective transition process.

open a window for such requests? How should we resolve competing requests for temporary channels? What should we require a broadcaster to show to demonstrate that it needs a temporary channel, and how long should the authorization last? What effect would this proposal have on other users in the repacked band, including wireless microphone users and white space device operations? [4] We also seek input on how we should address MVPD carriage issues related to usage of vacant channels. How would the Commission handle loss of service when the full power broadcaster ceases its temporary operation—and moves back to its original facility? We seek specific comment on the effects on small entities: (1) Would allowing broadcasters to use these vacant channels help small broadcasters transition, (2) would allowing broadcasters to use these vacant channels impose carriage burdens on small MVPDs, and (3) what can we do to ease the burdens on those entities? We seek comment on these and any other issues that we would need to address if we allow full power broadcasters to use vacant channels as temporary transition channels.

3. Significantly Viewed Status of Next Gen TV Stations

9. We tentatively conclude that the significantly viewed status of a Next Gen TV station should not change if it moves its 1.0 simulcast channel to a temporary host facility.[5] Under our proposal, a commercial television station that relocates its 1.0 simulcast channel could not seek to gain significantly viewed status in new communities or counties and such station could not lose significantly viewed status in communities or counties for which it qualified prior to the move of its 1.0 simulcast channel. We seek comment on this tentative conclusion. In the Report and Order, we impose a freeze on the filing of any requests to change the significantly viewed status of a Next Gen TV station that is moving its 1.0 simulcast channel to avoid confusion while we consider this issue.[6]

10. Stations that vary their signal strength or change their location as a result of moving their 1.0 signal to simulcast raise the question of how this change may affect their status as ''significantly viewed'' in certain communities or counties under §§ 76.5(i) and 76.54 of our rules. Significantly viewed status allows the significantly viewed station (1) to be carried by a satellite carrier in such community in the other market; [7] (2) to be carried in such community by cable and satellite operators at the reduced copyright payment applicable to local (in-market) stations; and (3) to be exempt in such community from another station's assertion of its network non-duplication or syndicated exclusivity rights. We tentatively agree with ATVA that we should maintain the status quo in the significantly viewed context with respect to 1.0 simulcast signals.[8] We note that our tentative conclusion differs from how we addressed this issue in the channel sharing context. In the *Incentive Auction Report and Order,* the Commission found that because significantly viewed status is largely a function of signal availability, a station moving to a new channel should lose its status at the relinquished location. But unlike the channel sharing context, Next Gen TV broadcasters are not relinquishing their original channel, but rather will continue to operate on it and will ultimately return to it when the local simulcasting period ends. That is, the relocation of the 1.0 signal is temporary and a Next Gen TV broadcaster will continue to reach the communities or counties in which it is significantly viewed with an over-the-air signal, albeit in 3.0.[9]

11. We recognize that broadcasters would not soon be able to demonstrate ''significant viewing'' with their 3.0 signals, but expect they will eventually be able to do so once Next Gen TV service takes hold in the marketplace. In the meantime, we tentatively conclude that maintaining the status quo with respect to eligibility for significantly viewed carriage would avoid some complications and disruptions to cable and satellite television viewers who have come to rely on such signals, while not imposing added mandatory carriage burdens on MVPDs.[10] We likewise tentatively conclude that expansion of eligibility for significantly viewed carriage due to the relocation of the 1.0 simulcast channel is not consistent with the purposes of local simulcasting, which includes maintaining existing television service to viewers within the station's original coverage area but does not include expanding service into new areas. We seek comment on our proposal and tentative conclusions. We also seek comment on what effect our proposal and tentative conclusions would have on small broadcasters and MVPDs.

II. Procedural Matters

A. Initial Regulatory Flexibility Analysis

12. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Federal Communications Commission (Commission) has prepared this present Initial Regulatory Flexibility Analysis (IRFA) concerning the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the *Further Notice of Proposed Rulemaking* (*FNPRM*). Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments provided on the first page of the item. The Commission will send a copy of the *FNPRM,* including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA).[11] In addition, the *FNPRM* and IRFA (or

[4] We note that the Commission has an open proceeding seeking comment on whether to preserve a vacant channel in every area for white space device and wireless microphone use.

[5] Significantly viewed stations are commercial television stations that the Commission has determined have ''significant'' over-the-air (*i.e.,* non-cable and non-satellite) viewing and are thus treated as local stations in certain respects with regard to a particular community in another television market. The Significantly Viewed Stations List is maintained on Commission's website at *https://transition.fcc.gov/mb/significantviewedstations061817.pdf.*

[6] We note that, in order to obtain a waiver of the network nonduplication and syndicated-exclusivity rules (collectively, ''exclusivity rules''), petitioners seeking to reassert exclusivity rights on significantly viewed stations are required to demonstrate for two consecutive years that a station was no longer significantly viewed, based either on community-specific or system-specific over-the-air viewing data, following the methodology set forth in 47 CFR 76.54(b).

[7] Significantly viewed status is an exception to the ''no distant where local'' requirement which prohibits satellite carriage of distant (out-of-market) stations.

[8] We note that ATVA argues the Commission should ''prohibit simulcasts that reduce a station's eligibility for 'significantly viewed' carriage'' and urges that the Commission ''not adopt the approach it took to channel sharing.'' Although we do not restrict simulcasts in the manner sought by ATVA, we tentatively agree with ATVA in this *FNPRM* to the extent that ATVA seeks to maintain the status quo with respect to significantly viewed carriage while local simulcasting is required.

[9] We tentatively conclude that the availability of the 3.0 signal to the station's existing viewers at its original location is relevant in the significantly viewed context. Moreover, considering 3.0 service in this regard will not impose additional mandatory carriage obligations on MVPDs (because MVPD carriage of significantly viewed stations is voluntary).

[10] We note that significantly viewed status does not confer mandatory carriage rights to the station, but rather only allows carriage of the station via retransmission consent. Thus, maintaining the status quo with respect to eligibility for significantly viewed carriage presents no mandatory carriage burdens on MVPDs.

[11] *See* 5 U.S.C. 603(a).

summaries thereof) will be published in the **Federal Register**.[12]

1. Need for, and Objectives of, the Proposed Rules

13. In this Further Notice of Proposed Rulemaking, we seek further comment on three topics related to the rules adopted in the companion Report and Order, which authorizes television broadcasters to use the ''Next Generation'' broadcast television (Next Gen TV) transmission standard, also called ''ATSC 3.0'' or ''3.0,'' on a voluntary, market-driven basis. Next Gen TV broadcasters will continue to deliver current-generation digital television (DTV) service, using the ATSC 1.0 transmission standard, also called ''ATSC 1.0'' or ''1.0,'' to their viewers via ''local simulcasting.''

14. *Simulcast Waivers and Exceptions.* First, we seek further comment on issues related to exceptions to and waivers of the local simulcasting requirement. In the Report and Order, we explain that we will consider requests for waiver of our local simulcasting requirement on a case-by-case basis, including (1) requests seeking to transition directly from 1.0 to 3.0 service on the station's existing facility without simulcasting in 1.0 and (2) requests to air a 1.0 simulcast channel from a host location that does not cover all or a portion of the station's community of license or from which the station can provide only a lower signal threshold over the community than that required by the rules.[13] With respect to such requests, we state: ''We are inclined to consider favorably requests for waiver of our local simulcasting requirement where the Next Gen TV station can demonstrate that it has no viable local simulcasting partner in its market and where the station agrees to make reasonable efforts to preserve 1.0 service to existing viewers in its community of license and/or otherwise minimize the impact on such viewers (for example, by providing free or low cost ATSC 3.0 converters to viewers).'' In this FNPRM, we seek comment on what further guidance we should provide about the circumstances in which we will grant a waiver of the local simulcasting requirement. Among other things, we ask how we should determine if a station has a ''viable'' simulcast partner and whether there are special circumstances we should consider for NCE and/or Class A stations.

15. *Simulcast Exceptions.*[14] In the Report and Order, we exempt LPTV and TV translator stations from our local simulcasting requirement and allow these stations to transition directly to 3.0 service. In this FNPRM, we also seek comment on whether to exempt NCE and/or Class A stations as a class from our local simulcasting requirement or adopt a presumptive waiver standard for such stations. Class A and NCE stations could also face more difficulty than commercial full power stations face when seeking a local simulcasting partner.

16. *Temporary Use of Vacant Channels.* Second, we seek comment on whether we should let full power broadcasters use channels in the television broadcast band that are vacant to facilitate the transition to 3.0. In the *Next Gen TV NPRM,* the Commission asked whether we should ''consider allowing broadcasters [that wish to deploy ATSC 3.0 service] to use vacant in-band channels remaining in the market after the incentive auction repack to serve as temporary host facilities for ATSC 1.0 or 3.0 programming by multiple broadcasters.'' ONE Media requests that in markets with vacant channels, the Commission should allow full power broadcasters to use the vacant channels as ''dedicated transition channels to ensure maximum continuity of service, just as it did during the transition from analog to digital.'' The LPTV Spectrum Rights Coalition opposes ONE Media's proposal on the ground that it would diminish LPTV licensing rights in the middle of the displacement process. The Wi-Fi Alliance, Microsoft, the Consumers Union et al., and Dynamic Spectrum Alliance also oppose any approach that would expand broadcasters' spectrum rights in conjunction with ATSC 3.0 deployment, and they express concern about damaging the potential success of white space use in the television bands.

17. *Significantly Viewed Status of Next Gen TV Stations.* Finally, we tentatively conclude that local simulcasting should not change the significantly viewed status of a Next Gen TV station. Stations that vary their signal strength or change their location as a result of moving their 1.0 signal to simulcast raise the question of how this change may affect their status as ''significantly viewed'' in certain communities or counties under §§ 76.5(i) and 76.54 of our rules. Significantly viewed status allows the significantly viewed station (1) to be carried by a satellite carrier in such community in the other market; (2) to be carried in such community by cable and satellite operators at the reduced copyright payment applicable to local (in-market) stations; and (3) to be exempt in such community from another station's assertion of its network non-duplication or syndicated exclusivity rights. Under our proposal, a commercial television station that relocates its 1.0 simulcast channel could not seek to gain significantly viewed status in new communities or counties and such station could not lose significantly viewed status in communities or counties for which it qualified prior to the move of its 1.0 simulcast channel.

2. Legal Basis

18. The proposed action is authorized pursuant to sections 1, 4, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535.

3. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

19. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules, if adopted. The types of small entities that may be affected by the R&O fall within the following categories: (1) Wired Telecommunications Carriers, of which 3,083 are estimated to be small entities; (2) Cable Companies and Systems (Rate Regulation), of which 3,900 are estimated to be small entities; (3) Cable System Operators (Telecom Act Standard), of which 52,403,696 are estimated to be small entities; (4) Direct Broadcast Satellite Service, of which 3,083 are estimated to be small entities, but internally developed FCC data suggest that in general DBS service is only provided by large entities; (5) Satellite Master Antenna Television (SMATV) Systems, also known as Private Cable Operators (PCOs),of which 3,083 are estimated to be small entities; (6) Home Satellite Dish (HSD) Service, of which 3,083 are estimated to be small entities; (7) Open Video Services, of which 3,083 are estimated to be small entities; (8) Wireless Cable Systems—Broadband Radio Service and Educational Broadband Service, of which 440 (BBS) and 2,241 (EBS) are

[12] *See id.*

[13] The Commission may waive its rules if good cause is shown. *See* 47 CFR 1.3. We explain in the Report and Order that we are not inclined to consider favorably requests to change community of license solely to enable simulcasting.

[14] Unlike waivers which are considered on a case-by-case basis, exceptions or class waivers do not require the filing of a waiver request.

estimated to be small entities; (9) Incumbent Local Exchange Carriers (ILECs) and Small Incumbent Local Exchange Carriers, of which 3,083 are estimated to be small entities; (10) Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing, of which 819 are estimated to be small entities; (11) Audio and Video Equipment Manufacturing of which 465 are estimated to be small entities; (12) and Television Broadcasting, of which 656 (commercial stations), 395 (NCE stations), 2,344 (LPTV), and 3,689 (TV translator stations) are estimated to be small entities.

4. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

20. The *FNPRM* does not propose any new reporting, recordkeeping, or compliance requirements. However, if the Commission decides to allow the use of unused channels, there may be new reporting requirements, such as the filing of an application with the Commission. Additionally, if the Commission decides to adopt specific criteria for its waiver standard, these may be considered new compliance requirements.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities and Significant Alternatives Considered

21. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): ''(1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for small entities.'' [15]

22. *Local Simulcasting Waivers and Exceptions.* The *FNPRM* seeks comment on two issues related to waivers of the local simulcasting requirement: (1) The circumstances in which we should grant a waiver of our local simulcasting requirement for full power and Class A stations; and (2) whether we should permit NCE and Class A stations to transition directly from ATSC 1.0 to 3.0. As noted in Section C. of this IRFA, NCE and Class A stations are considered small entities. Waiver of, or exemption from, the local simulcasting requirement may afford more flexibility to broadcasters, including small entities, that may face unique challenges in finding a suitable simulcasting partner. This added flexibility may reduce costs for such small entities.

23. *Temporary Use of Vacant Channels.* The *FNPRM* seeks comment on whether we should allow full power broadcasters to use vacant channels in the television broadcast band to facilitate the transition to 3.0, and, if so, when they should be able to use these channels, and what procedures we should use to authorize that use. We seek specific comment on the effects on small entities: (1) Would allowing broadcasters to use these vacant channels help small broadcasters transition to 3.0?, [16] (2) would allowing broadcasters to use these vacant channels impose carriage burdens on small MVPDs?, and (3) what can we do to ease the burdens on those small entities?

24. *Significantly Viewed Status of Next Gen TV Stations.* The *FNPRM* tentatively concludes that the significantly viewed status of a Next Gen TV station should not change if it moves its 1.0 simulcast channel to a temporary host facility. Under this proposal, a commercial television station that relocates its 1.0 simulcast channel could not seek to gain significantly viewed status in new communities or counties and such station could not lose significantly viewed status in communities or counties for which it qualified prior to the move of its 1.0 simulcast channel. We tentatively conclude that maintaining the status quo with respect to eligibility for significantly viewed carriage would avoid some complications and disruptions to MVPDs and their subscribers, who have come to rely on such signals. We seek comment on what effect our proposal and tentative conclusion would have on small broadcasters and MVPDs.

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

25. None.

B. Initial Paperwork Reduction Act of 1995 Analysis

26. This NPRM may result in new or revised information collection requirements. If the Commission adopts any new or revised information collection requirements, the Commission will publish a notice in the **Federal Register** inviting the public to comment on such requirements, as required by the Paperwork Reduction Act of 1995. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, the Commission will seek specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

C. Ex Parte Rules

27. *Permit But Disclose.* The proceeding this Notice initiates shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's ex parte rules. Ex parte presentations are permissible if disclosed in accordance with Commission rules, except during the Sunshine Agenda period when presentations, ex parte or otherwise, are generally prohibited. Persons making ex parte presentations must file a copy of any written presentation or a memorandum summarizing any oral presentation within two business days after the presentation (unless a different deadline applicable to the Sunshine period applies). Persons making oral ex parte presentations are reminded that memoranda summarizing the presentation must (1) list all persons attending or otherwise participating in the meeting at which the ex parte presentation was made, and (2) summarize all data presented and arguments made during the presentation. Memoranda must contain a summary of the substance of the ex parte presentation and not merely a listing of the subjects discussed. More than a one or two sentence description of the views and arguments presented is generally required. If the presentation consisted in whole or in part of the presentation of data or arguments already reflected in the presenter's written comments, memoranda or other filings in the proceeding, the presenter may provide citations to such data or arguments in his or her prior comments, memoranda, or other filings (specifying the relevant page and/or paragraph numbers where such data or arguments can be found) in lieu of summarizing them in the memorandum. Documents shown or given to Commission staff during ex parte meetings are deemed to be written ex parte presentations and

[15] 5 U.S.C. 603(c)(1)–(c)(4).

[16] For example, NCTA opposes temporary use of vacant channels in the television broadcast band for ATSC 1.0 simulcast signals. NCTA Reply at 8. NCTA explains that ''[a]llowing use of a 'temporary' channel for these purposes would impose new, unreimbursed costs on cable operators. Operators might need to purchase and install new equipment—or at a minimum, incur the labor costs and burdens of repointing receive antennas at the headend—to be able to continue to receive a station transmitting on this new frequency.'' *Id.*

must be filed consistent with § 1.1206(b) of the rules. In proceedings governed by § 1.49(f) of the rules or for which the Commission has made available a method of electronic filing, written ex parte presentations and memoranda summarizing oral ex parte presentations, and all attachments thereto, must be filed through the electronic comment filing system available for that proceeding, and must be filed in their native format (*e.g.,* .doc, .xml, .ppt, searchable .pdf). Participants in this proceeding should familiarize themselves with the Commission's ex parte rules.

D. Filing Procedures

28. Pursuant to §§ 1.415 and 1.419 of the Commission's rules, 47 CFR 1.415, 1.419, interested parties may file comments and reply comments on or before the dates indicated on the first page of this document. Comments may be filed using the Commission's Electronic Comment Filing System (ECFS). Electronic Filers: Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *http://apps.fcc.gov/ecfs/.*
- *Paper Filers:* Parties who choose to file by paper must file an original and one copy of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.
- Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail. All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.
- All hand-delivered or messenger-delivered paper filings for the Commission's Secretary must be delivered to FCC Headquarters at 445 12th St., SW, Room TW–A325, Washington, DC 20554. The filing hours are 8:00 a.m. to 7:00 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes and boxes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9050 Junction Drive, Annapolis Junction, MD 20701.
- U.S. Postal Service first-class, Express, and Priority mail must be addressed to 445 12th Street SW, Washington, DC 20554.
- *People with Disabilities:* To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an email to *fcc504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty).

III. Ordering Clauses

29. *It is ordered*, pursuant to the authority found in sections 1, 4, 7, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 614, and 615 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154, 157, 301, 303, 307, 308, 309, 316, 319, 325(b), 336, 338, 399b, 403, 534, and 535, this Report and Order and Further Notice of Proposed Rulemaking *is hereby adopted*, effective thirty (30) days after the date of publication in the **Federal Register**.

It is further ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–27433 Filed 12–19–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 243

[Docket No. FRA–2009–0033, Notice No. 5]

RIN 2130–AC70

Training, Qualification, and Oversight for Safety-Related Railroad Employees

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: In response to a petition for reconsideration of a final rule, FRA proposes to amend its regulations (Training, Qualification, and Oversight for Safety-Related Railroad Employees) by delaying certain implementation dates an additional year. FRA previously delayed the regulations' implementation dates for one year in a final rule published May 3, 2017 (May 2017 Final Rule).

DATES: Written comments on this proposed rule must be received by January 19, 2018. Comments received after that date will be considered to the extent possible without incurring additional expense or delay.

ADDRESSES: Comments related to Docket No. FRA–2009–0033 may be submitted by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for submitting comments;
- *Mail:* Docket Management Facility, U.S. DOT, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590;
- *Hand Delivery:* The Docket Management Facility is located in Room W12–140, West Building Ground Floor, U.S. DOT, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays; or
- *Fax:* 202–493–2251.

Instructions: All submissions must include the agency name and docket number or Regulatory Identification Number (RIN) for this rulemaking (2130–AC70). All comments received will be posted without change to *http://www.regulations.gov;* this includes any personal information. Please see the Privacy Act heading in the **SUPPLEMENTARY INFORMATION** section of this document for Privacy Act information related to any submitted comments or materials.

Docket: For access to the docket to read background documents, petitions for reconsideration, or comments received, go to *http://www.regulations.gov* and follow the online instructions for accessing the docket or visit the Docket Management Facility described above.

FOR FURTHER INFORMATION CONTACT: Robert J. Castiglione, Staff Director—Human Performance Division, Federal Railroad Administration, 4100 International Plaza, Suite 450, Fort Worth, TX 76109–4820 (telephone: 817–447–2715); or Alan H. Nagler, Senior Trial Attorney, Federal Railroad Administration, Office of Chief Counsel, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone: 202–493–6038).

SUPPLEMENTARY INFORMATION: On November 7, 2014, FRA published a final rule (2014 Final Rule) that established minimum training standards for each category and subcategory of safety-related railroad employees and required railroad carriers, contractors, and subcontractors to submit training programs to FRA for approval. *See* 79

FR 66459. The 2014 Final Rule was required by section 401(a) of the Rail Safety Improvement Act of 2008 (RSIA), Public Law 110–432, 122 Stat. 4883 (Oct. 16, 2008), codified at 49 U.S.C. 20162. The Secretary of Transportation delegated the authority to conduct this rulemaking and implement the rule to the Federal Railroad Administrator. 49 CFR 1.89(b).

In the preamble to the 2014 Final Rule, FRA noted the importance of establishing implementation dates and providing incentives for the early filing of model programs to improve the efficiency and effectiveness of the review process. FRA recognized it was paramount to give model program developers sufficient time to develop programs and receive FRA approval. FRA also recognized that employers would not use those model programs unless the employers were given reasonable time to consider those programs before the employers' deadline for implementation. Consequently, the 2014 Final Rule provided model program developers with an incentive to file all model programs by May 1, 2017—eight months before the first employers were required to submit model programs and two years before smaller employers (*i.e.,* those employers with less than 400,000 total employee work hours annually) were required to submit their model programs. *See* 79 FR 66459, 66503–66504. The incentive to submit early was a guarantee from FRA that the model program would be considered approved so it could be implemented within 180 days after the date of submission unless FRA identified that all or part of the program did not conform to the rule's requirements.

After publishing the 2014 Final Rule, FRA took significant steps to educate the regulated community on its requirements and assist with the development of model training plans. For example, on March 20, 2017, FRA added information to its website to more broadly disseminate information about the 2014 Final Rule's requirements. *See https://www.fra.dot.gov/Page/P1023.*[1] Moreover, when ASLRRA requested FRA's help in developing its model programs for its members, FRA shared training documents it uses to train the agency's personnel on Federal rail safety requirements. FRA then made those same FRA training documents available on FRA's website because others in the regulated community would likely find them useful.

During FRA outreach on the 2014 Final Rule, FRA heard concerns from ASLRRA and the National Railroad Construction and Maintenance Association, Inc. (NRC), which were two of the associations identified in the 2014 Final Rule's Regulatory Impact Analysis (RIA) as likely model program developers. These two associations represent most of the 1,459 employers FRA projected would adopt model training programs rather than develop their own.[2] Although ASLRRA had submitted several model training programs to FRA, and had made significant strides towards completing some programs, ASLRRA still had a significant number of training programs left to develop and submit.

Based on ASLRRA and NRC's concerns about their ability to submit their model training programs by the May 1, 2017, deadline, and the significant impact that not meeting the deadline would have on the costs associated with the rule and FRA's approval process, FRA issued the May 2017 Final Rule extending each of the implementation dates in the 2014 Final Rule by one year.

Petition for Reconsideration

On May 22, 2017, ASLRRA filed a petition for reconsideration of the May 2017 Final Rule. ASLRRA's petition was the only petition FRA received, and FRA did not receive any comments on the May 2017 Final Rule or ASLRRA's petition.

In the petition, ASLRRA stated that the association will need more than a one-year delay on each of the implementation dates in the 2014 Final Rule and requested that the one-year extension be extended further by another year. In the petition, ASLRRA stated that it represents over 500 Class II and III railroads and has assumed the responsibility for preparing model training programs for its member railroads' use. ASLRRA asserts that it still has a significant number of model programs left to develop and submit.

ASLRRA states in its petition that it is utilizing a large group of volunteer safety professionals from the ranks of its Safety and Training Committee to develop the model programs. ASLRRA is using these volunteers because the association asserts it would not otherwise have the resources to complete the task. With the commitments it received from volunteers, ASLRRA has mapped out a schedule to complete the model training programs by fall 2018.[3] ASLRRA's estimated completion date would mean that many of its model programs would likely not be completed by the May 1, 2018, deadline afforded by the May 2017 Final Rule.

Further, ASLRRA's petition states that extending the one-year delay will allow adequate time to comply with FRA's review and approval process and thereby assure its members that its model programs have been approved by FRA. According to ASLRRA the additional one-year extension will also allow each railroad adequate time to consider how it will implement each of the model programs it will adopt and whether it will need to adapt the programs to address any unique aspects of its operations.

FRA's Response

FRA delayed each of the implementation dates in the 2014 Final Rule by one year largely because if both ASLRRA and NRC cannot submit most or all of their model training programs by the model program developer deadline, there would be significant cost impacts associated with the rule and it would complicate the approval process. Indeed, even if the ASLRRA alone were unable to submit its model programs for its more than 500 member railroads, the cost impacts would still be substantial.

The 500 or more railroad employers that rely on ASLRRA to produce model programs would bear significantly higher costs developing personalized training programs, rather than adopting model programs that are generic enough to apply to the gamut of railroads. Further, FRA's resources would be stretched thin reviewing potentially 500 or more individual Class II and Class III railroad employer programs, rather than a relatively small number of model programs. Moreover, by providing ASLRRA additional time to produce model programs, FRA expects the quality of those model programs will be much better than those separately prepared by a large number of individual small or medium-sized railroads. Of course, FRA does not see the value in limiting the extension only to ASLRRA and its member railroads. FRA believes all regulated entities can

[1] Additional details about each of those steps are contained in the May 2017 Final Rule. *See* 82 FR 20549 (May 3, 2017).

[2] The RIA for the 2014 Final Rule provided the estimated costs and benefits, and explained FRA based this analysis on the premise that ''most small railroads and contractors will use consortiums or model training programs developed by industry associations . . . thereby minimizing costs.'' RIA at 15. In the RIA, FRA estimated that 1,459 railroads and contractors would use model programs.

[3] Interested parties can view that schedule at *https://www.regulations.gov/document?D=FRA-2009-0033-0039.*

benefit from having additional time to implement the rule's requirements.

Overall, the additional one-year delay of the implementation dates should allow all model training program developers and other regulated entities to meet the rule's deadlines. FRA understands that many regulated entities were on schedule to meet the original deadlines in the 2014 Final Rule, or were preparing to meet the deadlines delayed by the May 2017 Final Rule. For those regulated entities that are prepared to move forward in advance of any deadline, there is certainly no prohibition against doing so and implementing a more robust training program should benefit the overall safety of those employers who are early adopters.

In consideration of the foregoing, FRA proposes to delay each of the implementation dates in the May 2017 Final Rule by an additional year, thereby delaying each of the implementation dates in the 2014 Final Rule by a total of two years.

Section-by-Section Analysis

Subpart B—Program Components and Approval Process

Section 243.101 Employer Program Required

The implementation dates in this proposed section would be cumulatively delayed by two years from the 2014 Final Rule so all employers have additional time to develop and submit training programs. Specifically, as previously amended by the May 2017 Final Rule, in paragraphs (a)(1) and (b) the January 1, 2019, implementation dates would be changed to January 1, 2020. Likewise, in paragraph (a)(2) the May 1, 2020, implementation date, as previously amended by the May 2017 Final Rule, would be changed to May 1, 2021.

Section 243.105 Optional Model Program Development

The implementation date in proposed paragraph (a)(3) of this section would be cumulatively delayed by two years from the 2014 Final Rule so that all model program developers have additional time to submit model programs, while also potentially benefiting from an expedited FRA review process. Under the May 2017 Final Rule, each model program submitted to FRA before May 1, 2018, would be considered approved and may be implemented 180 days after the date of the submission, unless FRA otherwise advises that all or part of the program does not conform to the rule's requirements. This NPRM proposes to extend that date until May 1, 2019.

Section 243.111 Approval of Programs Filed by Training Organizations or Learning Institutions

FRA proposes that each training organization or learning institution that has provided training services to employers covered by this part would cumulatively have an additional two years from the 2014 Final Rule to continue to offer such training services without FRA approval. As previously amended by the May 2017 Final Rule, a training organization or learning institution that has provided training services to employers covered by this part before January 1, 2018, may continue to offer such training services without FRA approval until January 1, 2019. FRA proposes to amend paragraph (b) of this section so that both dates are delayed by an additional year. Accordingly, the proposed requirement states that a training organization or learning institution that has provided training services to employers covered by this part before January 1, 2019, may continue to offer such training services without FRA approval until January 1, 2020.

Subpart C—Program Implementation and Oversight Requirements

Section 243.201 Employee Qualification Requirements

The implementation dates in this section would be cumulatively delayed by two years from the 2014 Final Rule so all employers have additional time to designate each of their existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in such occupational category or subcategory. In paragraph (a)(1), the September 1, 2019, implementation date, as previously amended by the May 2017 Final Rule, would be changed to September 1, 2020. Likewise, in paragraph (a)(2) the January 1, 2021, implementation date, as previously amended by the May 2017 Final Rule, would be changed to January 1, 2022.[4] Further, the dates used for referencing total employee work hours for purposes of applying both paragraphs would be modified accordingly.

In proposed paragraph (b), the January 1, 2019, implementation date, as previously amended by the May 2017 Final Rule, would change to January 1, 2020.

In proposed paragraphs (e)(1) and (2), the implementation dates for refresher training would also be cumulatively delayed by two years from the 2014 Final Rule. Thus, the January 1, 2021, implementation date in paragraph (e)(1), as previously amended by the May 2017 Final Rule, would change to January 1, 2022, and the proposed completion of that refresher training for each employee would be required no later than December 31, 2024, instead of the previously amended date of December 31, 2023. In proposed paragraph (e)(2), each employer with less than 400,000 total employee work hours annually would be required to implement a refresher training program by May 1, 2023, rather than the previously amended date of May 1, 2022, and complete that refresher training for each employee by no later than December 31, 2025, instead of the previously amended date of December 31, 2024.

Regulatory Impact and Notices

Executive Orders 12866, 13563, 13771, and DOT Regulatory Policies and Procedures

This proposed rule is a non-significant regulatory action within the meaning of Executive Order 12866 and DOT policies and procedures. *See* 44 FR 11034 (Feb. 26, 1979). The proposed rule also follows the direction of Executive Order 13563 which emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility. Finally, the proposed rule follows the guidance of Executive Order 13771 (''Reducing Regulation and Controlling Regulatory Costs'') which directs agencies to reduce regulation and control regulatory costs and provides that ''for every one new regulation issued, at least two prior regulations be identified for elimination, and that the cost of planned regulations be prudently managed and controlled through a budgeting process.'' FRA identified this proposed rule as a deregulatory effort to comply with E.O. 13771. For more information on Executive Order 13771, see OMB's April 5, 2017 ''Memorandum: Implementing Executive Order 13771, Titled 'Reducing Regulation and Controlling Regulatory Costs.' ''

In 2014, FRA published a Final Rule which established minimum training standards for each category and subcategory of safety-related railroad employee, as required by section 401(a) of the RSIA. FRA believes that this proposed rule will reduce the regulatory

[4] FRA notes that while the May 2017 Final Rule correctly amended the implementation date in paragraph (a)(2), the section-by-section analysis contained an incorrect statement that the paragraph (a)(2) deadline in the 2014 Final Rule was May 1, 2019; that date was January 1, 2020, calculated as four years and eight months from the date of issuance of FRA's Interim Final Compliance Guide.

burden on the railroad industry by delaying the implementation dates of the 2014 Final Rule. In May 2017, FRA issued a Final Rule which delayed each of the implementation dates in the 2014 Final Rule by one year. This proposed rule will extend the implementation deadlines by a total of two years from the 2014 Final Rule, one year of which has already been granted in the May 2017 Final Rule. This proposed rule would be beneficial for regulated entities by adding time to comply with the 2014 Final Rule.

The costs arising from part 243 over the 20-year period include: The costs of revising training programs to include ''hands-on'' training where appropriate, as well as the costs of creating entirely new training programs for any employer that does not have one already; the costs of customizing model training programs for those employers that choose to adopt a model program rather than create a new program; the costs of annual data review and analysis required in order to refine training programs; the costs of revising programs in later years; the costs of additional time new employees may have to spend in initial training; the costs of additional periodic oversight tests and inspections; the costs of additional qualification tests; and the costs of additional time all safety-related railroad employees may have to spend in refresher training.

FRA believes that additional hands-on and refresher training found in the 2014 Final Rule will reduce the frequency and severity of some future accidents and incidents. Expected safety benefits were calculated using full accident costs, which are based on past accident history, the values of preventing future fatalities and injuries sustained, and the cost of property damage. (Full accident costs are determined by the number of fatalities and injuries multiplied by their respective prevention valuations, and the cost of property damage.)

By delaying the implementation dates of the 2014 Final Rule, railroads will realize a cost savings. Railroads will not incur costs during the first two years of this analysis. Also, costs incurred in future years will be discounted an extra two years, which will decrease the present value burden. The present value of costs would be less than if the original implementation dates were adhered to. FRA has estimated this cost savings to be approximately $40.6 million, at a 3% discount rate, and $37.2 million, at a 7% discount rate. The table below shows the costs estimated at the final rule stage as well as the costs with the two-year implementation delay.

	Present value (3%)	Present value (7%)
Total costs (2-year delay)	$250,309,438	$169,902,295
Final rule costs	290,932,418	207,068,184
Two-year-delay cost savings	40,622,980	37,165,889

Regulatory Flexibility Act and Executive Order 13272; Initial Regulatory Flexibility Assessment

FRA has determined and certifies that this proposed rule is not expected to have a significant impact on a substantial number of small entities. The requirements of this proposed rule would apply to employers of safety-related railroad employees, whether the employers are railroads, contractors, or subcontractors. Although a substantial number of small entities would be subject to this proposed rule, it would provide relief by extending all of the implementation dates in the 2014 Final Rule, as amended by the May 2017 Final Rule. Thus, the economic impact of this proposed rule would not be significant because it would only provide additional time for all entities to comply with the 2014 Final Rule.

This proposed rule would have no direct impact on small units of government, businesses, or other organizations. State rail agencies are not required to participate in this program. State owned railroads would receive a positive impact by having additional time to comply.

Paperwork Reduction Act

There are no new collection of information requirements contained in this proposed rule and, in accordance with the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.,* the record keeping and reporting requirements already contained in the 2014 Final Rule have been approved by the Office of Management and Budget. The OMB approval number is OMB No. 2130–0597. Thus, FRA is not required to seek additional OMB approval under the Paperwork Reduction Act.

Federalism Implications

This proposed rule would not have a substantial 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. Thus in accordance with Executive Order 13132, ''Federalism'' (64 FR 43255, Aug. 10, 1999), preparation of a Federalism Assessment is not warranted.

International Trade Impact Assessment

The Trade Agreement Act of 1979 prohibits Federal agencies from engaging in any standards or related activities that create unnecessary obstacles to the foreign commerce of the United States. Legitimate domestic objectives, such as safety, are not considered unnecessary obstacles. The statute also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards.

This proposed rule is purely domestic in nature and is not expected to affect trade opportunities for U.S. firms doing business overseas or for foreign firms doing business in the United States.

Environmental Impact

FRA has evaluated this proposed rule in accordance with its ''Procedures for Considering Environmental Impacts'' (FRA's Procedures) (64 FR 28545, May 26, 1999) as required by the National Environmental Policy Act (42 U.S.C. 4321 *et seq.*), other environmental statutes, Executive Orders, and related regulatory requirements. FRA has determined that this proposed rule is not a major FRA action, requiring the preparation of an environmental impact statement or environmental assessment, because it is categorically excluded from detailed environmental review pursuant to section 4(c)(20) of FRA's Procedures. *See* 64 FR 28547 (May 26, 1999).

In accordance with section 4(c) and (e) of FRA's Procedures, the agency has further concluded that no extraordinary circumstances exist with respect to this proposed rule that might trigger the need for a more detailed environmental review. As a result, FRA finds that this proposed rule is not a major Federal action significantly affecting the quality of the human environment.

Unfunded Mandates Reform Act of 1995

Pursuant to section 201 of the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4, 2 U.S.C. 1531), each Federal agency shall, unless otherwise prohibited by law, assess the effects of Federal regulatory actions on State, local, and tribal governments, and the private sector (other than to the extent that such regulations incorporate requirements specifically set forth in law). Section 202 of the Act (2 U.S.C. 1532) further requires that before promulgating any general notice of proposed rulemaking that is likely to result in the promulgation of any rule that includes any Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of

$100,000,000 or more (adjusted annually for inflation) in any 1 year, and before promulgating any final rule for which a general notice of proposed rulemaking was published, the agency shall prepare a written statement detailing the effect on State, local, and tribal governments and the private sector. This proposed rule would not result in such an expenditure, and thus preparation of such a statement is not required.

Energy Impact

Executive Order 13211 requires Federal agencies to prepare a Statement of Energy Effects for any ''significant energy action.'' 66 FR 28355 (May 22, 2001). FRA evaluated this proposed rule in accordance with Executive Order 13211, and determined that this regulatory action is not a ''significant energy action'' within the meaning of the Executive Order.

Executive Order 13783, ''Promoting Energy Independence and Economic Growth,'' requires Federal agencies to review regulations to determine whether they potentially burden the development or use of domestically produced energy resources, with particular attention to oil, natural gas, coal, and nuclear energy resources. 82 FR 16093 (March 31, 2017). FRA determined this proposed rule would not burden the development or use of domestically produced energy resources.

Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *www.dot.gov/privacy*.

List of Subjects in 49 CFR Part 243

Administrative practice and procedure, Penalties, Railroad employees, Railroad safety, Reporting and recordkeeping requirements.

The Proposed Rule

For the reasons discussed in the preamble, FRA proposes to amend chapter II, subtitle B of title 49 of the Code of Federal Regulations as follows:

PART 243—TRAINING, QUALIFICATION, AND OVERSIGHT FOR SAFETY-RELATED RAILROAD EMPLOYEES

■ 1. The authority citation for part 243 continues to read as follows:

Authority: 49 U.S.C. 20103, 20107, 20131–20155, 20162, 20301–20306, 20701–20702, 21301–21304, 21311; 28 U.S.C. 2461, note; and 49 CFR 1.89.

Subpart B—Program Components and Approval Process

■ 2. Revise § 243.101(a) and (b) to read as follows:

§ 243.101 Employer program required.

(a)(1) Effective January 1, 2020, each employer conducting operations subject to this part with 400,000 total employee work hours annually or more shall submit, adopt, and comply with a training program for its safety-related railroad employees.

(2) Effective May 1, 2021, each employer conducting operations subject to this part with less than 400,000 total employee work hours annually shall submit, adopt, and comply with a training program for its safety-related railroad employees.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations subject to this part after January 1, 2020, shall submit a training program for its safety-related railroad employees before commencing operations. Upon commencing operations, the employer shall adopt and comply with the training program.

* * * * *

■ 3. Revise § 243.105(a)(3) to read as follows:

§ 243.105 Optional model program development.

(a) * * *

(3) Each model training program submitted to FRA before May 1, 2019, is considered approved and may be implemented 180 days after the date of submission unless the Associate Administrator advises the organization, business, or association that developed and submitted the program that all or part of the program does not conform.

* * * * *

■ 4. Revise § 243.111(b) to read as follows:

§ 243.111 Approval of programs filed by training organizations or learning institutions.

* * * * *

(b) A training organization or learning institution that has provided training services to employers covered by this part before January 1, 2019, may continue to offer such training services without FRA approval until January 1, 2020. The Associate Administrator may extend this period at any time based on a written request. Such written requests for an extension of time to submit a program should contain any factors the training organization or learning institution wants the Associate Administrator to consider before approving or disapproving the extension.

* * * * *

Subpart C—Program Implementation and Oversight Requirements

■ 5. Revise § 243.201(a)(1) and (2), (b), and (e)(1) and (2) to read as follows:

§ 243.201 Employee qualification requirements.

(a) * * *

(1) By no later than September 1, 2020, each employer with 400,000 total employee work hours annually or more in operation as of January 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(2) By no later than January 1, 2022, each employer with less than 400,000 total employee work hours annually in operation as of January 1, 2021, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory, and only permit designated employees to perform safety-related service in that occupational category or subcategory. The Associate Administrator may extend this period based on a written request.

(b) Except for an employer subject to the requirement in paragraph (a)(2) of this section, an employer commencing operations after January 1, 2020, shall declare the designation of each of its existing safety-related railroad employees by occupational category or subcategory before beginning operations, and only permit designated employees to perform safety-related service in that category or subcategory. Any person designated shall have met the requirements for newly hired employees or those assigned new safety-related duties in accordance with paragraph (c) of this section.

* * * * *

(e) * * *

(1) Beginning January 1, 2022, each employer with 400,000 total employee work hours annually or more shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in

accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training event or no later than December 31, 2024. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

(2) Beginning May 1, 2023, each employer with less than 400,000 total employee work hours annually shall deliver refresher training at an interval not to exceed 3 calendar years from the date of an employee's last training event, except where refresher training is specifically required more frequently in accordance with this chapter. If the last training event occurs before FRA's approval of the employer's training program, the employer shall provide refresher training either within 3 calendar years from that prior training event or no later than December 31, 2025. Each employer shall ensure that, as part of each employee's refresher training, the employee is trained and qualified on the application of any Federal railroad safety laws, regulations, and orders the person is required to comply with, as well as any relevant railroad rules and procedures promulgated to implement those Federal railroad safety laws, regulations, and orders.

Juan D. Reyes III,

Chief Counsel.

[FR Doc. 2017–27272 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2017–0360]

Hours of Service of Drivers of Commercial Motor Vehicles; Proposed Regulatory Guidance Concerning the Transportation of Agricultural Commodities

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of proposed regulatory guidance; request for public comment.

SUMMARY: FMCSA announces regulatory guidance to clarify the applicability of the ''Agricultural commodity'' exception to the ''Hours of Service of Drivers'' regulations, and requests public comments. This regulatory guidance is being proposed to ensure consistent understanding and application of the exception by motor carriers and State officials enforcing hours of service rules identical to or compatible with FMCSA's requirements.

DATES: Comments must be received on or before January 19, 2018. This guidance would expire no later than 5 years after it is finalized.

ADDRESSES: You may insert comments identified by Federal Docket Management System Number FMCSA–2017–0360 by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Ground Floor, Room W12–140, Washington, DC 20590–0001.
- *Hand Delivery or Courier:* West Building, Ground Floor, Room W12–140, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

To avoid duplication, please use only one of these four methods. See the ''Public Participation and Request for Comments'' portion of the **SUPPLEMENTARY INFORMATION** section for instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas Yager, Chief, Driver and Carrier Operations Division, Federal Motor Carrier Safety Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590, phone (614) 942–6477, email *MCPSD@dot.gov.*

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

A. Submitting Comments

If you submit a comment, please include the docket number listed above, indicate the specific section of this document to which your 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. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so that FMCSA can contact you if there are questions regarding your submission.

To submit your comment online, go to *http://www.regulations.gov,* put the docket number, FMCSA–2017–0360, in the keyword box, and click ''Search.'' When the new screen appears, click on the ''Comment Now!'' button and type your comment into the text box on 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 guidance based on your comments.

B. Viewing Comments and Documents

To view comments, go to *http://www.regulations.gov.* Insert the docket number, FMCSA–2017–0360, in the keyword box, and click ''Search.'' Next, click the ''Open Docket Folder'' button and choose the document 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., e.t., Monday through Friday, except Federal holidays.

C. Privacy Act

In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its regulatory 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.transportation.gov/privacy.*

II. Legal Basis

The National Highway System Designation Act of 1995, Public Law 104–59, 345, 109 Stat. 568. 613 (Nov. 28, 1995), provided the initial exception for drivers transporting agricultural commodities or farm supplies for agricultural purposes. This Act limited the exception to a 100 air-mile radius from the source of the commodities or distribution point for the farm supplies

and during the planting and harvesting seasons as determined by the applicable State.

In enacting the Safe, Accountable, Flexible, Efficient Transportation Act: A Legacy for Users (SAFETEA–LU), Congress revised this provision, enacted it to be new section 229 of Title II of the Motor Carrier Safety Improvement Act of 1999, and defined the terms ''agricultural commodity'' and ''farm supplies for agricultural purposes.'' Public Law 109–59, §§ 4115 and 4130, 119 Stat. 1144, 1726, 1743 (Aug. 10, 2005). These terms are now defined in 49 CFR 395.2.

Most recently, the statute was amended by section 32101(d) of the Moving Ahead for Progress in the 21st Century Act (MAP–21), Public Law 112–141, 126 Stat. 405, 778 (July 6, 2012). This provision revised the description of the exception's scope and extended the applicable distance from 100 air-miles to 150 air-miles from the source.

III. Background

The focus of today's guidance is limited to the transportation of agricultural commodities, 49 CFR 395.1(k)(1). It does not address ''farm supplies for agricultural purposes'' under 49 CFR 395.1(k)(2) or (3) given that the applicable range under these latter two provisions is specifically addressed. While the regulatory provision governing the agricultural commodity exception (49 CFR 395.1(k)(1)) closely tracks the statutory provisions discussed above, the language is susceptible to multiple interpretations, and the Agency acknowledges that various stakeholders and enforcement officials in different States have expressed inconsistent understandings of the exception from time to time.

This proposed regulatory guidance would clarify the exception with regard to: (1) Drivers operating unladen vehicles traveling either to pick up an agricultural commodity, as defined in 49 CFR 395.2, or returning from a delivery point; and (2) drivers engaged in trips beyond 150 air-miles from the source of the agricultural commodity. In addition, the Agency seeks public comment on (1) whether grain elevators and/or livestock sale barns should be considered a ''source'' of agricultural commodities under section 395.1(k)(1); and (2) how the exception should apply when agricultural commodities are loaded at multiple sources during a trip.

FMCSA's final rule ''Electronic Logging Devices and Hours of Service Supporting Documents'' (80 FR 78292; December 16, 2015), will require most drivers who use paper logs to document their hours of service to switch to electronic logging devices. That rule did not alter the hours of service rules or the agricultural commodity exception. However, FMCSA has received questions from regulated motor carriers about the agricultural commodity exception and application of the hours of service rules due to the practical ramifications of that rule, and the approaching December 18, 2017 compliance date. Specific scenarios are addressed further below.

IV. Reason for This Notice of Regulatory Guidance

Today's proposed regulatory guidance would provide clarity to the agricultural exception in 49 CFR 395.1(k)(1) and specifically addresses two scenarios: (1) Driving an unladen commercial motor vehicle to either pick up an agricultural commodity or on a return trip following the delivery of an agricultural commodity; and (2) application of the agricultural commodity exception to trips involving transportation of the commodity more than 150 air-miles from its source. In addition, the Agency seeks comment on (1) whether grain elevators and/or livestock sale barns should be considered a ''source'' of agricultural commodities under section 395.1(k)(1); and (2) scenarios where a trip involves the loading of agricultural commodities at multiple sources.

Unladen vehicles: Interpreted literally, the agricultural commodity exception could be read as applicable only during the period during which the commodity is being transported, and not extended to movements of an unladen vehicle either heading to pick up a load or returning after a delivery. However, the Agency does not consider that view as consistent with legislative intent of providing round-trip relief to farmers, and has therefore informally advised stakeholders that both legs of a trip are covered. In today's proposed guidance (Question 34), FMCSA seeks to clarify how the agricultural commodity exception applies to a driver operating an unladen commercial motor vehicle used in transportation either to a source to pick up an agricultural commodity or on a return trip following delivery of an agricultural commodity.

Loads beyond a 150 air-mile radius: The Agency recognizes that some motor carrier safety enforcement personnel and other stakeholders have interpreted the agricultural commodity exception as inapplicable to any portion of a trip if the destination exceeds 150 air-miles from the source. Under that reading, the word ''location'' in section 395.1(k)(1) is interpreted as reflecting only the final destination of the load. FMCSA notes that the statutory language, as amended,[1] and the implementing regulation [2] are ambiguous, however, and considers this strict interpretation too narrow. In today's regulatory guidance (Question 35), the Agency proposes to clarify that ''location'' means the outer limit of the exception distance, *i.e.,* 150 air-miles from the source. Thus, the Agency would interpret the exception as available to a driver transporting agricultural commodities for a distance up to 150 air-miles from the source, regardless of the distance between the source and final destination or place of delivery. Once a driver crosses the 150 air-mile point, however, the driver would be subject to the hours of service rules for the remainder of the trip.

Meaning of ''sources,'' and multiple sources: Several agricultural transporters have requested guidance on the extent to which grain elevators and/or livestock sale barns should be considered a ''source'' of agricultural commodities under section 395.1(k)(1). While these facilities are originating points for many agricultural commodity loads, they are not expressly encompassed within the statutory or regulatory terminology of the exception. Many of these transporters have also asked how the agricultural commodity exception would apply if the driver were to pick up partial loads at two or more locations. Specifically, they asked whether a pick-up at a subsequent source has the effect of extending the 150 air-mile radius, *i.e.,* restarting the calculation of the 150 air-mile distance. Previous informal guidance has been that the 150 air-mile radius is based on the first source of an agricultural commodity on a particular trip, and that additional stops to load additional agricultural commodities do not extend the 150-mile radius. The Agency invites public comment on this interpretation, however, and on how additional sources might affect the exception under 49 CFR 395.1(k)(1).

V. Regulatory Guidance

FMCSA proposes Regulatory Guidance, Questions 34 and 35 to 49 CFR 395.1 as follows:

[1] SEE MAP–21, Public Law 112–141, 32101(d), 126 Stat. 778 (July 6, 2012). . . .

[2] SEE 49 CFR 395.1(k)(1). The term ''agricultural commodity'' is defined in 49 CFR 395.2.

PART 395—HOURS OF SERVICE OF DRIVERS

Section 395.1 Scope of the rules in this part

Question 34: Does the agricultural commodity exception (§ 395.1(k)(1)) apply to drivers while driving unloaded to a source where an agricultural commodity will be loaded, and to an unloaded return trip after delivering an agricultural commodity under the exception?

Guidance: Yes, provided that the trip does not involve transporting other cargo and the sole purpose of the trip is to complete the delivery or pick up of agricultural commodities, as defined in § 395.2. In that case, driving and on-duty time are not limited, nor do other requirements of 49 CFR part 395 apply.

Question 35: Does the agricultural commodity exception (§ 395.1(k)(1)) apply if the destination for the commodity is beyond the 150 air-mile radius from the source?

Guidance: The exception applies to transportation during the initial 150 air-miles from the source of the commodity. Once a driver operates beyond the 150 air-mile radius of the source, part 395 applies. Starting at zero from that point, the driver must then begin recording his or her duty time, and the limits under the 11-hour, 14-hour, and the 60-/70-hour rules apply. Once the hours of service rules begin to apply on a given trip, they continue to apply for the duration of that trip, until the driver crosses back into the area within 150 air-miles of the original source of the commodities and is returning to that source. If the driver is not returning to the original source, the HOS rules continue to apply, even if the driver reenters the 150-mile radius.

VI. Expiration Date for 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 will be posted on FMCSA's website, *www.fmcsa.dot.gov,* if finalized. It would be reviewed by the Agency no later than five years after it is finalized. 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.

VII. 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 comments concerning the proposed regulatory guidance above, including the issue of ''sources'' of agricultural commodities, as outlined above, the Agency is seeking information on the following:

1. Are there particular segments of the industry that would take advantage of this change more than others?

2. How does the flexibility provided in this guidance impact a carrier's need for an electronic logging device?

3. How many carriers and drivers are there transporting agricultural commodities in various segments (livestock, unprocessed food, others) that are impacted by this guidance?

Issued on: December 13, 2017.

Cathy F. Gautreaux,

Deputy Administrator.

[FR Doc. 2017–27310 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[4500030115]

Endangered and Threatened Wildlife and Plants; 90-Day Findings for Five Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notification of petition findings and initiation of status reviews.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce 90-day findings on several petitions to list or reclassify wildlife or plants under the Endangered Species Act of 1973, as amended (Act). Based on our review, we find that the petitions present substantial scientific or commercial information indicating that the petitioned actions may be warranted with respect to the species mentioned in this notification. Therefore, with the publication of this document, we announce that we plan to initiate a review of the status of each of these species to determine if the petitioned actions are warranted. To ensure that these status reviews are comprehensive, we are requesting scientific and commercial data and other information regarding these species. After completing the status reviews, we will issue 12-month findings on the petitions, which will address whether or not the petitioned action is warranted, in accordance with the Act. In addition, we announce a correction to information contained in the 90-day petition finding for the leopard (*Panthera pardus*), which clarifies the range and entity we are evaluating in our status review of the species.

DATES: These findings were made on December 20, 2017.

ADDRESSES: Summaries of the bases for the petition findings contained in this document are available on *http://www.regulations.gov* under the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Supporting information in preparing these findings is available for public inspection, by appointment, during normal business hours by contacting the appropriate person, as specified in **FOR FURTHER INFORMATION CONTACT**. If you have new information concerning the status of, or threats to, the species for which we made these petition findings, or their habitats, please submit that information by one of the following methods:

(1) *Electronically:* Go to the Federal eRulemaking Portal: *http://www.regulations.gov.* In the Search box, enter the appropriate docket number (see table under **SUPPLEMENTARY INFORMATION**). Then, click on the Search button. After finding the correct document, you may submit information by clicking on ''Comment Now!'' If your information will fit in the provided comment box, please use this feature of *http://www.regulations.gov,* as it is most compatible with our information review procedures. If you attach your information as a separate document, our preferred file format is Microsoft Word. If you attach multiple comments (such as form letters), our preferred format is a spreadsheet in Microsoft Excel.

(2) *By hard* copy: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: [Insert appropriate docket number; see table under **SUPPLEMENTARY INFORMATION**], U.S. Fish and Wildlife Service, MS: BPHC, 5275 Leesburg Pike; Falls Church, VA 22041–3803.

We request that you send information only by the methods described above. We will post all information we receive on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Request for Information for Status Reviews, below, for more information).

FOR FURTHER INFORMATION CONTACT:

Common name	Contact person
Oblong rocksnail	Brian Evans, 404–679–7118; *brian_evans@fws.gov*.
Sturgeon chub and sicklefin chub	Justin Shoemaker, 309–757–5800 x214; *justin_shoemaker@fws.gov*.
Tricolored bat	Krishna Gifford, 413–253–8619; *krishna_gifford@fws.gov*.
Venus flytrap	Brian Evans, 404–679–7118; *brian_evans@fws.gov*.
Leopard	Janine Van Norman, 703–358–2370; *janine_vannorman@fws.gov*.

If you use a telecommunications device for the deaf (TDD), please call the Federal Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Background

Section 4 of the Act (16 U.S.C. 1533) and its implementing regulations in title 50 of the Code of Federal Regulations (50 CFR part 424) set forth the procedures for adding a species to, or removing a species from, the Federal Lists of Endangered and Threatened Wildlife and Plants. Section 4(b)(3)(A) of the Act requires that we make a finding on whether a petition to list, delist, or reclassify a species presents substantial scientific or commercial information indicating that the petitioned action may be warranted. To the maximum extent practicable, we are to make this finding within 90 days of our receipt of the petition and publish the finding promptly in the **Federal Register**.

Last year, the Service and the National Marine Fisheries Service of the Department of Commerce revised the regulations that outline the procedures for evaluating petitions (81 FR 66462; September 27, 2016). The new regulations at 50 CFR 424.14 were effective October 27, 2016. We received the petitions referenced in this document prior to that effective date. Therefore, we evaluated these petitions under the 50 CFR 424.14 requirements that were in effect prior to October 27, 2016, as those requirements applied when the petitions were received. The regulations in effect prior to October 27, 2016, establish that the standard for substantial scientific or commercial information with regard to a 90-day petition finding is ''that amount of information that would lead a reasonable person to believe that the measure proposed in the petition may be warranted'' (former 50 CFR 424.14(b)).

A species may be determined to be an endangered or threatened species because of one or more of the five factors described in section 4(a)(1) of the Act. The five factors are:

(a) The present or threatened destruction, modification, or curtailment of its habitat or range (Factor A);

(b) Overutilization for commercial, recreational, scientific, or educational purposes (Factor B);

(c) Disease or predation (Factor C);

(d) The inadequacy of existing regulatory mechanisms (Factor D); or

(e) Other natural or manmade factors affecting its continued existence (Factor E).These factors represent broad categories of natural or human-caused actions or conditions that could have an effect on a species' continued existence (*i.e.,* threats). In evaluating these actions and conditions, we look for those that may have a negative effect on individuals of the species, as well as for those that may ameliorate any negative effects and those that may have positive effects. In considering whether the petition presents substantial information indicating the species may be threatened or endangered, we must look beyond the exposure of the species to a threat to evaluate whether the species may respond to the threat in a way that causes actual impacts to the species. The mere identification of threats that could affect a species negatively may not be sufficient to compel a finding that the information in the petition is substantial information indicating that the petitioned action may be warranted. The information presented in the petition must include evidence sufficient to suggest that these threats may be affecting the species to the point that the species may meet the definition of an ''endangered species'' or ''threatened species'' under the Act.

If we find that a petition presents such information, our subsequent status review will evaluate all identified threats by considering the individual, population, and species-level effects, and the expected response by the species. We will evaluate individual threats and their expected effects on the species, then analyze the cumulative effect of the threats on the species as a whole. We also consider the cumulative effect of the threats in light of those actions and conditions that will have positive effects on the species—such as any existing regulatory mechanisms or conservation efforts that may ameliorate threats. It is only after conducting this cumulative analysis of threats and the actions that may ameliorate them, and the expected effect on the species now and in the foreseeable future, that we can determine whether the species meets the definition of an ''endangered species'' or ''threatened species.''

If we find that a petition presents substantial scientific or commercial information, the Act requires us to promptly commence a review of the status of the species, and we will subsequently complete a status review in accordance with our prioritization methodology for 12-month findings (81 FR 49248; July 27, 2016).

Summaries of Petition Findings

The petition findings contained in this document are listed in the table below and the bases for the findings, along with supporting information, are available on *http://www.regulations.gov* under the appropriate docket number.

TABLE—SUBSTANTIAL FINDINGS AND CORRECTION ANNOUNCED

Common name	Docket No.	URL to docket on *http://www.regulations.gov*
Oblong rocksnail	FWS–R4–ES–2017–0042	*http://www.regulations.gov/docket?D=FWS-R-ES-2017-0042*.
Sturgeon chub and sicklefin chub	FWS–R6–ES–2017–0010	*http://www.regulations.gov/docket?D=FWS-R6-ES-2017-0010*.
Tricolored bat	FWS–R5–ES–2017–0011	*http://www.regulations.gov/docket?D=FWS-R5-ES-2017-0011*.
Venus flytrap	FWS–R4–ES–2017–0041	*http://www.regulations.gov/docket?D=FWS-R4-ES-2017-0041*.
Leopard	FWS–HQ–ES–2016–0131	*http://www.regulations.gov/docket?D=FWS-HQ-ES-2016-0131*.

Evaluation of a Petition To List the Oblong Rocksnail as an Endangered or Threatened Species Under the Act

Species and Range

Oblong rocksnail (*Leptoxis compacta*): Cahaba River, Shelby County, Alabama.

Petition History

On June 21, 2016, we received a petition dated the same day from the Center for Biological Diversity and Cahaba Riverkeeper requesting that the oblong rocksnail be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the oblong rocksnail, based on Factors A and E as set forth in section 4(a)(1) of the Act (for information about these factors, see Background, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either ''endangered species'' under section 3(6) of the Act or ''threatened species'' under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see Request for Information for Status Reviews, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0042 under the Supporting Documents section.

Evaluation of a Petition To List the Sturgeon Chub and Sicklefin Chub as Endangered or Threatened Species Under the Act

Species and Range

Sturgeon chub (*Macrhybopsis gelida*): Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, South Dakota, Tennessee, and Wyoming (Missouri River, tributaries to the Yellowstone and Missouri Rivers, Middle and Lower Mississippi River).

Sicklefin chub (*Macrhybopsis meeki*): Arkansas, Illinois, Iowa, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, North Dakota, South Dakota, and Tennessee (Missouri River, Lower Yellowstone River, and Middle and Lower Mississippi River).

Petition History

On August 15, 2016, we received a petition dated August 11, 2016, from WildEarth Guardians requesting that the sturgeon chub and sicklefin chub be listed as endangered or threatened and that critical habitat be designated for these species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioner, required at former 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the sturgeon chub and sicklefin chub, based on Factors A, C, D, and E as set forth in section 4(a)(1) of the Act (for information about these factors, see Background, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for these species, the Service requests any information relevant to whether the species fall within the definition of either ''endangered species'' under section 3(6) of the Act or ''threatened species'' under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see Request for Information for Status Reviews, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R6–ES–2017–0010 under the Supporting Documents section.

Evaluation of a Petition To List the Tricolored Bat as an Endangered or Threatened Species Under the Act

Species and Range

Tricolored bat (*Perimyotis subflavus*): Alabama, Arkansas, Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin; Canada (New Brunswick, Nova Scotia, Ontario, and Quebec); Mexico (Eastern and southern regions: Coahuila to Chiapas); Central America (Guatemala)

Petition History

On June 14, 2016, we received a petition dated June 14, 2016, from the Center for Biological Diversity and Defenders of Wildlife requesting that the tricolored bat be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the tricolored bat, based on Factors A, C, and E as set forth in section 4(a)(1) of the Act (for information about these factors, see Background, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either ''endangered species'' under section 3(6) of the Act or ''threatened species'' under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see Request for Information for Status Reviews, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R5–ES–2017–0011 under the Supporting Documents section.

Evaluation of a Petition To List the Venus Flytrap as an Endangered or Threatened Species Under the Act

Species and Range

Venus flytrap (*Dionaea muscipula* Ellis): Southeastern North Carolina and northeastern South Carolina, and one introduced population each in Florida and New Jersey.

Petition History

On October 21, 2016, we received a petition dated the same day from Donald M. Waller, J.T. Curtis Professor of Botany and Environmental Studies, University of Wisconsin-Madison, and 25 additional supporters requesting that the Venus flytrap be listed as endangered or threatened and that critical habitat be designated for this species under the Act. The petition clearly identified itself as such and included the requisite identification information for the petitioners, required at former 50 CFR 424.14(a). This finding addresses the petition.

Finding

Based on our review of the petition and sources cited in the petition, we find that the petition presents substantial scientific or commercial information indicating that the petitioned action may be warranted for the Venus flytrap, based on Factors A, B, and D as set forth in section 4(a)(1) of the Act (see Background, above). However, during our status review, we will thoroughly evaluate all potential threats to the species, including the extent to which any protections or other conservation efforts have reduced those threats. Thus, for this species, the Service requests any information relevant to whether the species falls within the definition of either ''endangered species'' under section 3(6) of the Act or ''threatened species'' under section 3(20) of the Act, including information on the five listing factors under section 4(a)(1) (see Request for Information for Status Reviews, below).

The basis for our finding on this petition, and other information regarding our review of the petition, can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–R4–ES–2017–0041 under the Supporting Documents section.

Correction to our Evaluation of a Petition To Reclassify the Leopard as an Endangered Species Throughout Its Range

On November 30, 2016, we published a document in the **Federal Register** (81 FR 86315) announcing 90-day findings on three petitions to list or reclassify wildlife or plants under the Endangered Species Act of 1973, as amended (Act; 16 U.S.C. 1531 *et seq.*). That document included a finding on a petition to reclassify leopard (*Panthera pardus*) as an endangered species throughout its range. However, in the discussion of our finding and supporting documentation, we made two errors. Therefore, with this document, we correct those errors, clarify our intent to evaluate the status of the species throughout its range. The public is welcome to submit information on the species in light of these corrections (see **ADDRESSES**, above). If you sent information previously, you need not resend it.

The first error we made in the November 30, 2016, 90-day finding is that we mistakenly titled the action ''Evaluation of a Petition To Reclassify Leopards Currently Listed as Threatened Species to Endangered Species Under the Act,'' inadvertently implying that we will evaluate the status of the species only in the countries in which it is currently listed as threatened. However, the petition requests that we reclassify leopards as endangered throughout the species' current range, and we evaluated the petition based on that request. Our finding on the petition—that the petition contains substantial information that listing the leopard as endangered throughout its range may be warranted—has not changed. Therefore, we clarify that we will evaluate the status of leopards throughout their current range in our assessment of the species' status.

The second error we made in the November 30, 2016, 90-day finding is that we mistakenly described the current range of the leopard as: Democratic Republic of the Congo, Gabon, Kenya, and Uganda. However, the correct current range of the species is as follows:

Species and Range

Leopard (*Panthera pardus*): 62 countries in Africa and Asia.

The corrected information regarding our review of this petition can be found as an appendix at *http://www.regulations.gov* under Docket No. FWS–HQ–ES–2016–0131 in the Supporting Documents section.

Request for Information for Status Reviews

When we make a finding that a petition presents substantial information indicating that listing, reclassification, or delisting of a species may be warranted, we are required to review the status of the species (a status review). For the status review to be complete and based on the best available scientific and commercial information, we request information on these species from governmental agencies, Native American Tribes, the scientific community, industry, and any other interested parties. We seek information on:

(1) The species' biology, range, and population trends, including:

(a) Habitat requirements;

(b) Genetics and taxonomy;

(c) Historical and current range, including distribution patterns; and

(d) Historical and current population levels and current and projected trends.

(2) The five factors described in section 4(a)(1) of the Act (see Background, above) that are the basis for making a listing, reclassification, or delisting determination for a species under section 4(a) of the Act (16 U.S.C. 1531 *et seq.*), including past and ongoing conservation measures that could decrease the extent to which one or more of the factors affect the species, its habitat, or both.

(3) The potential effects of climate change on the species and its habitat, and the extent to which it affects the habitat or range of the species.

If, after the status review, we determine that listing is warranted, we will propose critical habitat (see definition at section 3(5)(A) of the Act) for domestic (United States) species under section 4 of the Act, to the maximum extent prudent and determinable at the time we propose to list the species. Therefore, we also request data and information (submitted as provided for in **ADDRESSES**, above) for the species listed in the table above on:

(1) What may constitute ''physical or biological features essential to the conservation of the species,'' within the geographical range occupied by the species;

(2) Where these features are currently found;

(3) Whether or not any of these features may require special management considerations or protection;

(4) Specific areas outside the geographical area occupied by the species that are ''essential for the conservation of the species''; and

(5) What, if any, critical habitat you think we should propose for designation if the species is proposed for listing, and why such habitat falls within the definition of ''critical habitat'' at section 3(5) of the Act.

Please include sufficient information with your submission (such as scientific journal articles or other publications) to allow us to verify any scientific or commercial information you include.

Submissions merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination. Section 4(b)(1)(A) of the Act directs that determinations as to whether any species is an endangered or threatened species must be made ''solely on the basis of the best scientific and commercial data available.''

You may submit your information concerning these status reviews by one of the methods listed in **ADDRESSES**. If you submit information via *http://www.regulations.gov,* your entire submission—including any personal identifying information—will be posted on the website. If you submit a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this personal identifying information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on *http://www.regulations.gov.*

It is important to note that the standard for a 90-day finding differs from the Act's standard that applies to a status review to determine whether a petitioned action is warranted. In making a 90-day finding, we consider information in the petition and sources cited in the petition, as well as information which is readily available, and we evaluate merely whether that information constitutes ''substantial information'' indicating that the petitioned action ''may be warranted.'' In a 12-month finding, we must complete a thorough status review of the species and evaluate the ''best scientific and commercial data available'' to determine whether a petitioned action ''is warranted.'' Because the Act's standards for 90-day and 12-month findings are different, a substantial 90-day finding does not mean that the 12-month finding will result in a ''warranted'' finding.

Conclusion

On the basis of our evaluation of the information presented in the petitions under section 4(b)(3)(A) of the Act, we have determined that the petitions referenced above for the oblong rocksnail, sturgeon chub, sicklefin chub, tricolored bat, and Venus flytrap present substantial scientific or commercial information indicating that the requested actions may be warranted. Because we have found that these petitions present substantial information indicating that the petitioned actions may be warranted, we are initiating status reviews to determine whether these actions are warranted under the Act. At the conclusion of each status review, we will issue a finding, in accordance with section 4(b)(3)(B) of the Act, as to whether or not the petitioned action is warranted.

Authors

The primary authors of this document are staff members of the Ecological Services Program, U.S. Fish and Wildlife Service.

Authority

The authority for these actions is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: October 23, 2017.

James W. Kurth,

Deputy Director, U.S. Fish and Wildlife Service, exercising the authority of the Director U.S. Fish and Wildlife Service.

[FR Doc. 2017–27389 Filed 12–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 170915903–7999–01]

RIN 0648–XF706

Pacific Island Fisheries; 2017 Hawaii Kona Crab Annual Catch Limit and Accountability Measure

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

ACTION: Proposed specification; request for comments.

SUMMARY: NMFS proposes a 2017 annual catch limit (ACL) of 3,500 lb for Hawaii Kona Crab, and an accountability measure (AM) to correct or mitigate any overages of catch limits. The proposed ACL and AM support the long-term sustainability of fishery resources of the U.S. Pacific Islands.

DATES: NMFS must receive comments by January 4, 2018.

ADDRESSES: You may submit comments on this document, identified by NOAA–NMFS–2017–0120, by either of the following methods:

- *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal. Go to *http://www.regulations.gov/#!docketDetail;D=NOAA-NMFS-2017-0120,* click the ''Comment Now!'' icon, complete the required fields, and enter or attach your comments.
- *Mail:* Send written comments to Michael D. Tosatto, Regional Administrator, NMFS Pacific Islands Region (PIR), 1845 Wasp Blvd., Bldg. 176, Honolulu, HI 96818.

Instructions: NMFS may not consider comments 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 *https://www.regulations.gov* 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 prepared an environmental analysis that describes the potential impacts on the human environment that would result from the proposed ACL and AM. Copies of the environmental analyses and other supporting documents are available at *https://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Sarah Ellgen, NMFS PIR Sustainable Fisheries, 808–725–5173.

SUPPLEMENTARY INFORMATION: The Kona crab fishery in the U.S. Exclusive Economic Zone (generally 3–200 nm from shore) around Hawaii is managed under Fishery Ecosystem Plan for the Hawaiian Archipelago (FEP). The Western Pacific Fishery Management Council (Council) developed the FEP, and NMFS implemented the plan under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

The FEP contains a process for the Council and NMFS to specify ACLs and AMs; that process is codified at Title 50, Code of Federal Regulations, Section 665.4 (50 CFR 665.4). The regulations require NMFS to specify, every fishing year, an ACL for each stock and stock complex of management unit species (MUS) in an FEP, as recommended by the Council and considering the best available scientific, commercial, and other information about the fishery. If a fishery exceeds an ACL, the regulations require the Council to take action, which may include reducing the ACL for the subsequent fishing year by the amount of the overage, or other appropriate action.

The Council recommended that NMFS specify an ACL of 3,500 lb of Hawaii Kona crab for fishing year 2017, which began on January 1 and ends on December 31. The Council based its ACL recommendation on a

recommendation of acceptable biological catch of 3,500 lb from its Scientific and Statistical Committee (SSC), and the results of an October 2015 stock assessment that included commercial catch data from 1970 through 2006. The stock assessment found that the Hawaii Kona crab stock had reached an overfished status (<50 percent of $B_{MSY,}$ biomass at maximum sustainable yield) in 2006, and was likely still overfished in 2010. The assessment also included biomass projections for 2010–2030 under three commercial landings scenarios: Zero lb, 7,000 lb, and 8,000 lb.

Hawaii State law prohibits retention of female crabs, but the assessment results included both males and females combined. The assessment acknowledged that the 2010–2030 stock status projections did not account for the effects of the State prohibition after September 2006 and, as a result, the projections are associated with a high degree of uncertainty. At a constant zero-lb annual harvest rate, the assessment predicted that the Kona crab stock would recover from overfished levels after 2015. At a constant 7,000-lb annual commercial harvest rate, the assessment estimated that Kona crab biomass would increase above 50 percent of B_{MSY} by 2030 but explained that, due to uncertainty, there was a chance that stock biomass could potentially decline to zero lb by 2020. At a constant 8,000-lb annual harvest rate, the assessment predicted that stock biomass could reach zero lb by 2020.

In 2015, NMFS contracted the Center for Independent (CIE) experts to review the stock assessment. Both the CIE reviewers and NMFS Pacific Islands Fisheries Science Center (PIFSC) agreed with the evaluation of the fishery for 2006, and the conclusion that stock projections beyond 2006 probably do not accurately describe current Hawaii Kona crab stock size or structure. PIFSC also agreed with the CIE review that further work is needed to provide advice on the status of the population in more recent years. Therefore, PIFSC is planning to complete a benchmark assessment for Hawaii Kona crab in 2019, which could be available for management use in fishing year 2020.

In developing the proposed ACL recommendation, the Council also considered information indicating a 50:50 male to female landings ratio, and information suggesting that crabs disentangled from Kona crab may have injuries that could result in mortality rates as high as 100 percent if limbs are lost. Therefore, to meet the objective of rebuilding stock biomass to levels above 50 percent of B_{MSY}, and limit total fishing mortality to 7,000 lb, the Council recommended an ACL of 3,500 lb.

As an AM, NMFS proposes to apply a three-year average catch to evaluate fishery performance against the proposed ACLs. Specifically, NMFS proposes to use the average catch of fishing years 2015, 2016, and 2017, to evaluate fishery performance against the 2017 ACL. If, after the end of the fishing year, NMFS and the Council determine that the three-year average catch exceeded the specified ACL, NMFS and the Council will reduce the ACL for that fishery by the amount of the overage in the subsequent year. The Council recommended an AM based on multi-year average catch data to reduce the influence of inter-annual variability in catch estimates in evaluating fishery performance against the ACL.

NMFS will consider public comments on the proposed ACL and AM and will announce the final specification in the **Federal Register**. NMFS must receive any comments by the date provided in the **DATES** heading, not postmarked or otherwise transmitted by that date. Regardless of the final ACL and AM specification, all other management measures will continue to apply in the fisheries.

Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the NMFS Assistant Administrator for Fisheries has determined that this proposed specification is consistent with the FEP, other provisions of the Magnuson-Stevens Act, and other applicable laws, subject to further consideration after public comment.

Certification of Finding of No Significant Impact on Substantial Number of Small Entities

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed specification, if adopted, would not have a significant economic impact on a substantial number of small entities. A description of the proposed action, why it is being considered, and the legal basis for it are contained in the preamble to this proposed specification.

NMFS proposes to specify a 2017 annual catch limit (ACL) of 3,500 lb for Kona crab in Hawaii, as recommended by the Western Pacific Fishery Management Council (Council). The 2017 proposed ACL is based on updated scientific information made available to NMFS. The proposed ACL is much lower than the ACL implemented each year from 2012 and 2015, which had been 27,600 lb. NMFS did not implement an ACL for this stock in 2016.

This rule would affect participants in the commercial and non-commercial fisheries for Hawaii Kona crab. Kona crab landings averaged 2,658 lb from 2014–2016, with an estimated ex-vessel value of $20,965, based on a price of $5.99 per lb. The amount of Kona crab landed each year has generally declined since 2011, when 51 fishermen reported landing 10,883 lb. During the 2016 fishing year, 24 fishermen reported landing 2,577 lb. In 2015, 26 fishermen reported landing 2,332 lb. In 2014, 30 fishermen reported landing 3,067 lb.

Based on available information, NMFS has determined that all vessels in the commercial and non-commercial fisheries for Kona crab are small entities under the Small Business Administration's definition of a small entity. That is, they are engaged in the business of fish harvesting, independently owned or operated, not dominant in their field of operation, and have annual gross receipts not in excess of $11 million, the small business size standard for commercial fishing (NAICS Code: 11411). Therefore, there would be no disproportionate economic impacts between large and small entities. Furthermore, there would be no disproportionate economic impacts among the universe of vessels based on gear, home port, or vessel length.

Even though this proposed action would apply to a substantial number of vessels, this action should not result in significant adverse economic impact to individual vessels. NMFS and the Council are not considering in-season closure in the Kona crab fisheries to which this ACL apply because fishery management agencies are not able to track catch relative to the ACLs during the fishing year. As a result, fishermen would be able to fish throughout the entire year. In addition, the ACLs, as proposed, would not change the gear types, areas fished, effort, or participation of the fishery during the 2017 fishing year. A post-season review of the catch data would be required to determine whether the fishery exceeded its ACL by comparing the ACL to the most recent three-year average catch for which data is available. If an ACL is exceeded, the Council and NMFS would take action in future fishing years to correct the operational issue that caused the ACL overage. NMFS and the Council would evaluate the environmental, social, and economic impacts of future actions, such as changes to future ACLs or AMs, after the required data are available. Specifically, if NMFS and the Council determine that the three-year average catch for a fishery exceeds the

specified ACL, NMFS would reduce the ACL for that fishery by the amount of the overage in the subsequent year.

The proposed action does not duplicate, overlap, or conflict with other Federal rules and is not expected to have significant impact on small entities (as discussed above), organizations, or government jurisdictions. The proposed action also will not place a substantial number of small entities, or any segment of small entities, at a significant competitive disadvantage to large entities. For the reasons above, NMFS does not expect the proposed action to have a significant economic impact on a substantial number of small entities. As such, an initial regulatory flexibility analysis is not required and none has been prepared.

This action is exempt from review under E.O. 12866.

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

Dated: December 14, 2017.

Samuel D. Rauch III,

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

[FR Doc. 2017–27322 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 243
Wednesday, December 20, 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 COMMERCE

U.S. Census Bureau

Proposed Information Collection; Comment Request; Survey of Residential Building or Zoning Permit Systems

AGENCY: U.S. Census Bureau, 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: To ensure consideration, 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 *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to Erica M. Filipek, U.S. Census Bureau, MCD, CENHQ Room 7K057, 4600 Silver Hill Road, Washington, DC 20233, telephone (301) 763–5161 (or via the internet at *Erica.Mary.Filipek@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Census Bureau plans to request a three-year extension of a currently approved collection of the Form C–411, Survey of Residential Building or Zoning Permit Systems. The Census Bureau produces statistics used to monitor activity in the large and dynamic construction industry. These statistics help state and local governments and the Federal government, as well as private industry, to analyze this important sector of the economy.

The Census Bureau uses the Form C–411 to obtain information needed to update the universe of permit-issuing places from state and local building and zoning officials. Questions on the form pertain to the legal requirements for issuing building or zoning permits in the local jurisdictions. Information is obtained on such items as geographic coverage and types of construction for which permits are issued.

The universe of permit-issuing places is the sampling frame for the Building Permits Survey (BPS) and the Survey of Construction (SOC). These two sample surveys provide widely used measures of construction activity, including the monthly Principal Federal Economic Indicators Housing Units Authorized by Building Permits and Housing Starts.

II. Method of Collection

One of three variants of the Form C–411 is sent to a jurisdiction when the Census Bureau has reason to believe that a new permit system has been established or an existing one has changed, based on information the Census Bureau obtains from a variety of sources including survey respondents and regional planning councils. Staff in the Census Bureau's Geography Division also monitor changes in corporate status, which indicates if a place is incorporated. Responses rates for the Form C–411 typically approach 85 percent. There are three versions of the form:

- C–411(V) for verification of coverage for jurisdictions with existing permit systems
- C–411(M) for municipalities where a new permit system may have been established
- C–411(C) for counties where new permit systems may have been established.

III. Data

OMB Number: 0607–0350.

Form Number: C–411(V), C–411(M), and C–411(C).

Type of Review: Regular submission.

Affected Public: State and Local Governments.

Estimated Number of Respondents: 2,000 per year.

Estimated Time per Response: 15 minutes.

Estimated Total Annual Burden Hours: 500 hours.

Estimated Total Annual Cost to Public: $0. (Per OMB requirements, this cost does not measure respondents' time, but the indirect costs respondents may incur for such things as purchases of specialized software or hardware needed to report, or expenditures for accounting or records maintenance services required specifically by the collection.)

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

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.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–27377 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–78–2017]

Foreign-Trade Zone (FTZ) 41—Milwaukee, Wisconsin; Notification of Proposed Production Activity; AFE, Inc. (Monitors/Displays/Televisions); Mount Pleasant, Wisconsin

The Port of Milwaukee, grantee of FTZ 41, submitted a notification of

proposed production activity to the FTZ Board on behalf of AFE, Inc., located in Mount Pleasant, Wisconsin. The notification conforming to the requirements of the regulations of the FTZ Board (15 CFR 400.22) was received on November 30, 2017.

The applicant has submitted a separate application for subzone designation at AFE, Inc.'s facility under 15 CFR 400.38. The facility would be used to produce whiteboard monitors/interactive displays and televisions with and without tuners. Pursuant to 15 CFR 400.14(b), FTZ activity would be limited to the specific foreign-status materials and components and specific finished products described in the submitted notification (as described below) and subsequently authorized by the FTZ Board.

Production under FTZ procedures could exempt AFE, Inc., from customs duty payments on the foreign-status components used in export production. On its domestic sales, for the foreign-status materials/components noted below, the company would be able to choose the duty rates during customs entry procedures that apply to whiteboard monitors/interactive displays, tuner-free televisions, and televisions with tuners (duty rate ranges from duty-free to 3.9%). The company would be able to avoid duty on foreign-status components which become scrap/waste. Customs duties also could possibly be deferred or reduced on foreign-status production equipment.

The components and materials sourced from abroad include: Printed wire boards (PWBs) for monitors; PWBs for keyboards; infrared light detecting units for remote controllers; open cell liquid crystal displays (LCDs); monitor chassis components and assemblies of plastic and metal; stainless steel screws; reflector sheets; lens sheets; diffusion sheets; light emitting diode (LED) wires; PWBs for LEDs; plastic tapes; bezels; LCD modules; rear cover cable assemblies; power supply and drive units; power cables; LCD control cables; Wi-Fi cables; keyboard cables; speakers; A/C cords; remote controls; flexible flat cable for printed wire boards; AAA batteries; Wi-Fi units; plastic labels; TV stands and stand support brackets; plastic bags; printed setup guides; plastic cable clamps; molded paper packaging; paper packaging; cardboard cartons; plastic packaging; printed instructions; self-tapping screws; wire holders of plastic; plastic spacers; plastic insulator for coolers; keyboard cover assemblies; wooden pallets; PWBs for tuner TV keyboards; infrared light detecting units for tuner TV remote controllers; open cell LCDs for tuner TVs; monitor chassis components and assemblies of plastic and metal for tuner TVs; reflector sheets for tuner TVs; lens sheets for tuner TVs; diffusion sheets for tuner TVs; bezels for tuner TVs; LCD modules for tuner TVs; rear cover cable assemblies for tuner TVs; and, stands for tuner TVs (duty rate ranges from duty-free to 10.7%).

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is January 29, 2018.

A copy of the notification will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's website, which is accessible via *www.trade.gov/ftz.*

For further information, contact Christopher Wedderburn at *Chris.Wedderburn@trade.gov* or (202) 482–1963.

Dated: December 14, 2017.

Andrew McGilvray,

Executive Secretary.

[FR Doc. 2017–27406 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–853]

Certain Crystalline Silicon Photovoltaic Products From Taiwan: Preliminary Results of Antidumping Duty Administrative Review and Partial Rescission of Antidumping Duty Administrative Review; 2016–2017

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

SUMMARY: The Department of Commerce (the Department) is conducting an administrative review of the antidumping duty (AD) order on certain crystalline silicon photovoltaic products (solar products) from Taiwan. The period of review (POR) is February 1, 2016, through January 31, 2017. This administrative review covers 11 exporters of the subject merchandise, including one mandatory respondent, Motech Industries, Inc. (Motech). The Department preliminarily determines that Motech made sales of subject merchandise at less than normal value during the POR. Additionally, we are rescinding this administrative review with respect to 23 companies that timely withdrew their requests for administrative review. Interested parties are invited to comment on these preliminary results.

DATES: Applicable December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Ariela Garvett or Thomas Martin, AD/CVD Operations, Office IV, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–3609 or (202) 482–3936, respectively.

SUPPLEMENTARY INFORMATION:

Background

On February 8, 2017, the Department notified interested parties of the opportunity to request an administrative review of orders, findings, or suspended investigations with anniversaries in February 2017, including the antidumping duty order on solar products from Taiwan.[1] On February 28, 2017, SolarWorld Americas Inc. (the petitioner), as well as various exporters and exporters, requested that the Department conduct an administrative review of certain exporters covering the POR. On April 10, 2017, the Department published a notice initiating an AD administrative review of solar products from Taiwan covering 34 companies for the POR.[2]

In the *Initiation Notice,* the Department stated that if it limited the number of respondents for individual examination, it intended to select respondents based on volume data contained in responses to its quantity and value (Q&V) questionnaire.[3] On April 10, 2017, the Department issued Q&V questionnaires to all 11 companies that appeared in the U.S. Customs and Border Protection (CBP) data for import and merchandise value.[4] We received Q&V questionnaire responses from 11 companies[5] named in the *Initiation*

[1] *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review,* 82 FR 9709 (February 8, 2017).

[2] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 82 FR 17188, 17189 (April 10, 2017) (*Initiation Notice*).

[3] *Id.* at 17189.

[4] The Department explained in the Initiation Notice that the units used to measure the imported quantities of solar cells and solar modules in the CBP data are in ''piece'' units, and it would not be meaningful to sum the number of imported solar cells and the number of imported solar modules in attempting to determine the largest Taiwan exporters of subject merchandise by volume. *Id.* Therefore, the Department stated that it would limit the number of Q&V questionnaires issued based on the import values in CBP data. *Id.*

[5] The 11 companies that submitted a Q&V questionnaire response include: AU Optronics

Notice. The remaining 23 companies withdrew their requests for administrative review, pursuant to 19 CFR 351.213(d)(1).

On May 24, 2017, the Department selected Motech as a mandatory respondent.[6] From May 25, 2017, through November 16, 2017, the Department issued questionnaires to, and received timely responses from, Motech.[7] The petitioner commented on these responses between July 6, July 28, October 3, and October 24, 2017.

Partial Rescission of Antidumping Duty Administrative Review

Pursuant to 19 CFR 351.213(d)(1), the Department will rescind an administrative review, in whole or in part, if a party that requested the review withdraws its request within 90 days of the date of publication of the notice of initiation of the requested review. Twenty-three companies[8] withdrew their respective requests for an administrative review within 90 days of the date of publication of *Initiation Notice.* Accordingly, the Department is rescinding this review with respect to these 23 companies.

Scope of the Order

The merchandise covered by this order is crystalline silicon photovoltaic cells, and modules, laminates and/or panels consisting of crystalline silicon photovoltaic cells, whether or not partially or fully assembled into other products, including building integrated materials.[9] Merchandise covered by this order is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheadings 8501.61.0000, 8507.20.8030, 8507.20.8040, 8507.20.8060, 8507.20.8090, 8541.40.6020, 8541.40.6030 and 8501.31.8000. These HTSUS subheadings are provided for convenience and customs purposes; the written description of the scope is dispositive.

Methodology

The Department is conducting this review in accordance with section 751(a) of the Tariff Act of 1930, as amended (the Act). Export price and constructed export price are calculated in accordance with section 772 of the Act. Normal value is calculated in accordance with section 773 of the Act.

For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.[10] A list of topics included in the Preliminary Decision Memorandum is included as an Appendix to this notice.

Preliminary Results of Review

As a result of this review, we preliminarily determine the following weighted-average dumping margins for the period February 1, 2016 through January 31, 2017:

Manufacturer/exporter	Weighted-average margin (percent)
Motech Industries, Inc	1.07
AU Optronics Corporation	1.07
EEPV Corp	1.07
Gintech Energy Corporation	1.07
Inventec Solar Energy Corporation	1.07
Kyocera Mexicana S.A. de C.V	1.07
Neo Solar Power Corporation	1.07
Sino-American Silicon Products Inc. and Solartech Energy Corp	1.07
TSEC Corporation	1.07
Vina Solar Technology Co., Ltd	1.07

Rate for Companies Not Individually Examined

The statute and the Department's regulations do not address the establishment of a rate to be applied to respondents not selected for individual examination when the Department limits its examination of companies subject to the administrative review pursuant to section 777A(c)(2)(B) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for respondents not individually examined in an administrative review. Section 735(c)(5)(A) of the Act articulates a

Corporation, EEPV Corp., Gintech Energy Corporation, Inventec Solar Energy Corporation, Kyocera Mexicana S.A. de C.V., Motech Industries, Inc., Neo Solar Power Corporation, Sino-American Silicon Products Inc., Solartech Energy Corp. group, TSEC Corporation, and Vina Solar Technology Co., Ltd.

[6] *See* memorandum from Thomas Martin, Senior International Trade Compliance Analyst, Office IV, AD/CVD Operations, Enforcement and Compliance to Abdelali Elouaradia, Director, Office IV, AD/CVD Operations, Enforcement and Compliance regarding ''2016–2017 Antidumping Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from Taiwan: Respondent Selection,'' dated May 24, 2017 (Respondent Selection Memorandum) at 4–5.

[7] *See* Letters from Motech to the Department dated June 22, July 13, September 20, October 3, October 13, November 6, November 13, and November 16, 2017.

[8] Baoding Jiasheng Photovoltaic Technology Co Ltd., Baoding Tianwei Yingli New Energy Resources Co., Ltd., Beijing Tianneng Yingli New Energy Resources Co Ltd., Boviet Solar Technology Co., Ltd., Canadian Solar Inc., Canadian Solar International, Ltd., Canadian Solar Manufacturing (Changshu), Inc., Canadian Solar Manufacturing (Luoyang), Inc., Canadian Solar Solution Inc., E–TON Solar Tech. Co., Ltd., Hainan Yingli New Energy Resources Co., Ltd., Hengshui Yingli New Energy Resources Co., Ltd., Inventec Energy Corporation., Lixian Yingli New Energy Resources Co., Ltd., Shenzhen Yingli New Energy Resources Co., Ltd., Sunengine Corporation Ltd., Sunrise Global Solar Energy., Tianjin Yingli New Energy Resources Co., Ltd., Trina Solar (Schweiz) AG., Trina Solar (Singapore) Science and Technology Pte Ltd., Win Win Precision Technology Co., Ltd., Yingli Energy (China) Co., Ltd., and Yingli Green Energy International Trading Company Limited.

[9] For a complete description of the scope of the products under review, *see* Memorandum from James Maeder, Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Gary Taverman, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, Performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance, ''Decision Memorandum for Preliminary Results of the 2016–2017 Antidumping Duty Administrative Review of Certain Crystalline Silicon Photovoltaic Products from Taiwan,'' dated concurrently with, and hereby adopted by this notice (Preliminary Decision Memorandum). 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 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 on the internet at *http://enforcement.trade.gov/frn/.* The signed and electronic versions of the Preliminary Decision Memorandum are identical in content.

[10] *See* Preliminary Decision Memorandum.

preference for not calculating an all-others rate using rates which are zero, *de minimis* or based entirely on facts available (FA).[11] Accordingly, the Department's usual practice has been to determine the dumping margin for companies not individually examined by averaging the weighted-average dumping margins for the individually examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available.[12] Consistent with this practice, we preliminarily calculated a weighted-average dumping margin for Motech that is above *de minimis* and not based entirely on FA; therefore, the Department preliminarily assigns to the non-selected companies the weighted-average margin calculated for Motech as the non-selected respondent rate for this review.

Assessment Rates

As noted above, we are rescinding the review with respect to 23 companies that withdrew their requests for an administrative review within 90 days of the date of publication of the *Initiation Notice.* As such, the Department intends to issue appropriate assessment instructions to CBP 15 days after the date of publication of this notice for these 23 companies. Antidumping duties shall be assessed at rates equal to the cash deposit of estimated antidumping duties required at the time of entry, or withdrawal from warehouse, for consumption in accordance with 19 CFR 351.212(c)(1)(i).

Upon completion of the administrative review, the Department shall determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review. The Department intends to issue assessment instructions to CBP 15 days after the date of publication of the final results of this review.

For any individually examined respondents whose weighted-average dumping margin is above *de minimis* (*i.e.,* 0.50 percent), we will calculate importer-specific *ad valorem* duty assessment rates based on the ratio of the total amount of dumping calculated for the importer's examined sales to the total entered value of those same sales in accordance with 19 CFR 351.212(b)(1).[13] For entries of subject merchandise during the POR produced by each respondent for which it did not know its merchandise was destined for the United States, we will instruct CBP to liquidate un-reviewed entries at the all-others rate if there is no rate for the intermediate company involved in the transaction.[14] We will instruct CBP to assess antidumping duties on all appropriate entries covered by this review when the importer-specific assessment rate calculated in the final results of this review is above *de minimis.* Where either the respondent's weighted-average dumping margin is zero or *de minimis,* or an importer-specific assessment rate is zero or *de minimis,* we will instruct CBP to liquidate the appropriate entries without regard to antidumping duties.

The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by the final results of this review and for future deposits of estimated duties, where applicable.

Cash Deposit Requirements

The following deposit requirements will be effective upon publication of the notice of final results of administrative review for all shipments of solar products from Taiwan entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review, as provided for by section 751(a)(2)(C) of the Act: (1) The cash deposit rate for the companies under review will be the rate established in the final results of this review (except, if the rate is zero or *de minimis,* no cash deposit will be required); (2) for merchandise exported by manufacturers or exporters not covered in this review but covered in a prior segment of the proceeding, the cash deposit rate will continue to be the company-specific rate published for the most recently completed segment of this proceeding in which the manufacturer or exporter participated; (3) if the exporter is not a firm covered in this review, a prior review, or the less-than-fair-value investigation, but the manufacturer is, the cash deposit rate will be the rate established for the most recently completed segment of the proceeding for the manufacturer of the merchandise; and (4) the cash deposit rate for all other manufacturers or exporters will continue to be 19.50 percent *ad valorem,* the all-others rate established in the less-than-fair-value investigation.[15] These cash deposit requirements, when imposed, shall remain in effect until further notice.

Disclosure and Public Comment

The Department intends to disclose the calculations used in our analysis to interested parties in this review within five days of the date of publication of this notice in accordance with 19 CFR 351.224(b). Interested parties are invited to comment on the preliminary results of this review. Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the date of publication of this notice. Rebuttal briefs, limited to issues raised in the case briefs, may be filed no later than five days after the time limit for filing case briefs.[16] Parties who submit case briefs or rebuttal briefs in this proceeding are requested to submit with each brief: (1) A statement of the issue, (2) a brief summary of the argument, and (3) a table of authorities.[17] Executive summaries should be limited to five pages total, including footnotes.[18] Case and rebuttal briefs should be filed using ACCESS.[19]

Pursuant to 19 CFR 351.310(c), any interested party may request a hearing within 30 days of the publication of this notice in the **Federal Register**. If a hearing is requested, the Department will notify interested parties of the hearing schedule. Interested parties who wish to request a hearing, or to participate if one is requested, must submit a written request to the Assistant Secretary for Enforcement and Compliance, filed electronically *via* ACCESS within 30 days after the date of publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; and (3) a list of the issues to be discussed. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs.

We intend to issue the final results of this administrative review, including the results of our analysis of issues raised by the parties in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**, unless otherwise extended.[20]

[11] *See Ball Bearings and Parts Thereof from France, Germany, Italy, Japan, and the United Kingdom: Final Results of Antidumping Duty Administrative Reviews and Rescission of Reviews in Part,* 73 FR 52823, 52824 (September 11, 2008), and accompanying Issues and Decision Memorandum at Comment 16.

[12] *Id.*

[13] In these preliminary results, the Department applied the assessment rate calculation methodology adopted in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Proceedings: Final Modification,* 77 FR 8101 (February 14, 2012).

[14] *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003).

[15] *See Certain Crystalline Silicon Photovoltaic Products: Final Determination of Sales at Less Than Fair Value,* 79 FR 76966 (December 23, 2014).

[16] *See* 19 CFR 351.309(d)(1).

[17] *See* 19 CFR 351.309(c)(2) and (d)(2).

[18] *Id.*

[19] *See* 19 CFR 351.303.

[20] *See* section 751(a)(3)(A) of the Act.

Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

These preliminary results of administrative review are issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.213(h)(1).

Dated: December 13, 2017.

Gary Taverman,

Deputy Assistance Secretary for Antidumping and Countervailing Duty Operations, performing the non-exclusive functions and duties of the Assistant Secretary for Enforcement and Compliance.

Appendix

List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Scope of the Order
4. Selection of Respondents
5. Affiliation and Collapsing of Affiliates
6. Unexamined Respondents
7. Discussion of Methodology
8. Product Comparisons
9. Date of Sale
10. Export Price
11. Normal Value
12. Revisions to SAS-Solartech's Reported Home Market Sales
13. Cost of Production Analysis
14. Calculation of NV Based on Comparison-Market Prices
15. Currency Conversions
16. Conclusion

[FR Doc. 2017–27405 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Accurate Fluorescence Measurements Consortium

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice; request for information.

SUMMARY: The National Institute of Standards and Technology (NIST), an agency of the United States Department of Commerce, is establishing the Accurate Fluorescence Measurements Consortium and invites organizations to participate in this Consortium. The Consortium will develop tools for improving the accuracy of quantitative fluorescence measurements including reference materials, reference data and reference methods for relative spectral correction of spectra, lifetimes and quantum yields and for assessing the associated uncertainties and utilities. Participation in this Consortium is open to all eligible organizations, as described below.

DATES: NIST will accept responses for participation in this Consortium on an ongoing basis. The Consortium's activities will commence on January 2, 2018 (''Commencement Date''). Acceptance of participants into the Consortium after the Commencement Date will depend on eligibility and the availability of NIST resources.

ADDRESSES: Information in response to this notice and request for additional information about the Consortium can be directed via mail to the NIST Consortium Manager, Dr. Paul DeRose, Biosystems and Biomaterials Division of NIST's Material Measurement Laboratory, 100 Bureau Drive, Gaithersburg, Maryland 20899–8312, or via electronic mail to *lili.wang@nist.gov.*

FOR FURTHER INFORMATION CONTACT: For further information about partnership opportunities or about the terms and conditions of NIST's Cooperative Research and Development Agreement (CRADA), please contact Jeffrey DiVietro, CRADA and License Officer, National Institute of Standards and Technology's Technology Partnerships Office, by mail to 100 Bureau Drive, Mail Stop 2200, Gaithersburg, Maryland 20899, by electronic mail to *jeffrey.divietro@nist.gov,* or by telephone at (301) 975–8779.

SUPPLEMENTARY INFORMATION:

Quantitative fluorescence measurements are used for instrument qualification and method validation in the pharmaceutical and chemical industries. It is also increasingly being used for detection of antibodies in clinical diagnostics and biomedical research. The measurements made on different instrument platforms at different times and locations cannot be compared accurately, which makes diagnostic decisions unreliable and slows down advances in these areas. In response to this limitation, NIST, secondary standards manufacturers and other stakeholders have developed methodologies to implement quantitation fluorescence measurements.

NIST produced SRMs 2940 through 2944 in the past nine years as relative intensity correction standards for fluorescence spectroscopy. These standards are needed by fluorescence instrument manufacturers and regulated communities that use quantitative fluorescence detection. For instance, the pharmaceutical and biotechnology communities use SRMs 2940 through 2944 to calibrate and verify the performance of their fluorescence instruments, which is required to achieve accurate results in secondary screening of drugs and in quantitative analysis of bioassays. Many other communities that use fluorescence detection need similar standards, but cannot afford the price of these SRMs or require different sample formats.

Few secondary standards of this type have been produced by industry because most companies do not have the fluorescence measurement capabilities and expertise to make high accuracy measurements. This Consortium is intended to give secondary standard manufacturers, as well as other stakeholders in the fluorescence measurement community, access to highly accurate fluorescence measurement capabilities available at NIST. In return, these manufacturers provide NIST information about new materials, future material needs, and new customer bases. These manufacturers know the needs of different communities and have developed new materials to meet these needs. Many of the fluorescent materials to be measured have not been used as standards and the suitability of these materials as standards is of great interest to NIST. NIST's understanding of the fluorescent characteristics of such materials through collaborative research and information exchange may lead to new NIST standards in this and other related areas. It is also important for NIST to know about additional standards needed in emerging technologies. Collaborators will supply NIST with this knowledge and work with NIST to design and characterize the best standards for such emerging technologies. Through this process, collaborators will assist NIST to develop better reference materials.

Participation Process

Eligibility will be determined by NIST using the information provided by an organization in response to this notice based on the information requested below.

An organization responding to this notice should provide the following information to NIST's Consortium Manager:

(1) Type of Reference Materials: Format of the sample (*e.g.,* standard cuvette, microwell plate, microscope

slide); and Quantitative Target for Improved Accuracy (*e.g.,* relative spectral correction of emission, fluorescence lifetime, fluorescence quantum yield).

(2) Types of Applications: Fluorescence measurements are used for detection in many areas, but how will the proposed reference materials address the quantitative needs of high impact communities requiring better accuracy and reproducibility?

(3) Experience in production and characterization of reference materials for quantitative fluorescence.

A responding organization should not include any business proprietary information in its response to this request for information. NIST will not treat any information provided in response to this request as proprietary information.

NIST will notify each organization of its eligibility. In order to participate in this Consortium, each eligible organization must sign a Cooperative Research and Development Agreement (CRADA) for this Consortium. All participants to this Consortium will be bound by the same terms and conditions.

Authority

15 U.S.C. 3710a.

Kevin Kimball,

NIST Chief of Staff.

[FR Doc. 2017–27353 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–13–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF860

Marine Mammals; Issuance of Permits

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

ACTION: Notice; issuance of permits.

SUMMARY: Notice is hereby given that individuals and institutions have been issued Letters of Confirmation for activities conducted under the General Authorization for Scientific Research on marine mammals. See **SUPPLEMENTARY INFORMATION** for a list of names and address of recipients.

ADDRESSES: The Letters of Confirmation and related documents are available for review upon written request or by appointment in the following office:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376.

FOR FURTHER INFORMATION CONTACT: Office of Protected Resources, Permits and Conservation Division, (301) 427–8401.

SUPPLEMENTARY INFORMATION: The requested Letters of Confirmation have been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing the taking and importing of marine mammals (50 CFR part 216). The General Authorization allows for bona fide scientific research that may result only in taking by Level B harassment of marine mammals. The following Letters of Confirmation (LOC) were issued in Fiscal Years 2016 and 2017.

File No. 19826: Issued to Tara Moll, Naval Undersea Warfare Center, Division Newport, 1176, Howell St., Newport, RI, 02841 on January 28, 2016 to conduct ground surveys, photo-identification, and behavioral observations of gray (*Halichoerus grypus grypus*), harbor (*Phoca vitulina*), and harp (*Phoca groenlandica*) seals in the lower Chesapeake Bay, VA, and Narragansett Bay, RI. The purpose of the research is to investigate site fidelity and movement among haul-out locations, and to improve baseline knowledge of pinniped occurrence in areas adjacent to Navy training and testing areas. The LOC expires January 31, 2021.

File No. 19749: Issued to Clearwater Marine Aquarium, 249 Windward Passage, Clearwater, FL 33767 on February 17, 2016 to conduct vessel surveys, close approach, photo-identification, behavioral observations, and focal follows of bottlenose dolphins (*Tursiops truncatus*). Research would primarily occur in coastal waters from Redington Long Pier (Pinellas County) and north to Levy County, FL and expand offshore to 20m isobaths. The purpose of the research is to determine home ranges, distribution, population abundance, site fidelity, and reproductive success, in the estuarine and coastal waters of west central Florida. The effects of human interactions in this area will also be considered. The LOC expires March 1, 2021.

File No. 19686: Issued to Jennifer Lewis, Ph.D., Florida International University 11200 SW 8th Street Miami, FL 33199 on March 11, 2016 to conduct vessel surveys, close approach, photo-identification, behavioral observations, and focal follows of bottlenose dolphins. Research would primarily occur in Florida Keys National Marine Sanctuary as well as the southern Florida Keys. The purpose of the research is to determine home ranges, distribution, population abundance, site fidelity, and reproductive success, in the estuarine and coastal waters of southern Florida. The effects of human interactions in this area will also be considered. The LOC expires March 15, 2021.

File No. 20066: Issued to Eric Montie, Ph.D., University of South Carolina Beaufort, One University Boulevard, Bluffton, SC 29909 on March 29, 2016 to conduct vessel surveys for passive acoustic recordings, close approach, photo-identification, and behavioral observations of bottlenose dolphins. Research would primarily occur in the coastal waters of Bluffton and Hilton Head, SC. The purpose of the research is to better understand (1) the acoustic ecology of bottlenose dolphins and their prey, and (2) how anthropogenic noise may impact the acoustic signals of fish and bottlenose dolphins. The LOC expires March 31, 2021.

File No. 19903: Issued to Andrew Read, Ph.D., Duke University Marine Laboratory, 135 Duke Marine Lab Road, Beaufort, NC 28516–9721 on April 27, 2016 to conduct cetacean photo-identification surveys, behavioral follows, and audio recordings in the waters off Jacksonville, FL; Cape Hatteras, NC; and Norfolk, VA. Twenty-one species of cetaceans would be studied. The objectives of the research are to study factors influencing habitat use, ranging patterns, behavioral variation and population structure of the above mentioned species. The LOC expires April 30, 2021.

File No. 20412: Issued to Shoals Marine Lab, 113 Morse Hall, 8 College Road, Durham, NH 03824 on April 28, 2016, to conduct vessel surveys, photo-identification, and behavioral observations and monitoring of harbor, harp (*Pagophilus groenlandica*), hooded (*Cystophora cristata*), and gray seals in Maine and New Hampshire. The purpose of this research is to monitor density and distribution; identify and re-sight unique individuals; document use of the area by mother-pup pairs; visually assess health of individuals; and monitor the effects of human disturbance (boating, fishing, entanglement) on pinnipeds.

File No. 19540: Issued to Shannon Gowans, Ph.D., Galbraith Marine Science Laboratory, Eckerd College, 4200 54th Ave. South, St. Petersburg, FL 33711 on May 26, 2016, to conduct vessel surveys for close-approach, photo-identification, behavioral observations, underwater photo/

videography, focal follows, and passive acoustic recordings of bottlenose, Atlantic spotted (*Stenella frontalis*), and rough-toothed (*Steno bredanensis*) dolphins within Tampa Bay and adjacent Gulf of Mexico waters. The purpose of the research is to continue long-term monitoring including population size and trends, spatial and temporal distribution of individual dolphins, and social structure. The LOC expires May 31, 2021.

File No. 16299–01: Issued to Ann Weaver, Ph.D., School of Psychology and Behavioral Sciences, Argosy University, 5250 17th Street, Sarasota, FL 34235 on June 10, 2016, extended the expiration date of the LOC for one year. The LOC authorizes vessel surveys, photo-identification and behavioral observations of bottlenose dolphins near John's Pass on the west coast of Florida. The objective is to study the before, during, and after effects of bridge construction on the abundance, distribution, and behavior of dolphins. This LOC was subsequently terminated on August 26, 2016, when a new LOC (File No. 20346) was issued to Dr. Weaver.

File No. 15621–01: Issued to Peggy Stap, Marine Life Studies, P.O. Box 884, Monterey, CA 93942 on June 15, 2016, extended the expiration date of the LOC for one year. The LOC authorizes for photo-identification, passive acoustic recordings, behavioral observations, underwater photography and video, and harassment of marine mammals during vessel surveys in the Monterey Bay National Marine Sanctuary. The objectives are to: (1) Study the foraging strategies of killer whales (*Orcinus orca*) (transient and offshore) within the sanctuary and (2) investigate the abundance, distribution, movement, and frequency of occurrence of cetaceans in the sanctuary, specifically the interaction of mixed species groups. The new expiration date is June 15, 2017.

File No. 20386: Issued to Golden Gate Cetacean Research, 9 Edgemar Way, Corte Madera, CA 94925 on July 28, 2016 to conduct vessel surveys for close-approach, photo-identification, and behavioral observations of harbor porpoise (*Phocoena phocoena*) and bottlenose dolphin in Monterey Bay through northern California waters, including San Francisco Bay, and Kachemak Bay, AK. The purpose of the research is to collect photographic and observational data on the distribution and occurrence of harbor porpoise in San Francisco Bay and to track the movements of California coastal bottlenose dolphins to the northern limits of their range, as well as conduct a comparative stud with harbor porpoises in Kachemak Bay, AK. The LOC expires July 31, 2021.

File No. 20169: Issued to Maddalena Bearzi, Ocean Conservation Society P.O. Box 12860, Marina Del Rey, CA 90295 on August 9, 2016 to conduct vessel surveys for close approach, photo-identification, and behavioral observations of 18 non-listed cetacean and pinniped species and stocks. Research would occur within coastal and offshore waters of Southern California. The purpose of the research is to continue the long-term study on the ecology and aggregations of, and disease occurrence in, marine mammals in the area. The LOC expires August 15, 2021.

File No. 19289: Issued to Mari Smultea, Smultea Environmental Sciences, P.O. Box 256, Preston, WA 98050 on August 16, 2016 to conduct aerial line-transect surveys, photography, and behavioral observations of 20 cetacean species and five pinniped species. Aerial surveys may occur in the U.S. Navy's Southern California Range Complex off San Diego, CA, and near U.S. Naval installations in Washington state: inland Puget Sound Region and offshore in the existing Northwest Training Range Complex and Naval Underwater Warfare Center Keyport Dabob Bay Range Complex. The objectives of the research are to improve baseline information on marine mammal status, abundance, stock structure, life history, seasonal distribution, and behavior; and assessment of potential impacts from Naval training exercises in the study areas. The LOC expires on August 1, 2021.

File No. 20346: Issued to Ann Weaver, Ph.D., Good-natured Statistics Consulting, PO Box 8732, St. Petersburg, FL 33738 on August 25, 2016 to conduct vessel-based scientific research of bottlenose dolphins to monitor abundance, distribution, and behavior associated with a bridge construction project over John's Pass, Florida and other coastal construction projects. The purpose is to monitor the effects on bottlenose dolphins associated with the construction in an important dolphin corridor at John's Pass tidal inlet, St. Petersburg, FL. The LOC expires August 31, 2021.

File No. 20377: Issued to Wendy Noke Durden, Hubbs-Sea World Research Institute, 3830 South Highway A1A #4–181, Melbourne Beach, FL 32951 on August 30, 2016 to conduct vessel-based scientific research of behavioral observations, passive acoustic recording, monitoring, photo identification, photography and video of bottlenose dolphins from the Indian River Lagoon and Jacksonville Estuarine System stock. The objective is to conduct scientific research of abundance, distribution, behavior, population dynamics and communication. The research will occur along the east coast of Florida, specifically the Indian River Lagoon and Halifax Rivers from northernmost limits of Flagler County.

File No. 18605–01: Issued to Tara M. Cox, Ph.D., Assistant Professor of Marine Science, Savannah State University, P.O. Box 20467, Savannah, GA 31404 on September 9, 2016 to add the newly recognized Central Georgia Estuarine System stock of bottlenose dolphins that occurs in the study area. The LOC authorizes close approach, photo-identification, behavioral observations, passive acoustics, and focal follows of several cetacean species within estuarine and coastal waters of Georgia and South Carolina. The purpose of the research is to continue to study dolphin-human interaction behaviors related to coastal fisheries, foraging ecology, and social and population structure of local bottlenose dolphins. The LOC expires on March 1, 2019.

File No. 20377–01: Issued to Wendy Noke Durden, Hubbs-Sea World Research Institute, 3830 South Highway A1A #4–181, Melbourne Beach, FL 32951 on September 19, 2016, to change the bottlenose dolphin stocks in the LOC to reflect accurately those stocks found in the study area. The LOC authorizes vessel-based surveys involving behavioral observations, passive acoustic recording, monitoring, photo identification, photography and video from the inland waters of the Indian River Lagoon estuary to the Intracoastal Waters of the Halifax Rivers estuary. The objective of the research is to study bottlenose dolphin abundance, distribution, behavior, population dynamics and communication. The LOC expires on September 1, 2021.

File No. 20519: Issued to Peggy Stap, Marine Life Studies, P.O. Box 884, Monterey, CA 93942 on December 28, 2016 to conduct vessel surveys, close approach, photo-identification, behavioral observations, passive acoustics, and underwater photograph/video within Monterey Bay National Marine Sanctuary. Eighteen species of cetaceans and four species of pinnipeds would be studied. The purpose of the research is to study foraging strategies and vocalizations of killer whales and investigate the abundance, distribution, movement, and frequency of occurrence of cetacean species within Monterey Bay National Marine Sanctuary. The LOC expires December 31, 2021.

File No. 19749–01: Issued to Clearwater Marine Aquarium [Responsible Party is Frank Dame], 249 Windward Passage, Clearwater, FL 33767 on March 27, 2017 to conduct vessel surveys, close approach, photo-identification, behavioral observations, of bottlenose dolphins (*Tursiops truncatus*) to assess their home ranges, distribution, population abundance, site fidelity, and reproductive success, in the estuarine and coastal waters of west central Florida. The amended LOC adds 52 annual takes of Atlantic spotted dolphins that are observed to co-occur with the target species (bottlenose dolphins). The LOC expires March 1, 2021.

File No. 18101–01: Issued to Pacific Whale Foundation [Principal Investigator is Greg Kaufman], 300 Ma'alaea Rd., Suite 211, Wailuku, HI 96793 on March 27, 2017. The original LOC authorized close approaches during vessel line-transect surveys for photo-identification, behavioral observation, focal follows, and underwater photography/videography of several non-Endangered Species Act (ESA) listed odontocetes in the waters offshore of Maui County, HI. The amended LOC adds annual takes of non-ESA listed humpback whales, (*Megaptera novaeangliae,* Hawaii Distinct Population Segment), during these surveys. Additionally, the amendment adds in-water activities (pole-mounted cameras and up to two swimmers) with humpback whales only in order to identify the sex of humpback whales. The LOC expires June 1, 2018.

File No. 21134: Issued to John H. Schacke, Ph.D., George Dolphin Ecology Program, 223 Trace Lane, Commerce, GA 30530 on May 11, 2017 to conduct vessel surveys, photo-identification, and behavioral observations of bottlenose dolphins (Central Georgia Estuarine System stock) within coastal and estuarine waters of central Georgia. The purpose of the research is to document the abundance, distribution, movement, and frequency of bottlenose dolphins within Georgia and to contribute to shared bottlenose dolphin catalogs within the southeast Atlantic region. The LOC expires May 15, 2022.

File No. 18101–02: Issued to Pacific Whale Foundation [Principal Investigator is Greg Kaufman], 300 Ma'alaea Rd., Suite 211, Wailuku, HI 96793 on March 27, 2017. The previous LOC (No. 18101–01; above) authorized close approaches during vessel line-transect surveys for photo-identification, behavioral observation, focal follows, and underwater photography/videography of several non-listed odontocetes in the waters offshore of Maui County, HI. The amended LOC adds photogrammetry as a research procedure. The LOC expires June 1, 2018.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), a final determination has been made that the activities are categorically excluded from the requirement to prepare an environmental assessment or environmental impact statement.

Dated: December 14, 2017.

Julia Harrison,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–27362 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF828

Fisheries of the South Atlantic; South Atlantic Fishery Management Council—Public Meetings

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

ACTION: Announcement of rescheduled meeting.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a meeting of its Citizen Science Advisory Panel Finance & Infrastructure Action Team via webinar. The meeting via webinar was originally scheduled for December 13, 2017, but has been rescheduled as a result of schedule changes.

DATES: The meeting via webinar has been rescheduled for January 10, 2018, at 1 p.m. The meeting is scheduled to last approximately 90 minutes. Additional Action Team webinar and plenary webinar dates and times will publish in a subsequent issue in the **Federal Register**.

ADDRESSES:

Meeting address: The meetings will be held via webinar and are open to members of the public. Webinar registration is required and registration links will be posted to the Citizen Science program page of the Council's website at *www.safmc.net.*

Council address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Amber Von Harten, Citizen Science Program Manager, SAFMC; phone 843/302–8433 or toll free 866/SAFMC–10; FAX 843/769–4520; email: *amber.vonharten@safmc.net.*

SUPPLEMENTARY INFORMATION: Due to schedule changes, the Council's Finance & Infrastructure Action Team meeting is rescheduled for Wednesday, January 10, 2018 at 1 p.m.

The South Atlantic Fishery Management Council (Council) created a Citizen Science Advisory Panel Pool in June 2017. The Council appointed members of the Citizen Science Advisory Panel Pool to five Action Teams in the areas of *Volunteers, Data Management, Projects/Topics Management, Finance,* and *Communication/Outreach/Education* to develop program policies and operations for the Council's Citizen Science Program.

The Finance & Infrastructure Action Team will meet to continue work on developing recommendations on program policies and operations to be reviewed by the Council's Citizen Science Committee. Public comments will be accepted at the beginning of the meeting.

Items to be addressed during these meetings:

1. Discuss work on tasks in the Terms of Reference.

2. Other Business.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: December 14, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–27352 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XE201

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal and Nearshore Habitats in the Barataria Basin, Louisiana

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

ACTION: Notice of availability.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA), the National Environmental Policy Act (NEPA), and a Consent Decree with BP Exploration & Production Inc. (BP), the *Deepwater Horizon* Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared the Draft Strategic Restoration Plan and Environmental Assessment #3: Restoration of Wetlands, Coastal, and Nearshore Habitats in the Barataria Basin, Louisiana (SRP/EA). The Draft SRP/EA identifies a restoration strategy that will help prioritize future decisions regarding project selection and funding. Rather than selecting specific projects for construction, the Trustees evaluate a suite of restoration techniques and approaches, for example large-scale diversions or marsh creation, to determine how to best support restoring ecosystem-level injuries in the Gulf of Mexico through restoration in the Barataria Basin.

The purpose of this notice is to inform the public of the availability of the Draft SRP/EA and to seek public comments on the document.

DATES: The Louisiana TIG will consider public comments received or postmarked on or before Monday, February 5, 2018.

Public Meetings: The Louisiana TIG will conduct two public meetings to provide information and seek public input on the Draft SRP/EA:

- January 17, 2018, in conjunction with the Coastal Protection and Restoration Authority Board Meeting; 9:30 a.m.; Louisiana State Capitol, House Committee Room 5; 900 North Third Street; Baton Rouge, LA 70802. Additional information regarding logistics for the Public Meeting, including the timing of the public comment opportunity following the Board Agenda, will be posted to the Louisiana (*http://la-dwh.com*) and DWH websites ((*http://www.gulfspill restoration.noaa.gov*) (see **ADDRESSES**).
- January 24, 2018; 5:30 p.m.; University of New Orleans; Homer Hitt Alumni Center; 2000 Lakeshore Drive; New Orleans, LA 70148. The meeting will begin with an open house at 5:30 p.m. and follow with Louisiana TIG presentation and public comment opportunity at 6:00 p.m.

ADDRESSES: *Obtaining Documents:* You may download the Draft SRP at: *http://www.gulfspillrestoration.noaa.gov*, *http://www.la-dwh.com*.

Alternatively, you may request a CD of the Draft SRP/EA (see **FOR FURTHER INFORMATION CONTACT**). In addition, you may view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov.*

Submitting Comments: You may submit comments on the Draft SRP/EA by one of following methods:

- Via the Web: *http://www.gulfspill restoration.noaa.gov/restoration-areas/louisiana.*
- Via U.S. Mail: U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345; or Louisiana Coastal Protection & Restoration Authority, ATTN: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804.
- In Person: Written and verbal comments may be submitted at the public meetings on January 17 and January 24, 2018.

FOR FURTHER INFORMATION CONTACT:

- National Oceanic and Atmospheric Administration—Mel Landry, *gulfspill.restoration@noaa.gov,* (301) 427–8711.
- Louisiana—Liz Williams, *LATIGPublicComments@la.gov,* (225) 342–7308.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP in the Macondo prospect (Mississippi Canyon 252–MC252), exploded, caught fire, and subsequently sank in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest maritime oil spill in United States history, discharging millions of barrels of oil over a period of 87 days. In addition, well over one million gallons of dispersants were applied to the waters of the spill area in an attempt to disperse the spilled oil. An undetermined amount of natural gas also was released to the environment as a result of the spill.

The *Deepwater Horizon* Federal and State natural resource trustees (DWH Trustees) conducted the natural resource damage assessment (NRDA) for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (OPA; 33 U.S.C. 2701 *et seq.*). Pursuant to OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time of restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The DWH Trustees are:

- U.S. Department of the Interior, as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture;
- U.S. Environmental Protection Agency;
- State of Louisiana Coastal Protection and Restoration Authority, Oil Spill Coordinator's Office, Department of Environmental Quality, Department of Wildlife and Fisheries, and Department of Natural Resources;
- State of Mississippi Department of Environmental Quality;
- State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;
- State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and
- For the State of Texas, Texas Parks and Wildlife Department, Texas General Land Office, and Texas Commission on Environmental Quality.

On April 4, 2016, the DWH Trustees reached and finalized a settlement of their natural resource damages claims with BP in a Consent Decree approved by the U.S. District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now chosen and managed by the Louisiana TIG. The Louisiana TIG is comprised of the following DWH Trustees:

- State of Louisiana Coastal Protection and Restoration Authority (CPRA);
- Oil Spill Coordinator's Office (LOSCO);
- Department of Environmental Quality (LDEQ);
- Department of Wildlife and Fisheries (LDWF);
- Department of Natural Resources (LDNR);
- U.S. Department of the Interior, as represented by National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;
- National Oceanic and Atmospheric Administration, on behalf of the U.S. Department of Commerce;
- U.S. Department of Agriculture; and
- U.S. Environmental Protection Agency.

This restoration planning activity is proceeding in accordance with the PDARP/PEIS. Information on the Restoration Type considered in the Draft SRP/EA, as well as the OPA criteria against which alternatives were evaluated, can be viewed in the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*) and in the Overview of the PDARP/PEIS (*http://www.gulfspillrestoration.noaa.gov/restoration-planning/gulf-plan*).

Background

On March 29, 2017, the Louisiana TIG solicited project ideas to sustainably create, restore, and enhance coastal wetlands, and restore or preserve Mississippi River processes (*http://www.gulfspillrestoration.noaa.gov/2017/03/request-restoration-project-ideas-louisiana*). From that input and review of other Louisiana restoration planning efforts, including Louisiana's Coastal Master Plan and *Deepwater Horizon* restoration planning efforts, the Louisiana TIG published a notice of intent on April 28, 2017 announcing its initiation of strategic restoration planning through two phases (82 FR 19659). The first phase would prepare a strategic restoration plan for Louisiana's Barataria Basin. The *Deepwater Horizon* spill created an ecosystem-level injury to the Gulf of Mexico, which included accelerated loss of critical wetlands, coastal, and nearshore habitats as well as injuries across all trophic levels in the Gulf of Mexico. The most severe losses to coastal marshes, which represent the foundation of the Gulf of Mexico ecosystem, were focused on the Barataria Basin. As described in the April 28, 2017 notice, the Louisiana TIG has prepared this Draft SRP/EA which focuses on wetlands, coastal, and nearshore habitat restoration type projects in the Barataria Basin restoration area. This geographic focus is appropriate as the PDARP/PEIS found that the Barataria Basin experienced some of the heaviest and most persistent oiling from the DWH spill and because the Basin supports very high primary and secondary production that contributes to the overall health of the northern Gulf of Mexico ecosystem.

Overview of the Draft SRP/EA

The Draft SRP/EA is being released in accordance with OPA, the OPA NRDA regulations in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

The Louisiana TIG focused this SRP/EA on two wetlands, coastal and nearshore habitat restoration approaches described in the PDARP/PEIS: Creating, restoring and enhancing coastal wetlands; and restoring and preserving Mississippi-Atchafalaya River processes. Within the two restoration approaches, the PDARP/PEIS identifies a series of potential restoration techniques. These techniques, spanning both restoration approaches, are as follows (PDARP/PEIS, Appendix 5.D):

- Create or enhance coastal wetlands through placement of dredged material;
- Backfill canals;
- Restore hydrologic connections to enhance coastal habitats;
- Construct breakwaters; and
- Controlled river diversions.

Four project types are carried forward for additional consideration:

- sediment diversion projects;
- large-scale marsh creation projects;
- ridge restoration projects; and
- breakwater construction projects (also referred to as shoreline protection projects).

After reviewing the restoration approaches and techniques, the Louisiana TIG identified 13 example projects from public submissions in response to the Notice of Solicitation and from the 2017 Coastal Master Plan. The Louisiana TIG then combined restoration techniques into four strategic restoration alternatives. With the exception of the natural recovery/no action alternative, each of these alternatives meets the Draft SRP/EA's purpose and need ''to restore the ecosystem level injuries in Barataria Basin and to restore, rehabilitate, replace, or acquire the equivalent of the injured wetlands, coastal, and nearshore habitat resources and services and compensate for interim losses of those resources from the *DWH* oil spill.'' The four strategic restoration alternatives are as follows:

- Alternative 1: Marsh creation, ridge restoration, and large-scale sediment diversion;
- Alternative 2: Marsh creation, ridge restoration, and shoreline protection;
- Alternative 3: Marsh creation and ridge restoration; and
- Alternative 4: Natural recovery/no action.

The Louisiana TIG is proposing two decisions in this draft SRP/EA to restore ecosystem-level injuries in the Gulf of Mexico through restoration of critical wetlands, coastal, and nearshore habitat resources and services in the Barataria Basin. First, the Louisiana TIG proposes a preferred alternative that relies on a suite of restoration techniques in the Barataria Basin, including large-scale sediment diversion, marsh creation, and ridge restoration. Second, the Louisiana TIG proposes to advance specific projects forward for further evaluation and planning: The Mid-Barataria Sediment Diversion and two marsh creation increments within Large Scale Marsh Creation: Component E in northern Barataria Basin. The LA TIG also confirms its 2017 decision to move the Spanish Pass Increment of the Barataria Basin Ridge and Marsh Creation project forward for further evaluation and planning. The trustees are not making a decision to fund these projects for construction at this time. Rather, the trustees will continue to consider the selected projects in future Phase II restoration plans including further OPA and NEPA evaluation.

The Louisiana TIG evaluated strategic restoration alternatives under criteria set forth in the OPA natural resource damage assessment regulations. The strategic restoration alternatives are consistent with the restoration alternatives selected in the Deepwater Horizon Oil Spill: Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS).

NEPA requires federal agencies to consider the potential environmental impacts of planned actions. NEPA provides a mandate and framework for federal agencies to determine if their proposed actions have significant environmental effects and related social and economic effects, consider these effects when choosing between alternative approaches, and inform and involve the public in the environmental analysis and decision-making process. This SRP/EA tiers from the PDARP/PEIS and incorporates by reference the NEPA environmental consequences analysis found in Chapter 6 of the PDARP/PEIS. The Louisiana TIG has found, based on its evaluation in the EA portion of this SRP/EA that: (1) The PDARP/EIS

included a thorough evaluation of the potential range of environmental effects that could result from the various restoration approaches and techniques analyzed in the PDARP; (2) the analysis of the environmental consequences of those approaches and techniques in the PDARP remains valid; (3) the effects of the restoration approaches and techniques, including the project selected for further planning and environmental review, evaluated in this SRP/EA are within the range of impacts evaluated in the PDARP; and (4) any new information regarding the environmental consequences of the restoration approaches and techniques, including the projects selected for further planning and environmental review, evaluated within this SRP/EA are within the range of and consistent with the environmental impacts identified and analyzed within the PDARP.

Next Steps

The public is encouraged to review and comment on the Draft SRP/EA. A public meeting has been scheduled to also help facilitate the public review and comment process. After the public comment period ends, the Louisiana TIG will consider the comments received before issuing a Final SRP/EA. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Administrative Record

The documents comprising the Administrative Record for the Draft SRP/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/adminrecord.*

Authority

The authority for this action is OPA (33 U.S.C. 2701 *et seq.*), the OPA NRDA regulations at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

Dated: December 14, 2017.

Carrie Selberg,

Deputy Director, Office of Habitat Conservation, National Marine Fisheries Service.

[FR Doc. 2017–27295 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF877

Fisheries of the Exclusive Economic Zone Off Alaska; North Pacific Halibut and Sablefish Individual Fishing Quota Cost Recovery Programs

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

ACTION: Notice of standard prices and fee percentage.

SUMMARY: NMFS publishes the individual fishing quota (IFQ) standard prices and fee percentage for cost recovery for the IFQ Program for the halibut and sablefish fisheries of the North Pacific (IFQ Program). The fee percentage for 2017 is 2.2 percent. This action is intended to provide holders of halibut and sablefish IFQ permits with the 2017 standard prices and fee percentage to calculate the required payment for IFQ cost recovery fees due by January 31, 2018.

DATES: Valid on December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Carl Greene, Fee Coordinator, 907–586–7105.

SUPPLEMENTARY INFORMATION:

Background

NMFS Alaska Region administers the IFQ Program in the North Pacific. The IFQ Program is a limited access system authorized by the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) and the Northern Pacific Halibut Act of 1982. Fishing under the IFQ Program began in March 1995. Regulations implementing the IFQ Program are set forth at 50 CFR part 679.

In 1996, the Magnuson-Stevens Act was amended to, among other purposes, require the Secretary of Commerce to ''collect a fee to recover the actual costs directly related to the management and enforcement of any . . . individual quota program.'' This requirement was further amended in 2006 to include collection of the actual costs of data collection, and to replace the reference to ''individual quota program'' with a more general reference to ''limited access privilege program'' at section 304(d)(2)(A). Section 304(d)(2) of the Magnuson-Stevens Act also specifies an upper limit on these fees, when the fees must be collected, and where the fees must be deposited.

On March 20, 2000, NMFS published regulations in § 679.45 implementing cost recovery for the IFQ Program (65 FR 14919). Under the regulations, an IFQ permit holder must pay a cost recovery fee for every pound of IFQ halibut and IFQ sablefish that is landed on his or her IFQ permit(s). The IFQ permit holder is responsible for self-collecting the fee for all IFQ halibut and IFQ sablefish landings on his or her permit(s). The IFQ permit holder is also responsible for submitting IFQ fee payment(s) to NMFS on or before the due date of January 31 of the year following the year in which the IFQ landings were made. The total dollar amount of the fee due is determined by multiplying the NMFS published fee percentage by the ex-vessel value of all IFQ landings made on the permit(s) during the IFQ fishing year. As required by § 679.45(d)(1) and (d)(3)(i), NMFS publishes this notice of the fee percentage for the halibut and sablefish IFQ fisheries in the **Federal Register** during or before the last quarter of each year.

Standard Prices

The fee is based on the sum of all payments made to fishermen for the sale of the fish during the year. This includes any retro-payments (*e.g.,* bonuses, delayed partial payments, post-season payments) made to the IFQ permit holder for previously landed IFQ halibut or sablefish.

For purposes of calculating IFQ cost recovery fees, NMFS distinguishes between two types of ex-vessel value: Actual and standard. Actual ex-vessel value is the amount of all compensation, monetary or non-monetary, that an IFQ permit holder received as payment for his or her IFQ fish sold. Standard ex-vessel value is the default value used to calculate the fee. IFQ permit holders have the option of using actual ex-vessel value if they can satisfactorily document it; otherwise, the standard ex-vessel value is used.

Section 679.45(b)(3)(iii) requires the Regional Administrator to publish IFQ standard prices during the last quarter of each calendar year. These standard prices are used, along with estimates of IFQ halibut and IFQ sablefish landings, to calculate standard ex-vessel values. The standard prices are described in U.S. dollars per IFQ equivalent pound for IFQ halibut and IFQ sablefish landings made during the year. According to § 679.2, IFQ equivalent pound(s) means the weight amount, recorded in pounds, and calculated as round weight for sablefish and headed and gutted weight for halibut, for an IFQ landing. The weight of halibut in pounds landed as guided angler fish is converted to IFQ equivalent pound(s) as

specified in § 300.65(c) of this title. NMFS calculates the standard prices to closely reflect the variations in the actual ex-vessel values of IFQ halibut and IFQ sablefish landings by month and port or port-group. The standard prices for IFQ halibut and IFQ sablefish are listed in the tables that follow the next section. Data from ports are combined as necessary to protect confidentiality.

Fee Percentage

NMFS calculates the fee percentage each year according to the factors and methods described at § 679.45(d)(2). NMFS determines the fee percentage that applies to landings made in the previous year by dividing the total costs directly related to the management, data collection, and enforcement of the IFQ Program (management costs) during the previous year by the total standard ex-vessel value of IFQ halibut and IFQ sablefish landings made during the previous year (fishery value). NMFS captures the actual management costs associated with certain management, data collection, and enforcement functions through an established accounting system that allows staff to track labor, travel, contracts, rent, and procurement. NMFS calculates the fishery value as described under the section, Standard Prices.

Using the fee percentage formula described above, the estimated percentage of management costs to fishery value for the 2017 calendar year is 2.2 percent of the standard ex-vessel value, which is below the 3.0 maximum fee percentage allowed under section 304(d)(2)(B) of the Magnuson-Stevens Act. An IFQ permit holder is to use the fee percentage of 2.2 percent to calculate his or her fee for IFQ equivalent pound(s) landed during the 2017 halibut and sablefish IFQ fishing season. An IFQ permit holder is responsible for submitting the 2017 IFQ fee payment to NMFS on or before January 31, 2018. Payment must be made in accordance with the payment methods set forth in § 679.45(a)(4). NMFS no longer accepts credit card information by phone or in-person for fee payments. NMFS has determined that the practice of accepting credit card information by phone or in-person no longer meets agency standards for protection of personal financial information (81 FR 23645, April 22, 2016).

The 2017 fee percentage of 2.2 percent is lower than the 2016 fee percentage of 3.1 percent, which was capped at 3.0 percent (81 FR 89900, December 13, 2016). The change can be attributed to an estimated 9.8 percent increase in the value of the IFQ Program fisheries from 2016 to 2017, along with a corresponding 21.2% drop in management costs over the same period.

TABLE 1—REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR THE 2017 IFQ SEASON [1]

Landing location	Period ending	Halibut standard ex-vessel price	Sablefish standard ex-vessel price
Homer	March 31		
	April 30	6.49	4.38
	May 31	6.58	4.51
	June 30	6.52	
	July 31	6.60	4.52
	August 31	6.40	
	September 30	5.91	5.00
	October 31	5.91	5.00
	November 30	5.91	5.00
Ketchikan	March 31		
	April 30	6.71	
	May 31	6.57	4.93
	June 30	6.59	
	July 31	6.53	
	August 31	6.49	
	September 30	6.63	
	October 31	6.63	
	November 30	6.63	
Kodiak	March 31	6.53	
	April 30	6.44	4.59
	May 31	6.51	4.53
	June 30	6.41	4.75
	July 31	6.30	5.10
	August 31	6.14	4.94
	September 30	5.88	5.13
	October 31	5.88	5.13
	November 30	5.88	5.13
Petersburg	March 31		
	April 30	6.64	
	May 31		
	June 30	6.53	
	July 31		
	August 31	6.69	
	September 30		
	October 31		
	November 30		
Seward	March 31	6.75	
	April 30	6.48	
	May 31		
	June 30		
	July 31		
	August 31		

TABLE 1—REGISTERED BUYER STANDARD EX-VESSEL PRICES BY LANDING LOCATION FOR THE 2017 IFQ SEASON [1]—Continued

Landing location	Period ending	Halibut standard ex-vessel price	Sablefish standard ex-vessel price
	September 30		
	October 31		
	November 30		
	Sitka		
	March 31	6.57	
	April 30		
	May 31	6.55	5.21
	June 30		
	July 31		
	August 31		
	September 30		
	October 31		
	November 30		
Port Group Bering Sea [2]	March 31		
	April 30	5.71	3.93
	May 31	6.04	4.03
	June 30	6.15	4.69
	July 31	5.96	4.86
	August 31	5.73	4.70
	September 30	5.94	4.58
	October 31	5.94	4.58
	November 30	5.94	4.58
Port Group Central Gulf [3]	March 31	6.66	4.69
	April 30	6.45	4.62
	May 31	6.49	4.61
	June 30	6.46	4.67
	July 31	6.46	4.87
	August 31	6.33	4.79
	September 30	5.96	4.93
	October 31	5.96	4.93
	November 30	5.96	4.93
Port Group Southeast [4]	March 31	6.77	4.80
	April 30	6.57	4.77
	May 31	6.52	5.07
	June 30	6.54	5.18
	July 31	6.58	5.15
	August 31	6.64	5.36
	September 30	6.46	5.30
	October 31	6.46	5.30
	November 30	6.46	5.30
All-Alaska [5]	March 31	6.72	4.70
	April 30	6.48	4.65
	May 31	6.47	4.71
	June 30	6.44	4.84
	July 31	6.34	4.94
	August 31	6.24	4.88
	September 30	6.08	5.01
	October 31	6.08	5.01
	November 30	6.08	5.01
All [6]	March 31	6.72	4.70
	April 30	6.48	4.65
	May 31	6.47	4.71
	June 30	6.44	4.84
	July 31	6.34	4.94
	August 31	6.24	4.88
	September 30	6.08	5.01
	October 31	6.08	5.01
	November 30	6.08	5.01

[1] **Note:** In many instances prices have not been reported to comply with confidentiality guidelines that prevent price reports when there are fewer than three processors operating in a location during a month.

[2] *Landing locations Within Port Group—Bering Sea:* Adak, Akutan, Akutan Bay, Atka, Bristol Bay, Chefornak, Dillingham, Captains Bay, Dutch Harbor, Egegik, Ikatan Bay, Hooper Bay, King Cove, King Salmon, Kipnuk, Mekoryuk, Naknek, Nome, Quinhagak, Savoonga, St. George, St. Lawrence, St. Paul, Togiak, Toksook Bay, Tununak, Beaver Inlet, Ugadaga Bay, Unalaska.

[3] *Landing Locations Within Port Group—Central Gulf of Alaska:* Anchor Point, Anchorage, Alitak, Chignik, Cordova, Eagle River, False Pass, West Anchor Cove, Girdwood, Chinitna Bay, Halibut Cove, Homer, Kasilof, Kenai, Kenai River, Alitak, Kodiak, Port Bailey, Nikiski, Ninilchik, Old Harbor, Palmer, Sand Point, Seldovia, Resurrection Bay, Seward, Valdez, Whittier.

[4] *Landing Locations Within Port Group—Southeast Alaska:* Angoon, Baranof Warm Springs, Craig, Edna Bay, Elfin Cove, Excursion Inlet, Gustavus, Haines, Hollis, Hoonah, Hyder, Auke Bay, Douglas, Tee Harbor, Juneau, Kake, Ketchikan, Klawock, Metlakatla, Pelican, Petersburg, Portage Bay, Port Alexander, Port Graham, Port Protection, Point Baker, Sitka, Skagway, Tenakee Springs, Thorne Bay, Wrangell, Yakutat.

[5] *Landing Locations Within Port Group—All:* For Alaska: All landing locations included in 2, 3, and 4. For California: Eureka, Fort Bragg, Other California. For Oregon: Astoria, Aurora, Lincoln City, Newport, Warrenton, Other Oregon. For Washington: Anacortes, Bellevue, Bellingham, Nagai Island, Edmonds, Everett, Granite Falls, Ilwaco, La Conner, Port Angeles, Port Orchard, Port Townsend, Rainier, Fox Island, Mercer Island, Seattle, Standwood, Other Washington. For Canada: Port Hardy, Port Edward, Prince Rupert, Vancouver, Haines Junction, Other Canada.

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. 2017–27336 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Environmental Assessment (EA) for the Proposed New Space Lease for the Geophysical Fluid Dynamics Laboratory in Princeton, NJ

AGENCY: Office of Oceanic and Atmospheric Research (OAR), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of intent to prepare an EA; request for comments.

SUMMARY: NOAA announces its intention to prepare an EA, in accordance with the National Environmental Policy Act of 1969, for a new space lease to be occupied by the NOAA/OAR Geophysical Fluid Dynamics Laboratory.

DATES: Written comments must be received on or before January 15, 2018.

ADDRESSES: Written comments on suggested alternatives and potential impacts should be sent to Stephen F. Mayle, Administrative Officer, NOAA/OAR/GFDL, 201 Forrestal Road, Princeton, NJ 08540. Comments may also be submitted via facsimile to 609–452–5395 or by email to *Steve.Mayle@noaa.gov.*

SUPPLEMENTARY INFORMATION: The proposed action would involve a lease for space for the offices, seminar rooms, meeting rooms, etc. and computing facilities used by the Geophysical Fluid Dynamics Laboratory (GFDL). The current facilities, located in the Princeton, New Jersey area, are part of NOAA's Office of Oceanic and Atmospheric Research (OAR). Research conducted at this laboratory includes development and use of mathematical models and computer simulations to improve our understanding and prediction of the behavior of the atmosphere and the oceans. GFDL scientists focus on model-building relevant for society, such as hurricane research, weather and ocean prediction, and forecasting on the continuum of time and space scales. GFDL also collaborates with visiting scientists and students from academic and non-profit institutions with whom NOAA has partnered to further its mission goals. The current physical space for GFDL consists of two buildings that together provide office space, teaching/seminar space, high performance computing space, a command/control center, and mechanical and electrical plants. The current GFDL facilities are approximately 68,675 square feet. Current space can house up to 215 staff, including full-time employees, visiting scientists and students, and contract employees.

The current facilities are in need of repairs and renovations in order to continue to be effectively and safely occupied by GFDL. The existing space is also insufficient to accommodate visiting scientists and students, for example approximately 40 such staff utilize nearby overflow space, and to effectively store and stage necessary equipment for current levels of effort. It also does not allow space to expand to continue to meet NOAA's mission in collaboration with our institutional partners. NOAA is contracting with an architectural and engineering firm to conduct a space programming and planning study, or a Program of Requirements, that will more specifically identify GFDL's space needs. This study is expected to be completed on or about April 1, 2018, and will also inform the alternatives to be considered in an EA.

The purpose of the public scoping process for this EA is to determine relevant issues that will influence the scope of the environmental analysis, including potential alternatives, and the extent to which those issues and impacts will be analyzed in the EA. Federal, state, and local agencies, along with other stakeholders that may be interested in or affected by NOAA's decision on this project are invited to participate in the scoping process and, if eligible, may request or be requested by NOAA to participate as a cooperating agency.

Dated: November 28, 2017.

David Holst,

Chief Financial Officer/CAO, Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–27387 Filed 12–19–17; 8:45 am]

BILLING CODE 3510–KD–P

DEPARTMENT OF EDUCATION

[Docket ID ED–2017–OCO–0139]

Request for Information on Obtaining Input From Rural Schools and Local Educational Agencies

AGENCY: Office of Communications and Outreach, Department of Education.

ACTION: Request for information.

SUMMARY: In accordance with section 5005 of the Every Student Succeeds Act (ESSA), the Secretary seeks information from the public regarding actions the Department of Education (Department) can take to improve how it considers the unique needs of rural schools and local educational agencies (LEAs) as it develops and implements its policies and programs. The Secretary intends to use this information in issuing a final report, required under section 5005, describing the actions it will take to increase the consideration and participation of rural schools and LEAs in the development and execution of the Department's processes, procedures, policies, and regulations.

DATES: We must receive your comments no later than February 20, 2018.

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

Federal eRulemaking Portal: Go to *www.regulations.gov* to submit your comments electronically. Information on using *Regulations.gov*, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under the ''Help'' tab.

Postal Mail, Commercial Delivery, Hand Delivery, or Email: The Department encourages commenters to submit their comments through the Federal eRulemaking Portal. However, if you mail or deliver your comments in response to this request, address them to Michael Chamberlain, U.S. Department of Education, 400 Maryland Avenue SW, Room 5E260, Washington, DC 20202. If you email your comments, send them to *rural@ed.gov.*

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the

Federal eRulemaking Portal at *www.regulations.gov.* Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

Note: This is a request for information (RFI) only. This RFI is not a request for proposals (RFP) or a promise to issue an RFP or a notice inviting applications. This RFI does not commit the Department to contract for any supply or service whatsoever. Further, the Department is not seeking proposals and will not accept unsolicited proposals. The Department will not pay for any information or administrative costs that you may incur in responding to this RFI. If you do not respond to this RFI, you may still apply for future contracts and grants. The documents and information submitted in response to this RFI become the property of the U.S. Government and will not be returned.

FOR FURTHER INFORMATION CONTACT: Michael Chamberlain, U.S. Department of Education, 400 Maryland Avenue SW, Room 5E260, Washington, DC 20202. Telephone: (202) 453–7527 or by email: *Michael.chamberlain@ed.gov.*

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

SUPPLEMENTARY INFORMATION:

Background: Section 5005 of the ESSA (Pub. L. 114–95), which was enacted on December 10, 2015, requires the Department to: ''review the organization, structure, and process and procedures of the Department of Education for administering its programs and developing policy and regulations, in order to—

(A) assess the methods and manner through which, and the extent to which, the Department of Education takes into account, considers input from, and addresses the unique needs and characteristics of rural schools and rural local educational agencies; and

(B) determine actions that the Department of Education can take to meaningfully increase the consideration and participation of rural schools and rural local educational agencies in the development and execution of the processes, procedures, policies, and regulations of the Department of Education.''

Section 5005 also requires the Department to publish a preliminary report containing the information described above and provide Congress and the public with 60 days to comment on the proposed actions. Thereafter, the Department must issue a final report to the Department's authorizing committees in the U.S. House of Representatives and Senate and carry out each action described in the final report or explain to the authorizing committees the reason for not carrying out any action described in the final report.

Request for Information: Since the passage of the ESSA, the Department has been engaging in the required review and report, including conducting listening sessions on issues facing rural schools and LEAs and ways the Department can address those issues. The Department has published the preliminary report on its website at: *https://blog.ed.gov/2017/12/public-comment-sought-report-obtaining-input-rural-schools-local-educational-agencies.* It gives a brief overview of how the Department is organized and describes how the Department solicited and incorporated input from rural stakeholders as it developed the preliminary report. Additionally, the report explains the processes we currently use to incorporate the rural perspective into our policies and procedures, including processes we have recently implemented in response to stakeholder input, and describes additional proposed actions we can take.

While we invite comment on the entire report, we particularly encourage comment on the proposed actions, as described in the section of the report titled ''Additional Actions the Department Can Take to Increase Rural Stakeholder Input.'' Specifically, we request feedback on whether:

1. The actions described in the preliminary report will meaningfully increase the consideration and participation of rural schools and LEAs in the development and execution of the Department's processes, procedures, policies, and regulations; and

2. There are other actions the Department can take to achieve this goal.

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

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

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

Dated: December 15, 2017.

Betsy DeVos,

Secretary of Education.

[FR Doc. 2017–27442 Filed 12–19–17; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

[Certification Notice—251]

Notice of Filing of Self-Certification of Coal Capability Under the Powerplant and Industrial Fuel Use Act

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of filing.

SUMMARY: On October 26, 2017, APV Renaissance Opco, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**.

ADDRESSES: Copies of coal capability self-certification filings are available for public inspection, upon request, in the Office of Electricity Delivery and Energy Reliability, Mail Code OE–20, Room 8G–024, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Christopher Lawrence at (202) 586–5260.

SUPPLEMENTARY INFORMATION: On October 26, 2017, APV Renaissance Opco, LLC, as owner and operator of a new baseload electric generating powerplant, submitted a coal capability self-certification to the Department of Energy (DOE) pursuant to section 201(d) of the Powerplant and Industrial Fuel Use Act of 1978 (FUA), as amended, and DOE regulations in 10 CFR 501.60, 61. The FUA and regulations thereunder require DOE to publish a notice of filing of self-certification in the **Federal Register**. 42 U.S.C. 8311(d) and 10 CFR 501.61(c). Title II of FUA, as amended (42 U.S.C. 8301 *et seq.*), provides that no

new base load electric powerplant may be constructed or operated without the capability to use coal or another alternate fuel as a primary energy source. Pursuant to the FUA, in order to meet the requirement of coal capability, the owner or operator of such a facility proposing to use natural gas or petroleum as its primary energy source shall certify to the Secretary of Energy (Secretary) prior to construction, or prior to operation as a base load electric powerplant, that such powerplant has the capability to use coal or another alternate fuel. Such certification establishes compliance with FUA section 201(a) as of the date it is filed with the Secretary. 42 U.S.C. 8311.

The following owner of a proposed new baseload electric generating powerplant has filed a self-certification of coal-capability with DOE pursuant to FUA section 201(d) and in accordance with DOE regulations in 10 CFR 501.60, 61:

Owner: APV Renaissance Opco, LLC
Capacity: 1000 megawatts (MW)
Plant Location: Renaissance Energy Center, Greene County, PA 15063
In-Service Date: Expected in June 2021

Issued in Washington, DC, on December 12, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017–27397 Filed 12–19–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Revision of a Currently Approved Information Collection for the Energy Efficiency and Conservation Block Grant Financing Programs

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

ACTION: Submission for Office of Management and Budget (OMB) review; public comment request.

SUMMARY: The Department of Energy (DOE) invites public comment on a revision of a currently approved collection of information that DOE is developing for submission to the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1995. The information collection requests a revision and three-year extension of its Energy Efficiency and Conservation Block Grant Program, OMB Control Number 1910–5150.

The proposed action will continue the collection of information on the status of financing program activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously. No changes to the collection instrument are being proposed.

Comments are invited on: (a) Whether the revision of the currently approved 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 pertaining to the approved collection of information, including the validity of the methodology and assumptions used; (c) ways to further enhance the quality, utility, and clarity of the information being collected; and (d) ways to further minimize the burden regarding the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments regarding this revision to an approved information collection must be received on or before January 19, 2018. If you anticipate difficulty in submitting comments within that period, contact the person listed in **ADDRESSES** as soon as possible.

ADDRESSES: Written comments may be sent to Sallie Glaize, EE–5W, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, Email: *Sallie.Glaize@ee.doe.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to: James Carlisle, U.S. Department of Energy, 1000 Independence Ave. SW, Washington, DC 20585, Phone: (202) 287–1724, Fax: (412) 386–5835, Email: *Gregory.Davoren@ee.doe.gov.*

Additional information and reporting guidance concerning the Energy Efficiency and Conservation Block Grant Program (EECBG) is available for review at the following website: *https://energy.gov/eere/wipo/articles/energy-efficiency-and-conservation-block-grant-financing-programs-after-grant.*

SUPPLEMENTARY INFORMATION: This information collection request contains: (1) OMB No. 1910–5150; (2) Information Collection Request Title: Energy Efficiency and Conservation Block Grant Program Financing Programs; (3) Type of Review: Revision of a Currently Approved Information Collection; (4) Purpose: To collect information on the status of Financing Program activities, expenditures, and results, to ensure that program funds are being used appropriately, effectively and expeditiously; (5) Annual Estimated Number of Respondents: 108; (6) Annual Estimated Number of Total Responses: 175; (7) Annual Estimated Number of Burden Hours: 525; (8) Annual Estimated Reporting and Recordkeeping Cost Burden: $21,000. Respondents, total responses, burden hours and the annual cost burden have all been significantly reduced because of the retirement of grants, fewer programs and a lessened burden on reporting and recordkeeping costs.

Statutory Authority: Title V, Subtitle E of the Energy Independence and Security Act (EISA), Public Law 110–140 as amended (42 U.S.C. 17151 *et seq.*).

Issued in Washington, DC, December 4, 2017.

James Carlisle,

Supervisory Policy Advisor, Weatherization and Intergovernmental Program, Office of Energy Efficiency and Renewable Energy.

[FR Doc. 2017–27395 Filed 12–19–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

U.S. Energy Information Administration

Agency Information Collection Activity; Extension

AGENCY: U.S. Energy Information Administration (EIA), Department of Energy.

ACTION: Notice and request for comments.

SUMMARY: EIA, pursuant to the Paperwork Reduction Act of 1995, intends to extend with changes for three years with the Office of Management and Budget (OMB), Form EIA–886, *Annual Survey of Alternative Fueled Vehicles.* Form EIA–886 collects information on the number of alternative fuel vehicles (AFVs) made available, the distribution of AFVs in use, and alternative transportation fuels (ATFs) consumed.

DATES: Comments regarding this proposed information collection must be received on or before February 20, 2018. If you anticipate difficulty in submitting comments within that period, contact the person listed in the **ADDRESSES** section below as soon as possible.

ADDRESSES: Written comments may be sent to Cynthia Sirk, EI–22, U.S. Energy Information Administration, 1000 Independence Avenue SW, Washington, DC 20585, or by fax at (202) 586–9753, or by email at *cynthia.sirk@eia.gov.*

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Cynthia Sirk by phone at (202) 586–1658, or by email at *cynthia.sirk@eia.gov.* Access to the proposed form, instructions, and internet data collection screens can be found at: *https://www.eia.gov/survey/form/eia_886/proposed/2018/form.pdf.*

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the expanded 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, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) ways to identify alternate sources of AFV information EIA proposes to collect. EIA will evaluate comments on duplication of data sources based on terms of data coverage, level of aggregation, frequency of collection, data reliability, and statutory requirements to determine whether alternate data sources represent a suitable substitute for EIA data.

This information collection request contains:

(1) *OMB No.* 1905–0191;

(2) *Information Collection Request Title:* Annual Survey of Alternative Fueled Vehicles;

(3) *Type of Request:* Renewal, with Changes;

(4) *Purpose:* Form EIA–886 is an annual survey that collects information on the number and type of alternative fueled vehicles (AFVs) and other advanced technology vehicles that vehicle suppliers made available in the previous calendar year and plan to make available in the following calendar year; the number, type, and geographic distribution of AFVs in use in the previous calendar year; and the amount and distribution of each type of alternative transportation fuel (ATF) consumed in the previous calendar year. Form EIA–886 data are collected from suppliers and users of AFVs. These data are needed by federal and state agencies, fuel suppliers, transit agencies and other fleets to determine if sufficient quantities of AFVs are available for purchase and to provide Congress with a measure of the extent to which the objectives of the Energy Policy Act of 1992 are being achieved. These data serve as a tool for analysis on market penetration of AFVs in the motor vehicle population as well as trend analysis tools on the use and type of AFVs for Congress, federal/state agencies, AFV suppliers, vehicle fleet managers, and other interested organizations and persons.

(4a) *Proposed Changes to Information Collection:* EIA is proposing two changes to Form EIA–886: (1) Collect more detailed vehicle type information and weight classifications from suppliers and users of AFVs; and (2) incorporate questions for electric vehicle users to gain a better understanding of refueling infrastructure and electricity consumption in electric and plug-in hybrid electric vehicles.

(1) *Changes to Vehicle Type and Weight Classifications:* EIA proposes to standardize and break out weight classes to reflect industry standards by simplifying the list of vehicle type codes and adding a new column for detailed weight classifications in Parts 2 and 3 of Form EIA–886. These changes support EPA's emission inventory Motor Vehicle Emission Simulator model (MOVES) by making the weight classifications in EIA's data collection consistent with the weight classifications used by EPA. The MOVES model is the official emissions inventory model for highway and non-road mobile sources used by EPA's Office of Transportation and Air Quality. This model is also used by state, local, and regional governments for environmental analysis of official submissions to EPA required by the Clean Air Act, such as State Implementation Plans (SIPs) and transportation conformity analysis for roadway construction. In addition, the MOVES model is instrumental in the development of national inventories used for evaluating the costs and benefits of EPA regulations, such as the second phase of the Greenhouse Gas Rule for Heavy-Duty Vehicles currently underway, including the predictions of the effects of EPA regulations on air quality.

(2) *Questions for Electric Vehicle Users:* EIA seeks to gather tertiary information about electric vehicle power consumption to establish parameters for estimating consumption of electricity in its published report. EIA proposes to add questions to Part 2 of the form to collect information on charging patterns, mileage, and electric utility billing as it relates to electric vehicles.

(5) *Annual Estimated Number of Respondents:* 2,050;

(6) *Annual Estimated Number of Total Responses:* 2,050;

(7) *Annual Estimated Number of Burden Hours:* 8,575;

Average Burden per Response: 4.2 hours;

AFV Suppliers (30 Original Equipment Manufacturers): 3.5 hours per response;

AFV Suppliers (20 Aftermarket Vehicle Converters): 3 hours per response;

AFV Users (100 complex fleets): 4.3 hours per response;

AFV Users (1,900 simple fleets): 4.2 hours per response;

(8) *Annual Estimated Reporting and Recordkeeping Cost Burden:* EIA estimates that there are no capital and start-up costs associated with this data collection. The information is maintained in the normal course of business. The cost of burden hours to the respondents is estimated to be $631,635 (8,575 burden hours times $73.66 per hour). Therefore, other than the cost of burden hours, EIA estimates that there are no additional costs for generating, maintaining, and providing the information.

Statutory Authority: Section 13(b) of the Federal Energy Administration Act of 1974, Pub. L. 93–275, (FEA Act), and codified at 15 U.S.C. 772 (b), and Section 503(b)(2) of the Energy Policy Act of 1992, Pub. L. 102–486 (EPACT92) codified at 42 U.S.C. 13253.

Issued in Washington, DC on November 9, 2017.

Nanda Srinivasan,

Director, Office of Survey Development and Statistical Integration, U.S. Energy Information Administration.

[FR Doc. 2017–27396 Filed 12–19–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 3253–014]

Mad River Power Associates LP; Notice of Intent To File License Application, Filing of Pre-Application Document, Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* 3253–014.

c. *Date Filed:* October 17, 2017.

d. *Submitted By:* Mad River Power Associates LP.

e. *Name of Project:* Campton Hydroelectric Project.

f. *Location:* On the Mad River, in the Town of Campton, Grafton County, New Hampshire. The project occupies approximately 0.1 acre of United States lands administered by the United States Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.3 and 5.5 of the Commission's regulations.

h. *Potential Applicant Contact:* Ian Clark, Managing Partner, Mad River Power Associates LP, 826 Scarsdale Avenue, Scarsdale, NY 10583; (914) 297–7645.

i. *FERC Contact:* Dr. Nicholas Palso at (202) 502–8854; or email at *nicholas.palso@ferc.gov.*

j. Mad River Power Associates LP filed its request to use the Traditional Licensing Process on October 17, 2017. Mad River Power Associates LP provided public notice of its request on October 22, 2017. In a letter dated December 13, 2017, the Director of the Division of Hydropower Licensing approved Mad River Power Associates LP's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the New Hampshire State Historic Preservation Officer, as required by section 106 of the National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. With this notice, we are designating Mad River Power Associates LP as the Commission's non-federal representative for carrying out informal consultation pursuant to section 7 of the Endangered Species Act and section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act; and consultation pursuant to section 106 of the National Historic Preservation Act.

m. Mad River Power Associates LP filed a Pre-Application Document (PAD; including a proposed process plan and schedule) with the Commission, pursuant to 18 CFR 5.6 of the Commission's regulations.

n. A copy of the PAD is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website (*http://www.ferc.gov*), using the ''eLibrary'' link. Enter the docket number, excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). A copy is also available for inspection and reproduction at the address in paragraph h.

o. The licensee states its unequivocal intent to submit an application for a subsequent license for Project No. 3253. Pursuant to 18 CFR 16.20 each application for a subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by October 31, 2020.

p. Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filing and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27333 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AC18–15–000]

Notice of Request for Waiver: Empire Pipeline, Inc.

Take notice that on November 9, 2017, Empire Pipeline, Inc., filed a request for waiver of the requirement to provide its certified public accountant certification statement for the 2017 FERC Form No. 2 on the basis of the calendar year ending December 31.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comments: 5:00 p.m. Eastern Time on January 8, 2018.

Dated: December 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–27366 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1235–017]

City of Radford; Notice Soliciting Scoping Comments

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 1235–017.

c. *Date filed:* May 30, 2017.

d. *Applicant:* City of Radford.

e. *Name of Project:* Municipal Hydroelectric Project.

f. *Location:* On the Little River near the City of Radford in Montgomery and Pulaski Counties, Virginia. The project does not affect federal lands.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Tim Logwood, Director of Electric Utilities for the City of Radford, 701 17th Street Radford, VA 24141; Telephone (540) 731–3641.

i. *FERC Contact:* Allyson Conner, (202) 502–6082 or *allyson.conner@ferc.gov*.

j. *Deadline for filing scoping comments:* 30 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file scoping comments using the Commission's

eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426. The first page of any filing should include docket number P–1235–017.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application is not ready for environmental analysis at this time.

l. Project Description. The existing Municipal Hydroelectric Project consists of: (1) A 293-foot-long, 58-foot-high reinforced concrete slab and buttress dam that includes: (a) A south non-overflow section; (b) an overflow bulkhead section; (c) an eight-bay spillway section each with a steel tainter gate; (d) a powerhouse intake section; and (e) a north non-overflow section; (2) a 77-acre impoundment with a gross storage capacity of 562 acre-feet at a normal pool elevation of 1,772 feet National Geodetic Vertical Datum of 1929 (NGVD29) and a net storage capacity of 220 acre-feet between elevations 1,768 and 1,772 feet; (3) a 20-foot, 3-inch-wide intake section with angled steel trash racks (3-inch by 5/16th-inch trash rack bars spaced 2.5 inches on center) and a steel roller type head gate; (4) a 27-foot-long steel-lined penstock in concrete that transitions from a 13.5-foot-wide, 11-foot-high entrance to an 8-foot-diameter conveyance to the turbine scroll case; (5) a 30-foot-long, 28-foot-wide, and 62-foot-high powerhouse containing a single 1,185-kilowatt turbine-generator unit; (6) a 2.7-mile-long transmission line connected to the grid; and (7) appurtenant facilities.

The City of Radford proposes to revise its exhibit G to include transmission facilities composed of only three, 560-foot-long, 4.16-kV overhead conductors that transmit power to a switched disconnect/interconnection with the local distribution grid. The City of Radford states that the formerly licensed transmission line now serves to distribute power to other sources along its length and is no longer part of the project.

The City of Radford operates the project in both run-of-river and peaking modes. For the period 1984 through 2013, the project's average annual generation was about 4,550 megawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

n. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Scoping Process. The Commission staff intends to prepare an Environmental Assessment (EA) for the Municipal Hydroelectric Project in accordance with the National Environmental Policy Act. The EA will consider both site-specific and cumulative environmental impacts and reasonable alternatives to the proposed action.

Commission staff issued Scoping Document 1 (SD1) on September 1, 2017 and held scoping meetings on October 2–3, 2017 and an environmental site review on October 2, 2017. Because some entities may not have received proper notice of the issuance of SD1 and the scoping meetings, we are providing an additional 30-day comment period on Scoping Document 2, which will be issued concurrently with this notice, for entities to provide comments, recommendations, and information.

Copies of SD1 and this SD2 outlining the subject areas to be addressed in the EA were distributed to the parties on the Commission's mailing list. Copies of SD1 and SD2 may be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, call 1–866–208–3676 or for TTY, (202) 502–8659.

Dated: December 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27370 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2778–077]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment of license to reduce approved capacity upgrade.

b. *Project Number:* 2778–077.

c. *Date Filed:* April 14, 2017.

d. *Applicant:* Idaho Power Company (licensee).

e. *Name of Project:* Shoshone Falls Hydroelectric Project.

f. *Location:* The project is located on the Snake River in Jerome and Twin Falls Counties, Idaho. Part of the project occupies lands owned by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* L. Lewis Wardle, FERC Lands and Licensing Coordinator, Idaho Power Company, P.O. Box 70, 1221 W Idaho St., Boise, Idaho 83702; telephone (208) 388–2964; email address: *LWardle@idahopower.com.* Also, Jerrod Vaughn, Idaho Power Company, P.O. Box 70, 1221 W Idaho St., Boise, Idaho 83702; telephone (208) 388–2362: email address: *JVaughn@idahopower.com.*

i. *FERC Contact:* Kurt Powers; telephone (202) 502–8949; email address: *kurt.powers@ferc.gov.*

j. Deadline for filing comments, motions to intervene and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance,

please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2778–077. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Filing:* Idaho Power Company (IPC) requests amendment of the Commission's July 1, 2010 Order that authorized IPC to upgrade the Shoshone Falls Hydroelectric Project's installed capacity. Specifically, IPC no longer wants to build a new powerhouse with a single 50 megawatt (MW) unit. Instead, IPC proposes to remove the project's two existing turbines and install a single 3.2 MW unit in the project's existing powerhouse. The project's total installed capacity would then be 3.2 MW. IPC also proposes to delete Article 402 to remove the supplemental aesthetic flow release requirement and proposes to delete Article 420 which requires a Visitor Use Survey and Monitoring Plan. Both of these requirements were added to the license in response to the 50 MW upgrade. Finally, IPC proposes to accelerate its license expiration date so the license expires on July 31, 2040 instead of its current expiration date of July 31, 2044. This proposal would coordinate the license expiration date of the Shoshone Falls Project with the Twin Falls Project (FERC Project No. 18), which is located one mile upstream on the Snake River and has a license expiration date of December 31, 2040. IPC says coordination would allow the licensee, resource agencies, and the Commission to more effectively relicense the two projects and would allow the Commission to better assess cumulative effects.

l. *Locations of Applications:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should do so by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, or COMMENTS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.24(b). All comments, motions to intervene, or protests should relate to project works which are subject of the non-project use application. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: December 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27372 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. EL18–48–000; QF11–424–004]

Gregory R. and Beverly F. Swecker v. Midland Power Cooperative, Central Iowa Power Cooperative Swecker, Gregory and Beverly; Notice of Petition for Enforcement

Take notice that on December 1, 2017, pursuant to section 210 of the Public Utility Regulatory Policies Act of 1978 (PURPA), Gregory R. and Beverly F. Swecker (Petitioners) filed a Petition for Enforcement, requesting that the Federal Energy Regulatory Commission (Commission) initiate an enforcement action against Midland Power Cooperative and Central Iowa Power Cooperative to remedy their alleged improper implementation of PURPA, all as more fully explained in their petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Petitioners.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on December 29, 2017.

Dated: December 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27369 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–31–000.

Applicants: Ohio Power Company, The Dayton Power and Light Company, Duke Energy Ohio, Inc.

Description: Application under Section 203 of the Federal Power Act of Ohio Power Company, et al. for approval of a Transmission Asset Exchange Agreement.

Filed Date: 12/11/17.

Accession Number: 20171211–5196.

Comments Due: 5 p.m. ET 1/2/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER11–2855–023; ER11–2856–023; ER11–2857–023; ER10–2488–015; ER10–2722–009; ER10–2787–007; ER12–2037–010.

Applicants: Avenal Park LLC, Sand Drag LLC, Sun City Project LLC, Oasis Power Partners, LLC, Eurus Combine Hills I LLC, Eurus Combine Hills II LLC, Spearville 3, LLC.

Description: Notice of Non-Material Change in Status of the Eurus MBR Companies.

Filed Date: 12/11/17.

Accession Number: 20171211–5210.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER16–2719–005.

Applicants: NextEra Energy Transmission New York, Inc.

Description: Compliance filing: NextEra Energy Transmission New York, Inc. Errata to Compliance Filing to be effective 11/30/2016.

Filed Date: 12/11/17.

Accession Number: 20171211–5175.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER17–1092–002.

Applicants: Southwest Power Pool, Inc.

Description: Compliance filing: Compliance Filing in ER17–1092–Variable Demand Curve and Scarcity Pricing to be effective 5/11/2017.

Filed Date: 12/11/17.

Accession Number: 20171211–5185.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER17–1567–001.

Applicants: PJM Interconnection, L.L.C.

Description: Compliance filing: Compliance Filing Pursuant to the November 9, 2017 Order in ER17–1567–000 to be effective 12/31/9998.

Filed Date: 12/11/17.

Accession Number: 20171211–5152.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–210–001.

Applicants: Emera Maine.

Description: Tariff Amendment: Revised Request for Stay of Action Docket No. ER18–210–000 to be effective 12/31/9998.

Filed Date: 12/12/17.

Accession Number: 20171212–5156.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–296–000.

Applicants: Phibro Americas LLC.

Description: Supplement to November 11, 2017 Phibro Americas LLC tariff filing.

Filed Date: 12/8/17.

Accession Number: 20171208–5186.

Comments Due: 5 p.m. ET 12/29/17.

Docket Numbers: ER18–301–000.

Applicants: Ormesa LLC.

Description: Amendment to November 11, 2017 Ormesa LLC tariff filing.

Filed Date: 12/1/17.

Accession Number: 20171201–5232.

Comments Due: 5 p.m. ET 12/22/17.

Docket Numbers: ER18–425–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Rev to OATT Att Q RE: FTR Credit Requirements Reflecting RTEP Upgrades to be effective 2/9/2018.

Filed Date: 12/11/17.

Accession Number: 20171211–5187.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–426–000.

Applicants: The Dayton Power and Light Company, PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Dayton submits an Upgraded Facilities Agreement, Service Agreement No. 4850 to be effective 12/13/2017.

Filed Date: 12/12/17.

Accession Number: 20171212–5050.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–427–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Port Comfort Power IA 1st Amend & Restated to be effective 11/16/2017

Filed Date: 12/12/17.

Accession Number: 20171212–5065.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–428–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Guadalupe Valley Electric Cooperative IA 1st Amend & Restated to be effective 12/7/2017.

Filed Date: 12/12/17.

Accession Number: 20171212–5066.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–429–000.

Applicants: AEP Texas Inc.

Description: § 205(d) Rate Filing: AEPTX-Pacific Wind Development Interconnection Agreement to be effective 11/30/2017.

Filed Date: 12/12/17.

Accession Number: 20171212–5067.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–430–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–12–12_Revisions to Attachment L and Module A Regarding Credit Provisions to be effective 3/1/2018.

Filed Date: 12/12/17.

Accession Number: 20171212–5111.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–431–000.

Applicants: Dynegy Miami Fort, LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedule Filings and Request for Expedited Action to be effective 1/1/2018.

Filed Date: 12/12/17.

Accession Number: 20171212–5120.

Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–432–000.

Applicants: Dynegy Zimmer, LLC.

Description: § 205(d) Rate Filing: Reactive Service Rate Schedule Filings and Request for Expedited Action to be effective 1/1/2018.

Filed Date: 12/12/17.

Accession Number: 20171212–5121.

Comments Due: 5 p.m. ET 1/2/18.

Take notice that the Commission received the following PURPA 210(m)(3) filings:

Docket Numbers: QM18–6–000.

Applicants: Basin Electric Power Cooperative, Inc.

Description: Application of Basin Electric Power Cooperative to Terminate Mandatory Purchase Obligation Under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 12/12/17.

Accession Number: 20171212–5148.

Comments Due: 5 p.m. ET 1/9/18.

Docket Numbers: QM18–7–000.

Applicants: Basin Electric Power Cooperative, Inc.

Description: Application of Basin Electric Power Cooperative to Terminate Mandatory Purchase Obligation Under the Public Utility Regulatory Policies Act of 1978.

Filed Date: 12/12/17.

Accession Number: 20171212–5149.

Comments Due: 5 p.m. ET 1/9/18.

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 12, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–27367 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–32–000.

Applicants: Jurisdictional Regional Equipment Sharing.

Description: Joint Application under Section 203 of the Federal Power Act for Pre-Authorization of the Jurisdictional Regional Equipment Sharing for Transmission Outage Restoration Participants.

Filed Date: 12/13/17.

Accession Number: 20171213–5233.

Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: EC18–33–000.

Applicants: Imperial Valley Solar 3, LLC.

Description: Application under Section 203 of the Federal Power Act of Imperial Valley Solar 3, LLC.

Filed Date: 12/14/17.

Accession Number: 20171214–5095.

Comments Due: 5 p.m. ET 1/4/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–233–001.

Applicants: Illinois Power Resources Generating, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

Filed Date: 12/14/17.

Accession Number: 20171214–5125.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER16–2566–003.

Applicants: Dynegy Midwest Generation, LLC.

Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

Filed Date: 12/14/17.

Accession Number: 20171214–5109.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER17–1648–002.

Applicants: Illinois Power Generating Company.

Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective N/A.

Filed Date: 12/14/17.

Accession Number: 20171214–5116.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–387–001.

Applicants: ISO New England Inc., Emera Maine.

Description: Tariff Amendment: Errata Filing of Original Service Agreement under Schedule 21–EM to be effective 1/1/2016.

Filed Date: 12/13/17.

Accession Number: 20171213–5165.

Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–440–000.

Applicants: Southwest Power Pool, Inc.

Description: § 205(d) Rate Filing: 1977R10 Nemaha-Marshall Electric Cooperative NITSA NOA to be effective 12/1/2017.

Filed Date: 12/13/17.

Accession Number: 20171213–5214.

Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–441–000.

Applicants: Public Service Company of Oklahoma.

Description: § 205(d) Rate Filing: PSO–AEPOTC–WFEC Roosevelt-Steed DPA to be effective 12/4/2017.

Filed Date: 12/14/17.

Accession Number: 20171214–5042.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–442–000.

Applicants: Midcontinent Independent System Operator, Inc., Missouri River Energy Services.

Description: Request to Implement the 50 Basis Point RTO Membership Adder For Five Members of Missouri River Energy Services of Midcontinent Independent System Operator, Inc., et. al.

Filed Date: 12/14/17.

Accession Number: 20171214–5097.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–443–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA, Service Agreement No. 4527; Queue No. AA1–145 to be effective 8/10/2016.

Filed Date: 12/14/17.

Accession Number: 20171214–5104.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–444–000.

Applicants: Florida Power & Light Company.

Description: § 205(d) Rate Filing: FPL Amendment No. 4 to Rate Schedule No. 74 to be effective 2/13/2018.

Filed Date: 12/14/17.

Accession Number: 20171214–5105.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–445–000.

Applicants: Entergy Services, Inc.

Description: § 205(d) Rate Filing: Entergy Services, Inc., Amended Service Agreements to be effective 2/12/2018.

Filed Date: 12/14/17.

Accession Number: 20171214–5107.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–446–000.

Applicants: AmerenEnergy Medina Valley Cogen, L.L.C.

Description: Tariff Cancellation: Notice of Cancellation of MBR Tariff to be effective 2/12/2018.

Filed Date: 12/14/17.

Accession Number: 20171214–5113.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–447–000.

Applicants: PacifiCorp.

Description: § 205(d) Rate Filing: Provo City Operating Agreement Rev 1 to be effective 11/27/2017.

Filed Date: 12/14/17.

Accession Number: 20171214–5120.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–448–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: LGIA Willow Springs Solar 3 Project SA No 206 to be effective 12/15/2017.

Filed Date: 12/14/17.

Accession Number: 20171214–5139.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–449–000.

Applicants: Southern California Edison Company.

Description: § 205(d) Rate Filing: Third Amendment LGIA Avalon Hybrid Project SA No 154 to be effective 11/30/2017.

Filed Date: 12/14/17.

Accession Number: 20171214–5140.

Comments Due: 5 p.m. ET 1/4/18.

Docket Numbers: ER18–450–000.

Applicants: Midcontinent Independent System Operator, Inc.

Description: § 205(d) Rate Filing: 2017–12–14_MISO–PJM JOA Clean up Revisions to be effective 6/28/2017.

Filed Date: 12/14/17.
Accession Number: 20171214–5144.
Comments Due: 5 p.m. ET 1/4/18.
Docket Numbers: ER18–451–000.
Applicants: Dynegy Kendall Energy, LLC.
Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective 12/31/9998.
Filed Date: 12/14/17.
Accession Number: 20171214–5149.
Comments Due: 5 p.m. ET 1/4/18.
Docket Numbers: ER18–452–000.
Applicants: Liberty Electric Power, LLC.
Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective 12/31/9998.
Filed Date: 12/14/17.
Accession Number: 20171214–5150.
Comments Due: 5 p.m. ET 1/4/18.
Docket Numbers: ER18–453–000.
Applicants: Ontelaunee Power Operating Company, LLC.
Description: Compliance filing: Informational Filing Regarding Upstream Change in Control to be effective 12/31/9998.
Filed Date: 12/14/17.
Accession Number: 20171214–5151.
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 14, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–27373 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. CP17–101–000	11–24–2017	Elaine Card.
2. CP17–101–000	12–11–2017	Michael Duggan.
3. CP17–101–000	12–11–2017	Stan Foster.
4. CP17–101–000	12–11–2017	Mary Wolf.
5. CP17–101–000	12–11–2017	Andrea Richlin.
6. CP17–101–000	12–11–2017	Mark Caskey.
Exempt		
1. EL15–95–000	11–28–2017	State Governors.[1]
ER15–2563–000		
2. CP16–357–000	11–28–2017	U.S. Senator Shelley Moore Capito.
3. CP17–101–000	11–30–2017	FERC Staff.[2]
4. P–2232–653	12–7–2017	U.S Senator Thom Tillis.

[1] State of Maryland Governor Larry Hogan and State of Delaware Governor John Carney.
[2] Meeting minutes for teleconference on November 17, 2017 with EPA and Transco.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27334 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–698]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Non-Project Use of Project Lands.

b. *Project No.:* 2232–698.

c. *Date Filed:* November 13, 2017.

d. *Applicant:* Duke Energy Carolinas, LLC (licensee).

e. *Name of Project:* Catawba-Wateree Hydroelectric Project.

f. *Location:* The affected project land is located on the Catawba River in Burke County, North Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Dennis Whitaker, Manager, Lake Services North, 526 South Church Street, ECQ12, Charlotte, North Carolina 28202; telephone: (704) 382–1594.

i. *FERC Contact:* Alicia Burtner; telephone: (202) 502–8038; email address: *alicia.burtner@ferc.gov*.

j. Deadline for filing comments, motions to intervene and protests is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests and comments using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2232–698. Comments emailed to Commission staff are not considered part of the Commission record.

k. *Description of Request:* The licensee filed a request for approval for a non-project use of project lands and waters, to lease approximately 18.715 acres of the project area in Burke County, North Carolina to Carolina Sand, Inc. for the purpose of hydraulic sand mining activities. While not currently in operation, this location has been maintained for dredging by previous contractors for over 75 years. The proposed sand mining would employ hydraulic dredge and barge operations to remove an estimated average of 33,000 tons of sediment from the river bed each year. The sediment would be transported via pipeline to a 29-acre processing and stockpiling area, and the excess water would be treated to remove sediment and turbidity and then returned to the Catawba River.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE, Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, or COMMENTS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.24(b). All comments, motions to intervene, or protests should relate to project works which are subject of the non-project use application. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27331 Filed 12–19–17; 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: ER10–3079–014.

Applicants: Tyr Energy, LLC.

Description: Updated Market Power Analysis for the Southeast Region of Tyr Energy, LLC.

Filed Date: 12/12/17.

Accession Number: 20171212–5172.

Comments Due: 5 p.m. ET 2/12/18.

Docket Numbers: ER17–1160–002.

Applicants: Entergy Arkansas, Inc.

Description: Compliance filing: EAI MSS–4 Amended PPAs to be effective 5/9/2017.

Filed Date: 12/13/17.

Accession Number: 20171213–5095.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–433–000.
Applicants: La Paloma Generating Company, LLC.
Description: Tariff Cancellation: Notice of Cancellation of MBR Tariff to be effective 12/13/2017.
Filed Date: 12/12/17.
Accession Number: 20171212–5165.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: ER18–434–000.
Applicants: Chandler Wind Partners, LLC.
Description: Tariff Cancellation: Notice of Cancellation to be effective 12/31/2017.
Filed Date: 12/13/17.
Accession Number: 20171213–5060.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–435–000.
Applicants: Anbaric Development Partners, LLC.
Description: Application for Authority to Sell Transmission Rights at Negotiated Rates of Anbaric Development Partners, LLC.
Filed Date: 12/13/17.
Accession Number: 20171213–5110.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–436–000.
Applicants: Georgia-Pacific Consumer Products LP, Muskogee.
Description: § 205(d) Rate Filing: Notices of succession update to be effective 12/16/2017.
Filed Date: 12/13/17.
Accession Number: 20171213–5153.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–437–000.
Applicants: Georgia-Pacific Consumer Products LP, Naheola.
Description: § 205(d) Rate Filing: Notices of succession update to be effective 12/16/2017.
Filed Date: 12/13/17.
Accession Number: 20171213–5154.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–438–000.
Applicants: Georgia-Pacific Consumer Products LP, Green Bay West.
Description: § 205(d) Rate Filing: Notices of succession to be effective 12/16/2017.
Filed Date: 12/13/17.
Accession Number: 20171213–5162.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–439–000.
Applicants: Georgia-Pacific Consumer Products LP Savannah.
Description: § 205(d) Rate Filing: Notices of succession update to be effective 12/16/2017.
Filed Date: 12/13/17.
Accession Number: 20171213–5163.
Comments Due: 5 p.m. ET 1/3/18.

Take notice that the Commission received the following qualifying facility filings:

Docket Numbers: QF17–1530–000.
Applicants: DOM Solar Lessor I, LP.
Description: Refund Report of DOM Solar Lessor I, LP [CMEEC—Norwich].
Filed Date: 12/13/17.
Accession Number: 20171213–5129.
Comments Due: 5 p.m. ET 01/3/18.

Docket Numbers: QF18–266–000.
Applicants: Chompie Solar I, LLC.
Description: Refund Report of Chompie Solar I, LLC.
Filed Date: 12/13/17.
Accession Number: 20171213–5128.
Comments Due: 5 p.m. ET 01/3/18.

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 13, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–27360 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP17–476–000]

Gulf South Pipeline Company, LP ; Notice of Schedule for Environmental Review of the Westlake Expansion Project

On July 20, 2017, Gulf South Pipeline Company, LP (Gulf South) filed an application in Docket No. CP17–476–000 requesting a Certificate of Public Convenience and Necessity pursuant to Section 7(c) of the Natural Gas Act to construct and operate facilities in Calcasieu Parish, Louisiana. The proposed project is known as the Westlake Expansion Project (Project) and would provide about 200 million cubic feet of natural gas per day to the proposed 980 megawatt natural gas-fired combined cycle electric generating plant near Westlake, Louisiana.

On July 31, 2017, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

Schedule for Environmental Review

Issuance of EA—February 27, 2018
90-day Federal Authorization Decision Deadline—May 29, 2018

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

Project Description

Gulf South proposes to construct and operate the following facilities as part of the Project in Calcasieu Parish, Louisiana:

- One new 10,000 horsepower compressor station (Westlake Compressor Station) and appurtenant facilities;
- approximately 1,600 feet of 16-inch-diamater natural gas pipeline lateral; and
- two new metering and regulating stations (Entergy Lake Charles and Varibus Meter and Regulator Stations).

Background

On August 30, 2017, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Proposed Westlake Expansion Project and Request for Comments on Environmental Issues* (NOI). The NOI was sent to affected landowners; federal, state, and local government agencies; elected officials; Native American tribes; environmental groups; and local libraries. In response to the NOI, the Commission received comments from the U.S. Environmental Protection Agency (EPA), the Louisiana Department of Wildlife and Fisheries (LDWF), Choctaw Nation of Oklahoma, three Louisiana state senators/representatives, the Southwest Louisiana Economic Development Alliance (SWLA), and the Calcasieu Parish Police Jury. The primary issues raised by the EPA and the LDWF are impacts on wetlands and wetland mitigation, waters of the United States, and construction and operational air quality impacts. The Choctaw Nation of

Oklahoma requested to be a consulting party, be involved in the development of the Area of Potential Effect, and requested Project shapefiles, which Gulf South provided. The Louisiana state senators/representatives, SWLA, and the Calcasieu Parish Police Jury commented that they support the Project due to its potential economic benefits.

Additional Information

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. 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.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC website (*www.ferc.gov*). Using the eLibrary link, select ''General Search'' from the eLibrary menu, enter the selected date range and Docket Number excluding the last three digits (*i.e.,* CP17–476), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC website also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: December 14, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27368 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OR18–8–000]

Notice of Petition for Declaratory Order; Blue Racer NGL Pipelines, LLC

Take notice that on December 11, 2017, pursuant to Rule 207(a)(2) of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.207(a)(2) (2016), Blue Racer NGL Pipelines, LLC (Blue Racer Pipelines), filed a petition for a declaratory order seeking approval of (1) the service structure for the reconfiguration and expansion of the Blue Racer Pipelines system in response to market changes and demand to transport additional natural gas liquids from the Natrium natural gas processing and fractionation facility in Marshall County, West Virginia; and (2) the rate structure and terms agreed upon with the shipper that has made a long-term commitment to utilize, or pay for, significant capacity, as more fully explained in the petition.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Petitioner.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the website that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern time on January 11, 2018.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27330 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–32–000]

Carroll County Energy, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 13, 2017, the Commission issued an order in Docket No. EL18–32–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the Reactive Power Revenue Requirements of Carroll County Energy, LLC may be unjust and unreasonable. *Carroll County Energy, LLC,* 161 FERC 61, 259 (2017).

The refund effective date in Docket No. EL18–32–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL18–32–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27335 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2684–010]

Flambeau Hydro, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Terms and Conditions, and Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Subsequent Minor License.

b. *Project No.:* 2684–010.

c. *Date filed:* April 26, 2017.

d. *Applicant:* Flambeau Hydro, LLC (Flambeau Hydro).

e. *Name of Project:* Arpin Dam Project.

f. *Location:* On the Chippewa River, near the Village of Radisson, Sawyer County, Wisconsin. There are no federal or tribal lands within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Jason Kreuscher, Renewable World Energies, LLC, 100 State Street, P.O. Box 264, Neshkoro, WI 54960; (855) 994–9376, ext. 102.

i. *FERC Contact:* Amy Chang, 202–502–8250, or *amy.chang@ferg.gov*.

j. Deadline for filing motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions: 60 days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene and protests, comments, recommendations, terms and conditions, and prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp*. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–2684–010.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The existing Arpin Dam Project consists of: (1) An approximately 742.5-foot-long, 19-foot-high stone masonry dam (west dam section) that includes two timber stoplog spillway bays and a 318.9-foot-long overflow section; (2) an approximately 452.2-foot-long, 18-foot-high masonry dam (middle dam section) that includes two steel vertical lift gates and a 237.9-foot-long overflow section; (3) an approximately 319.8-foot-long, 16-foot-high masonry dam (east dam section) that includes two tainter gates and a 108-foot-long overflow section; (4) an approximately 294-acre impoundment at a normal full pond water surface elevation of 1,227.32 feet North American Vertical Datum of 1988; (5) a 37-foot-long, 11.5-foot-wide, 14-foot-high concrete, canal headworks structure on the eastern side of the impoundment; (6) an approximately 3,200-foot-long, 56-foot-wide, 6-foot-deep power canal; (7) a 13.5-foot-long, 48-foot-wide, 14.4-foot-high concrete intake structure that includes two 9-foot-wide, 11-foot-high steel stop gates and a 44-foot-wide, 14.4-foot-high trashrack with 1.5- to 1.75-inch clear bar spacing; (8) three 79-foot-long, 8-foot-diameter steel penstocks; (9) a 52-foot-long, 24-foot-wide, 25-foot-high cement block powerhouse containing two 600-kilowatt (kW), and one 250-kW vertical Francis turbine-generator units, for a total capacity of 1,450 kW; (10) a 15-foot-long, 2.4-kilovolt (kV) underground generator lead line that connects the turbine-generator units to a substation containing three step-up transformers; (11) a 3,645-foot-long, 22.9-kV above-ground transmission line; (12) an approximately 100-foot-long, 77-foot-wide tailrace; (13) recreation facilities; and (14) appurtenant facilities.

Flambeau Hydro manually operates the project in a run-of-river mode, with an average annual generation of 7,336 megawatt-hours. Flambeau Hydro is not proposing any changes in project operation. Flambeau Hydro proposes to continue releasing a year-round minimum flow of 40 cubic feet per second to the bypassed reach to protect aquatic resources; limiting fluctuations in the reservoir to one foot below the maximum, except between April 1 and June 1, when fluctuations would be limited to 0.5 foot; and operating and maintaining existing recreation facilities. Flambeau Hydro also proposes to develop an Historic Properties Management Plan to protect historic resources.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, COMMENTS, REPLY COMMENTS, RECOMMENDATIONS, TERMS AND CONDITIONS, or PRESCRIPTIONS; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

o. Procedural Schedule:

The application will be processed according to the following revised schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions.	February 2018.
Commission issues Environmental Assessment.	June 2018.
Comments on Environmental Assessment.	July 2018

Final amendments to the application must be filed with the Commission no

later than 30 days from the issuance date of this notice.

p. A license applicant must file no later than 60 days following the date of issuance of this notice: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: December 13, 2017.

Kimberly D. Bose,

Secretary.

[FR Doc. 2017–27332 Filed 12–19–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0631; FRL–9970–90]

Agency Information Collection Activities; Proposed Collection (EPA ICR No. 1710.08); 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: ''Residential Lead-Based Paint Hazard Disclosure Requirements'' and identified by EPA ICR No. 1710.08 and OMB Control No. 2070–0151, represents the renewal of an existing ICR that is scheduled to expire on October 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–2017–0631, 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: John Wilkins, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 566–0477; email address: *wilkins.john@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: Residential Lead-Based Paint Hazard Disclosure Requirements.

ICR number: EPA ICR No. 1710.08.

OMB control number: OMB Control No. 2070–0151.

ICR status: This ICR is currently scheduled to expire on October 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: Section 1018 of the Residential Lead Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4852d) requires that sellers and lessors of most residential housing built before 1978 disclose known information on the presence of lead-based paint and lead-based paint hazards, and provide an EPA approved pamphlet to purchasers and renters before selling or leasing the housing. Sellers of pre-1978 housing are also required to provide prospective purchasers with ten days to conduct an inspection or risk assessment for lead-based paint hazards before obligating purchasers under contracts to purchase the property. The rule does not apply to rental housing that has been found to be free of lead-based paint, zero-bedroom dwellings, housing for the elderly, housing for the handicapped, or short term leases. The affected parties and the information collection-related requirements related to each are described below:

1. Sellers of pre-1978 housing must attach certain notification and disclosure language to their sales/leasing contracts. The attachment lists the information disclosed and a statement of compliance by the seller, purchaser and any agents involved in the transaction.

2. Lessors of pre-1978 housing must attach notification and disclosure language to their leasing contracts. The attachment, which lists the information disclosed and a statement of compliance with all elements of the rule, must be signed by the lessor, lessee and any agents acting on their behalf. Agents and lessors must retain the information for

three years from the completion of the transaction.

3. Agents acting on behalf of sellers or lessors are specifically required by Section 1018 to comply with the disclosure regulations described above.

Responses to the collection of information are mandatory (see 40 CFR 745, Subpart F, and 24 CFR 35, Subpart H). Respondents may claim all or part of a notice 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 0.11 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 persons engaged in selling or leasing certain residential dwellings built before 1978, or who are real estate agents representing such parties.

Estimated total number of potential respondents: 21,504,926.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 2.6.

Estimated total annual burden hours: 5,952,344 hours.

Estimated total annual costs: $130,067,754. This includes an estimated burden cost of $130,067,754 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 514,832 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This decrease reflects revisions to the estimated number of respondents based on updates to data sources, and revisions based on market factors, *e.g.,* declines in the numbers of new rentals and declines in the amount of owner-occupied target housing in the market. This change is an adjustment. See the Supporting Statement for details.

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: December 4, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–27424 Filed 12–19–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9971–53–OW]

Notice of Availability of the Deepwater Horizon Oil Spill Louisiana Trustee Implementation Group Draft Restoration Plan and Environmental Assessment #2: Provide and Enhance Recreational Opportunities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for public comments.

SUMMARY: In accordance with the Oil Pollution Act of 1990 (OPA) and the National Environmental Policy Act (NEPA), the Federal and State natural resource trustee agencies for the Louisiana Trustee Implementation Group (Louisiana TIG) have prepared a Draft Restoration Plan and Environmental Assessment #2: Provide and Enhance Recreational Opportunities (RP/EA). The Draft RP/EA describes and proposes restoration project alternatives considered by the Louisiana TIG to compensate for recreational use services lost as a result of the *Deepwater Horizon* oil spill. The Louisiana TIG evaluated these alternatives under criteria set forth in the OPA natural resource damage assessment (NRDA) regulations, and also evaluated the environmental consequences of the restoration alternatives in accordance with NEPA. The proposed projects are consistent with the restoration alternatives selected in the *Deepwater Horizon* oil spill Final Programmatic Damage Assessment and Restoration Plan/Programmatic Environmental Impact Statement (PDARP/PEIS). The purpose of this notice is to inform the public of the availability of the Draft RP/EA and to seek public comments on the document.

DATES: The Louisiana TIG will consider public comments received on or before January 19, 2018.

Public Meeting: The Louisiana TIG will also take written and verbal comments at the Coastal Protection and Restoration Authority Board Meeting on January 17, 2018; 9:30 a.m.; Louisiana State Capitol, House Committee Room 5, 900 North Third Street, Baton Rouge, LA 70802.

ADDRESSES: *Obtaining Documents:* You may download the Draft RP/EA at any of the following sites:

- *http://www.gulfspillrestoration.noaa.gov*
- *http://www.la-dwh.com*

Alternatively, you may request a CD of the Draft RP/EA (see **FOR FURTHER INFORMATION CONTACT**). You may also view the document at any of the public facilities listed at *http://www.gulfspillrestoration.noaa.gov*.

Submitting Comments: You may submit comments on the Draft RP/EA by one of following methods:

- *Via the Web: http://www.gulfspillrestoration.noaa.gov/restoration-areas/louisiana.*
- *Via U.S. Mail:* U.S. Fish and Wildlife Service, P.O. Box 49567, Atlanta, GA 30345; or Louisiana Coastal Protection & Restoration Authority, ATTN: Liz Williams, P.O. Box 44027, Baton Rouge, LA 70804.
- *In Person:* Written and verbal comments may be submitted at the public meeting on January 17, 2018

Once submitted, comments cannot be edited or withdrawn. The Louisiana TIG may publish any comment received on the document. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, etc.) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The Louisiana TIG will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the web, cloud, or other file sharing system). Please be aware that your entire comment, including your personal identifying information, will become part of the public record. Please not that mailed comments must be postmarked on or before the comment deadline of 30 days following publication of this notice to be considered.

FOR FURTHER INFORMATION CONTACT:

• Louisiana—Liz Williams at *LATIGPublicComments@la.gov*.

• EPA—Tim Landers at *landers.timothy@epa.gov*.

SUPPLEMENTARY INFORMATION:

Introduction

On April 20, 2010, the mobile offshore drilling unit *Deepwater Horizon,* which was being used to drill a well for BP Exploration and Production, Inc. (BP), in the Macondo prospect (Mississippi Canyon 252–MC252), experienced a significant explosion, fire, and subsequent sinking in the Gulf of Mexico, resulting in an unprecedented volume of oil and other discharges from the rig and from the wellhead on the seabed. The *Deepwater Horizon* oil spill is the largest off shore oil spill in U.S. history, discharging millions of barrels of oil over a period of 87 days. The Trustees conducted the natural resource damage assessment for the *Deepwater Horizon* oil spill under the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*). Under OPA, Federal and State agencies act as trustees on behalf of the public to assess natural resource injuries and losses and to determine the actions required to compensate the public for those injuries and losses. OPA further instructs the designated trustees to develop and implement a plan for the restoration, rehabilitation, replacement, or acquisition of the equivalent of the injured natural resources under their trusteeship, including the loss of use and services from those resources from the time of injury until the time restoration to baseline (the resource quality and conditions that would exist if the spill had not occurred) is complete.

The *Deepwater Horizon* oil spill Trustees are:

• U.S. Environmental Protection Agency (EPA);

• U.S. Department of the Interior (DOI), as represented by the National Park Service, U.S. Fish and Wildlife Service, and Bureau of Land Management;

• National Oceanic and Atmospheric Administration (NOAA), on behalf of the U.S. Department of Commerce;

• U.S. Department of Agriculture (USDA);

• State of Louisiana Coastal Protection and Restoration Authority (CPRA), Oil Spill Coordinator's Office (LOSCO), Department of Environmental Quality (LDEQ), Department of Wildlife and Fisheries (LDWF), and Department of Natural Resources (LDNR);

• State of Mississippi Department of Environmental Quality;

• State of Alabama Department of Conservation and Natural Resources and Geological Survey of Alabama;

• State of Florida Department of Environmental Protection and Fish and Wildlife Conservation Commission; and

• State of Texas Parks and Wildlife Department, General Land Office, and Commission on Environmental Quality.

On April 4, 2016, the Trustees reached and finalized a settlement of their natural resource damage claims with BP in a Consent Decree approved by the United States District Court for the Eastern District of Louisiana. Pursuant to that Consent Decree, restoration projects in the Louisiana Restoration Area are now chosen and managed by the Louisiana TIG. The Louisiana TIG is composed of the following Trustees: CPRA, LOSCO, LDEQ, LDWF, LDNR, EPA, DOI, NOAA, USDA.

Background

In a November 2016 notice posted at *http://www.gulfspillrestoration.noaa.gov* the Louisiana TIG notified the public that the $22 million originally allocated to the Louisiana Marine Fisheries Enhancement, Research, and Science Center (LMFERSC) in the 2014 Programmatic and Phase III Early Restoration Plan and Early Restoration Programmatic Environmental Impact Statement (Phase III ERP/PEIS) would need to be re-allocated to other restoration projects intended to provide and enhance recreational opportunities. Site issues that arose during planning and development of the LMFERSC had precluded the Louisiana TIG from moving forward with the project. The Louisiana TIG requested restoration project ideas, including in a May 17, 2017, notice posted at *http://www.gulf spillrestoration.noaa.gov,* to provide and enhance recreational opportunities using the $22 million in early restoration funding.

Overview of the Draft RP/EA

The Draft RP/EA is being released in accordance with OPA, NRDA regulations found in the Code of Federal Regulations (CFR) at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*). In the Draft RP/EA, the Louisiana TIG presents to the public their plan to compensate for recreational use services lost as a result of the *Deepwater Horizon* oil spill. The Draft RP/EA proposes four restoration project alternatives, evaluated in accordance with OPA and NEPA. The four proposed restoration project alternatives in the Draft RP/EA are as follows:

• Elmer's Island Access
• Island Road Piers
• Statewide Artificial Reefs
• Lake Charles Science Center and Educational Complex

The Draft RP/EA also evaluates a no action alternative. One or more alternatives may be selected for implementation by the Louisiana TIG to compensate for recreational use services lost as a result of the *Deepwater Horizon* oil spill.

The Louisiana TIG has examined the injuries assessed by the *Deepwater Horizon* Trustees and evaluated restoration project alternatives to address the injuries. In the Draft RP/EA, the Louisiana TIG presents to the public its plan for providing partial compensation for lost recreational use services in the Louisiana Restoration Area. The proposed project alternatives are intended to continue the process of using restoration funding to restore recreational use services lost as a result of the *Deepwater Horizon* oil spill. The total estimated cost of the proposed project alternatives is $22 million. Additional restoration planning for lost recreational use in the Louisiana Restoration Area will occur at a later time.

Next Steps

The public is encouraged to review and comment on the Draft RP/EA. A public meeting is scheduled to also help facilitate the public review and comment process. After the public comment period ends, the Louisiana TIG will consider the comments received before issuing a Final RP/EA. A summary of comments received and the Louisiana TIG's responses and any revisions to the document, as appropriate, will be included in the final document.

Administrative Record

The documents comprising the Administrative Record for the Draft RP/EA can be viewed electronically at *http://www.doi.gov/deepwaterhorizon/administrativerecord*.

Authority

The authority for this action is the Oil Pollution Act of 1990 (33 U.S.C. 2701 *et seq.*), its implementing NRDA regulations found at 15 CFR part 990, and NEPA (42 U.S.C. 4321 *et seq.*).

Dated: November 22, 2017.

Benita Best-Wong,

Acting Principal Deputy Assistant Administrator, Office of Water.

[FR Doc. 2017–26565 Filed 12–19–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Request for Comment on the Exposure Draft of a Proposed Statement of Federal Financial Accounting Standards (SFFAS), Classified Activities

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules Of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued an exposure draft of a proposed Statement of Federal Financial Accounting Standards (SFFAS) entitled *Classified Activities.*

The exposure draft is available on the FASAB website at *http://www.fasab.gov/documents-for-comment/*. Copies can be obtained by contacting FASAB at (202) 512–7350.

Respondents are encouraged to comment on any part of the exposure draft. Written comments are requested by March 16, 2018, and should be sent to *fasab@fasab.gov* or Wendy M. Payne, Executive Director, Federal Accounting Standards Advisory Board, 441 G Street NW, Suite 6814, Mailstop 6H19, Washington, DC 20548.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW, Mailstop 6H19, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: December 14, 2017.

Wendy M. Payne,

Executive Director.

[FR Doc. 2017–27418 Filed 12–19–17; 8:45 am]

BILLING CODE 1610–02–P

FEDERAL ELECTION COMMISSION

[Notice 2017–16]

Filing Dates for the Michigan Special Election in the 13th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: Michigan has scheduled special elections on August 7, 2018, and November 6, 2018, to fill the U.S. House of Representatives seat in the 13th Congressional District vacated by Representative John Conyers, Jr.

Committees required to file reports in connection with the Special Primary Election on August 7, 2018, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on November 6, 2018, shall file a 12-day Pre-Primary, 12-day Pre-General Report and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Michigan Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on July 26, 2018; a 12-day Pre-General Report on October 25, 2018; and a 30-day Post-General Report on December 6, 2018. (See charts below for the closing date for each report.)

All principal campaign committees of candidates participating *only* in the Special Primary Election shall file a 12-day Pre-Primary Report on July 26, 2018. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2018 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Michigan Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Michigan Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Michigan Special Elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the special election reporting periods (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

The lobbyist bundling disclosure threshold for calendar year 2017 is $17,900. This threshold amount may increase in 2018 based upon the annual cost of living adjustment (COLA). Once the adjusted threshold amount becomes available, the Commission will publish it in the **Federal Register** and post it on its website. 11 CFR 110.17(e)(2). For more information on these requirements, see **Federal Register** Notice 2009–03, 74 FR 7285 (February 17, 2009).

CALENDAR OF REPORTING DATES FOR MICHIGAN SPECIAL ELECTIONS

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Committees Involved in *Only* the Special Primary (08/07/18) Must File:			
Pre-Primary	07/18/18	07/23/18	07/26/18
October Quarterly	09/30/18	10/15/18	10/15/18
Committees Involved in Both the Special Primary (08/07/18) and Special General (11/06/18) Must File:			
Pre-Primary	07/18/18	07/23/18	07/26/18
October Quarterly	09/30/18	10/15/18	10/15/18

CALENDAR OF REPORTING DATES FOR MICHIGAN SPECIAL ELECTIONS—Continued

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Pre-General	10/17/18	10/22/18	10/25/18
Post-General	11/26/18	12/06/18	12/06/18
Year-End	12/31/18	01/31/19	01/31/19
Committees Involved in *Only* the Special General (11/06/18) Must File:			
Pre-General	10/17/18	10/22/18	10/25/18
Post-General	11/26/18	12/06/18	12/06/18
Year-End	12/31/18	01/31/19	01/31/19

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

Dated: December 14, 2017.

On behalf of the Commission,

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–27364 Filed 12–19–17; 8:45 am]

BILLING CODE 6715–01–P

FEDERAL ELECTION COMMISSION

[Notice 2017–15]

Filing Dates for the Arizona Special Election in the 8th Congressional District

AGENCY: Federal Election Commission.

ACTION: Notice of filing dates for special elections.

SUMMARY: Arizona has scheduled special elections on February 27, 2018, and April 24, 2018, to fill the U.S. House of Representatives seat in the 8th Congressional District vacated by Representative Trent Franks.

Committees required to file reports in connection with the Special Primary Election on February 27, 2018, shall file a 12-day Pre-Primary Report. Committees required to file reports in connection with both the Special Primary and Special General Election on April 24, 2018, shall file a 12-day Pre-Primary, 12-day Pre-General Report and a 30-day Post-General Report.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth S. Kurland, Information Division, 999 E Street NW, Washington, DC 20463; Telephone: (202) 694–1100; Toll Free (800) 424–9530.

SUPPLEMENTARY INFORMATION:

Principal Campaign Committees

All principal campaign committees of candidates who participate in the Arizona Special Primary and Special General Elections shall file a 12-day Pre-Primary Report on February 15, 2018; a 12-day Pre-General Report on April 12, 2018; and a 30-day Post-General Report on May 24, 2018. (See charts below for the closing date for each report.)

All principal campaign committees of candidates participating *only* in the Special Primary Election shall file a 12-day Pre-Primary Report on February 15, 2018. (See charts below for the closing date for each report.)

Unauthorized Committees (PACs and Party Committees)

Political committees filing on a quarterly basis in 2018 are subject to special election reporting if they make previously undisclosed contributions or expenditures in connection with the Arizona Special Primary or Special General Elections by the close of books for the applicable report(s). (See charts below for the closing date for each report.)

Committees filing monthly that make contributions or expenditures in connection with the Arizona Special Primary or Special General Elections will continue to file according to the monthly reporting schedule.

Additional disclosure information in connection with the Arizona Special Elections may be found on the FEC website at *https://www.fec.gov/help-candidates-and-committees/dates-and-deadlines/.*

Disclosure of Lobbyist Bundling Activity

Principal campaign committees, party committees and Leadership PACs that are otherwise required to file reports in connection with the special elections must simultaneously file FEC Form 3L if they receive two or more bundled contributions from lobbyists/registrants or lobbyist/registrant PACs that aggregate in excess of the lobbyist bundling disclosure threshold during the special election reporting periods (See charts below for closing date of each period.) 11 CFR 104.22(a)(5)(v), (b).

The lobbyist bundling disclosure threshold for calendar year 2017 is $17,900. This threshold amount may increase in 2018 based upon the annual cost of living adjustment (COLA). Once the adjusted threshold amount becomes available, the Commission will publish it in the **Federal Register** and post it on its website. 11 CFR 110.17(e)(2). For more information on these requirements, see **Federal Register** Notice 2009–03, 74 FR 7285 (February 17, 2009).

CALENDAR OF REPORTING DATES FOR ARIZONA SPECIAL ELECTIONS

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Committees Involved in *Only* the Special Primary (02/27/18) Must File:			
Pre-Primary	02/07/18	02/12/18	02/15/18
April Quarterly	03/31/18	04/15/18	[2] 04/15/18

CALENDAR OF REPORTING DATES FOR ARIZONA SPECIAL ELECTIONS—Continued

Report	Close of books [1]	Reg./Cert. and overnight mailing deadline	Filing deadline
Committees Involved in Both the Special Primary (02/27/18) and Special General (04/24/18) Must File:			
Pre-Primary	02/07/18	02/12/18	02/15/18
Pre-General	04/04/18	04/09/18	04/12/18
April Quarterly	—WAIVED—		
Post-General	05/14/18	05/24/18	05/24/18
July Quarterly	06/30/18	07/15/18	[2] 07/15/18
Committees Involved in *Only* the Special General (04/24/18) Must File:			
Pre-General	04/04/18	04/09/18	04/12/18
April Quarterly	—WAIVED—		
Post-General	05/14/18	05/24/18	05/24/18
July Quarterly	06/30/18	07/15/18	[2] 07/15/18

[1] The reporting period always begins the day after the closing date of the last report filed. If the committee is new and has not previously filed a report, the first report must cover all activity that occurred before the committee registered as a political committee up through the close of books for the first report due.

[2] Notice that this filing deadline falls on a weekend or federal holiday. Filing deadlines are not extended when they fall on nonworking days. Accordingly, reports filed by methods other than registered, certified or overnight mail must be received by close of business on the last business day before the deadline.

Dated: December 14, 2017.

On behalf of the Commission,

Steven T. Walther,

Chairman, Federal Election Commission.

[FR Doc. 2017–27363 Filed 12–19–17; 8:45 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.: 011075–078.

Title: West Coast of South America Discussion Agreement.

Parties: CMA CGM S.A.; King Ocean Service Limited, Inc.; and Seaboard Marine Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW, Washington, DC 20036.

Synopsis: The amendment adds Great White Fleet Corp. as a party to the agreement. Great White Fleet Corp. and Great White Fleet Liner Service Ltd. will act as a single party to the agreement. The Parties request expedited review.

Agreement No.: 011426–064.

Title: Central America Discussion Agreement.

Parties: Crowley Latin America Services, LLC; Dole Ocean Cargo Express, Great White Fleet Corp.; Great White Fleet Liner Services, Ltd.; King Ocean Services Limited, Inc.; and Seaboard Marine Ltd.

Filing Party: Wayne R. Rohde, Esq.; Cozen O'Connor; 1200 19th Street NW, Washington, DC 20036.

Synopsis: The amendment deletes Hamburg Sud as a party to the Agreement.

Agreement No.: 012212–003.

Title: NYK/Grimaldi Cooperative Working Agreement.

Parties: Nippon Yusen Kaisha, and Grimaldi Deep Sea S.p.A. and Grimaldi Euromed S.p.A. (acting as a single party).

Filing Party: H. Kristen Chung, Corporate Counsel; NYK Line (North America) Inc.; 300 Lighting Way, 5th Floor; Secaucus, NJ 07094.

Synopsis: The amendment expands the Agreement's geographic scope to include all coasts of the United States and ports in North Europe and the Mediterranean.

By Order of the Federal Maritime Commission.

Dated: December 15, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–27390 Filed 12–19–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 8, 2018.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also

be sent electronically to *Comments.applications@stls.frb.org:*

1. *David Armbrust, Salem, Illinois;* to acquire voting shares of Iuka Bancshares, Inc., Salem, Illinois, and thereby indirectly acquire shares of Iuka State Bank, Iuka, Illinois.

B. Federal Reserve Bank of Kansas City (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *David Riordan, Abilene, Kansas; Robert Riordan, Solomon, Kansas; Dennis Riordan, Salina, Kansas; Michael Riordan, St. Charles, Missouri; and Kirk Berneking, Salina, Kansas;* to retain voting shares of Solomon Bancshares, Inc., Solomon, Kansas, and thereby indirectly retain shares of Solomon State Bank, Solomon, Kansas.

Board of Governors of the Federal Reserve System, December 15, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–27408 Filed 12–19–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Notice of Closed Meeting

In accordance with the Federal Advisory Committee Act, the Centers for Disease Control and Prevention (CDC) announces the following meeting.

The meeting will be closed to the public in accordance with provisions set forth in Section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Name of Committee: Disease, Disability, and Injury Prevention and Control Special Emphasis Panel (SEP)–PAR15–303, Occupational Safety and Health Education Research Centers (ERC).

Date: February 21–23, 2018.

Time: 8:30 a.m.–6:00 p.m., EST.

Place: The Alexandrian Hotel, 480 King Street Alexandria, VA 22314, 703–549–6080.

Agenda: The meeting will include the initial review, discussion, and evaluation of applications received in response to PAR15–303, Occupational Safety and Health Education Research Centers (ERC).

FOR FURTHER INFORMATION CONTACT: Michael Goldcamp, Ph.D., Scientific Review Officer/CDC, 1095 Willowdale Road, Mailstop H1808, Morgantown, West Virginia, 26505, (304) 285–5951; *mgoldcamp@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Elaine L. Baker,

Director, Management Analysis and Services Office; Centers for Disease Control and Prevention.

[FR Doc. 2017–27324 Filed 12–19–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6380]

Clarification of Orphan Designation of Drugs and Biologics for Pediatric Subpopulations of Common Diseases; Draft Guidance for Industry; 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 guidance for industry entitled ''Clarification of Orphan Designation of Drugs and Biologics for Pediatric Subpopulations of Common Diseases.'' FDA intends to no longer grant orphan drug designation to drugs for pediatric subpopulations of common diseases (*i.e.,* diseases or conditions with an overall prevalence of over 200,000 in the United States), unless the use of the drug in the pediatric subpopulation meets the regulatory criteria for an orphan subset, or unless the disease in the pediatric subpopulation is considered a different disease from the disease in the adult population. This will help resolve an unintended loophole in the Pediatric Research Equity Act (PREA) orphan exemption process where a sponsor holding a pediatric-subpopulation designation can submit a marketing application for use of its drug in the non-orphan adult population of that disease, get a pediatric-subpopulation designation for the pediatric subset of the disease, and, due to this designation, be exempt from conducting the pediatric studies normally required under PREA when seeking approval of the adult indication.

DATES: Submit either electronic or written comments on the draft guidance by January 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–6380 for ''Clarification of Orphan Designation of Drugs and Biologics for Pediatric Subpopulations of Common Diseases.'' 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-201-09-18/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 Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Aaron Friedman, Office of Orphan Products Development, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5295, Silver Spring, MD 20993, 301–796–8660.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Clarification of Orphan Designation of Drugs and Biologics for Pediatric Subpopulations of Common Diseases.'' FDA intends to no longer grant orphan drug designation to drugs for pediatric subpopulations of common diseases (*i.e.,* diseases or conditions with an overall prevalence of over 200,000 in the United States), unless the use of the drug in the pediatric subpopulation meets the regulatory criteria for an orphan subset, or unless the disease in the pediatric subpopulation is considered a different disease from the disease in the adult population. This will help resolve an unintended loophole in the PREA orphan exemption process where a sponsor holding a pediatric-subpopulation designation can submit a marketing application for use of its drug in the non-orphan adult population of that disease, get a pediatric-subpopulation designation for the pediatric subset of the disease, and, due to this designation, be exempt from conducting the pediatric studies normally required under PREA when seeking approval of the adult indication.

FDA expects to implement this policy upon publication of the final version of this guidance dependent upon comments received. In the interim, FDA will refrain from issuing final decisions on requests for pediatric-subpopulation designation until the guidance is finalized.

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 orphan designation of drugs and biologics for pediatric subpopulations of common diseases. 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/Orphan* or *https://www.regulations.gov.*

Dated: December 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27435 Filed 12–19–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–6580]

Drug Products Labeled as Homeopathic; Draft Guidance for Food and Drug Administration Staff and Industry; 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 guidance for FDA staff and industry entitled ''Drug Products Labeled as Homeopathic.'' This draft guidance describes how FDA intends to prioritize enforcement and regulatory action with regard to drug products, including biological products, labeled as homeopathic and marketed in the United States without the required FDA approval.

DATES: Submit either electronic or written comments on the draft guidance by March 20, 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–6580 for ''Drug Products Labeled as Homeopathic.'' 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 Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002; or 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 that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Elaine Lippmann, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 51, Rm. 6238, Silver Spring, MD 20993, 301–796–3600; or Stephen Ripley, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993, 240–402–7911.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for FDA staff and industry entitled ''Drug Products Labeled as Homeopathic.'' This draft guidance describes how FDA intends to prioritize enforcement and regulatory action with regard to drug products, including biological products, labeled as homeopathic and marketed in the United States without the required FDA approval. Simultaneous with the issuance of the final guidance, FDA will withdraw Compliance Policy Guide (CPG) 400.400, ''Conditions Under Which Homeopathic Drugs May be Marketed'', issued on May 31, 1988.

Homeopathy is an alternative medical practice that has an historical basis in theory and practice first systematized in the late 1700s. Homeopathy is generally based on two main principles: (1) A substance that causes symptoms in a healthy person can be used in diluted form to treat symptoms and illnesses (known as ''like-cures-like'') and (2) the more diluted the substance, the more potent it is (known as the ''law of infinitesimals'').

The definition of ''drug'' in section 201(g)(1) of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 321(g)(1)) includes articles recognized in the Homeopathic Pharmacopoeia of the United States (HPUS) or any supplement to it. As such, homeopathic drugs are subject to the same regulatory requirements as other drugs. Generally, a drug, including a homeopathic drug, is considered a ''new drug'' if it is not generally recognized by qualified experts as safe and effective (GRAS/E) for its labeled uses (section 201(p) of the FD&C Act). FDA makes GRAS/E determinations for over-the-counter (OTC) drugs marketed under the OTC Drug Review (see 21 CFR part 330). FDA has not reviewed any drug products labeled as homeopathic under the OTC Drug Review because the Agency categorized these products as a separate category and deferred consideration of them (37 FR 9464 at 9466 (May 11, 1972)). Under section 505(a) of the FD&C Act (21 U.S.C. 355(a)), before any ''new drug'' is marketed, it must be the subject of an approved application submitted pursuant to section 505(b) or section 505(j) of the FD&C Act; however, a biological product with an approved license under section 351(a) of the Public Health Service Act (PHS Act) (42 U.S.C. 262(a)) is not required to have an approved application under section 505 of the FD&C Act. Accordingly, absent a determination that a drug product labeled as homeopathic is not a ''new drug'' under section 201(p), all drug products labeled as homeopathic are subject to the premarket approval requirements in section 505 of the FD&C Act or section 351 of the PHS Act. There are no drug products labeled as homeopathic that are approved by FDA.

In May 1988, FDA's Center for Drug Evaluation and Research issued CPG 400.400 entitled ''Conditions Under Which Homeopathic Drugs May be Marketed.'' As stated in the 1988 CPG, it delineates the conditions, including conditions related to ingredients, labeling, prescription status, and current good manufacturing practice, under which homeopathic drug products may ordinarily be marketed.

In light of the growth of the industry and passage of more than 2 decades since the 1988 CPG's issuance, FDA announced on March 27, 2015, that it was evaluating its regulatory framework for these products. In April 2015, FDA held a public hearing to obtain information and comments from stakeholders about the current use of drug products labeled as homeopathic, as well as the Agency's regulatory

framework for such products (Docket No. FDA–2015–N–0540; available at *https://www.regulations.gov/docket?D=FDA-2015-N-0540*). FDA sought broad public input on its enforcement policies related to drug products labeled as homeopathic in an effort to better promote and protect the public health.

As a result of the Agency's evaluation, including consideration of the public input received on this issue, FDA has determined that it is in the best interest of public health to issue a new guidance that applies a risk-based enforcement approach to drug products labeled as homeopathic and marketed in the United States without the required FDA approval, consistent with FDA's risk-based regulatory approaches generally. The Agency generally intends to apply a risk-based enforcement approach to the manufacturing, distribution, and marketing of drug products labeled as homeopathic, as described in the draft guidance, when finalized. However, the Agency has limited enforcement resources and recognizes that many such products likely will fall outside the risk-based categories described in the draft guidance.

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 drug products labeled as homeopathic. 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/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm, https://www.fda.gov/BiologicsBloodVaccines/GuidanceComplianceRegulatoryInformation/Guidances/default.htm,* or *https://www.regulations.gov.*

Dated: December 6, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27157 Filed 12–18–17; 11:15 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency Information Collection Activities: Proposed Collection; Comment Request; Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery

AGENCY: U.S. Department of Health and Human Services.

ACTION: 30-Day Day Notice template for Request for Generic Clearance for the Collection of Routine Customer Feedback on (HITRC).

AGENCY: U.S. Department of Health and Human Services (HHS).

ACTION: Notice and request for comments. Office of the National Coordinator for Health Information Technology is requesting OMB approval for an extension on the Generic Clearance for the Collection of Routine Customer Feedback by OMB.

SUMMARY: Department of Health and Human Services, The Office of the Secretary (OS), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public to take this opportunity to comment on the ''Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery'' for approval under the Paperwork Reduction Act (PRA). This collection was developed as part of a Federal Government-wide effort to streamline the process for seeking feedback from the public on service delivery. This notice announces our intent to submit this collection to OMB for approval and solicits comments on specific aspects for the proposed information collection.

DATES: Consideration will be given to all comments received by January 19, 2018.

ADDRESSES: Submit comments by one of the following methods:

- *Website: www.regulations.gov.* Direct comments to Docket ID OMB–2010–0021.
- *Email: Information.CollectionClearance@hhs.gov.*
- *Phone:* (202) 795–7714.

Comments submitted in response to this notice may be made available to the public through relevant websites. 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.

FOR FURTHER INFORMATION CONTACT: Sherrette Funn, *Sherrrette.funn@HHS.GOV* or (202) 795–7714.

SUPPLEMENTARY INFORMATION:

Title: Generic Clearance for the Collection of Qualitative Feedback on Agency Service Delivery.

Abstract: The proposed information collection activity provides a means to garner qualitative customer and stakeholder feedback in an efficient, timely manner, in accordance with the Administration's commitment to improving service delivery. By qualitative feedback we mean information that provides useful insights on perceptions and opinions, but are not statistical surveys that yield quantitative results that can be generalized to the population of study. This feedback will provide insights into customer or stakeholder perceptions, experiences and expectations, provide an early warning of issues with service, or focus attention on areas where communication, training or changes in operations might improve delivery of products or services. These collections will allow for ongoing, collaborative and actionable communications between the Agency and its customers and stakeholders. It will also allow feedback to contribute directly to the improvement of program management.

The solicitation of feedback will target areas such as: Timeliness, appropriateness, accuracy of information, courtesy, efficiency of service delivery, and resolution of issues with service delivery. Responses will be assessed to plan and inform efforts to improve or maintain the quality of service offered to the public. If this information is not collected, vital feedback from customers and stakeholders on the Agency's services will be unavailable.

The Agency will only submit a collection for approval under this generic clearance if it meets the following conditions:

- The collections are voluntary;
- The collections are low-burden for respondents (based on considerations of total burden hours, total number of respondents, or burden-hours per respondent) and are low-cost for both the respondents and the Federal Government;
- The collections are non-controversial and do not raise issues of concern to other Federal agencies;

• Any collection is targeted to the solicitation of opinions from respondents who have experience with the program or may have experience with the program in the near future;

• Personally identifiable information (PII) is collected only to the extent necessary and is not retained;

• Information gathered will be used only internally for general service improvement and program management purposes and is not intended for release outside of the agency;

• Information gathered will not be used for the purpose of substantially informing influential policy decisions; and

• Information gathered will yield qualitative information; the collections will not be designed or expected to yield statistically reliable results or used as though the results are generalizable to the population of study.

Feedback collected under this generic clearance provides useful information, but it does not yield data that can be generalized to the overall population. This type of generic clearance for qualitative information will not be used for quantitative information collections that are designed to yield reliably actionable results, such as monitoring trends over time or documenting program performance. Such data uses require more rigorous designs that address: The target population to which generalizations will be made, the sampling frame, the sample design (including stratification and clustering), the precision requirements or power calculations that justify the proposed sample size, the expected response rate, methods for assessing potential non-response bias, the protocols for data collection, and any testing procedures that were or will be undertaken prior to fielding the study. Depending on the degree of influence the results are likely to have, such collections may still be eligible for submission for other generic mechanisms that are designed to yield quantitative results.

As a general matter, information collections will not result in any new system of records containing privacy information and will not ask questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private.

Current Actions: Extension of approval for a collection of information.

Type of Review: Extension.

Affected Public: Individuals, households, professionals, public/private sector.

Estimated Number of Respondents:

Below we provide projected average estimates for the next three years:

Average Expected Annual Number of activities: 7.

Average number of Respondents per Activity: 350.

Annual responses: 4,158.

Frequency of Response: Once per request.

Average minutes per response: 5.

Burden hours: 1,041.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. 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. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to develop, acquire, install and utilize technology and systems for the purpose of collecting, validating and verifying information, processing and maintaining information, and disclosing and providing information; to train personnel and to be able to respond to a collection of information, to search data sources, to complete and review the collection of information; and to transmit or otherwise disclose the information.

All written comments will be available for public inspection *Regulations.gov*.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget control number.

Terry S. Clark,

Asst. Information Collection Clearance Officer.

[FR Doc. 2017–27399 Filed 12–19–17; 8:45 am]

BILLING CODE 4150–45–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Prospective Grant of an Exclusive Patent License: The Development of an Anti-CD30 Chimeric Antigen Receptor (CAR) for the Treatment of Human Cancer

AGENCY: National Institutes of Health

ACTION: Notice.

SUMMARY: The National Cancer Institute, an institute of the National Institutes of Health, Department of Health and Human Services, is contemplating the grant of an Exclusive Patent License to practice the inventions embodied in the Patents and Patent Applications listed in the **SUPPLEMENTARY INFORMATION** section of this notice to Kite Pharma, Inc. (''Kite'') located in Santa Monica, CA.

DATES: Only written comments and/or complete applications for a license which are received by the National Cancer Institute's Technology Transfer Center on or before January 4, 2018 will be considered.

ADDRESSES: Requests for copies of the patent application, inquiries, and comments relating to the contemplated Exclusive Patent License should be directed to: David A. Lambertson, Ph.D., Senior Technology Transfer Manager, NCI Technology Transfer Center, 9609 Medical Center Drive, RM 1E530, MSC 9702, Bethesda, MD 20892–9702 (for business mail), Rockville, MD 20850–9702; Telephone: (240)–276–5530; Facsimile: (240)–276–5504; Email: *david.lambertson@nih.gov.*

SUPPLEMENTARY INFORMATION:

Intellectual Property

United States Provisional Patent Application No. 62/241,896, filed 15 October 2015 and entitled ''Anti-CD30 Chimeric Antigen Receptors'' [HHS Reference No. E–016–2018/0–US–01]; PCT Patent Application PCT/US2016/056262, filed 10 October 2016 and entitled ''Anti-CD30 Chimeric Antigen Receptors'' [HHS Reference No. E–016–2018/0–PCT–02]; and U.S. and foreign patent applications claiming priority to the aforementioned applications.

The patent rights in these inventions have been assigned and/or exclusively licensed to the government of the United States of America.

The prospective exclusive license territory may be worldwide and the field of use may be limited to the following:

''The development of a CD30 chimeric antigen receptor (CAR)-based

immunotherapy using autologous (meaning one individual is both the donor and the recipient) T cells transfected with a retroviral vector (including lentiviral vectors), wherein the vector expresses a CAR having:

(1) a single antigen specificity; and

(2) comprising at least:

(a) the complementary determining region (CDR) sequences of the anti-CD30 antibody known as 5F11; and

(b) a T cell signaling domain;

for the prophylaxis and treatment of CD30-expressing human cancers.''

This technology discloses the development of chimeric antigen receptors that recognize the CD30 protein (also known as tumor necrosis factor receptor superfamily member 8 (TNFRSF8)). CD30 is expressed on the cell surface of several rare forms of cancer, including Hodgkin lymphoma (HL), Non-Hodgkin's Lymphoma (NHL), diffuse large B cell lymphoma (DLBCL), peripheral T cell lymphoma not otherwise specified (PTCL–NOS), anaplastic large cell lymphoma (ALCL), and angioimmunoblastic T cell lymphoma (AITL). The development of a new therapeutic targeting CD30 will benefit public health by offering up a treatment for these rare cancers in instances when conventional first line therapies are ineffective.

This notice is made in accordance with 35 U.S.C. 209 and 37 CFR part 404. The prospective exclusive license will be royalty bearing, and the prospective exclusive license may be granted unless within fifteen (15) days from the date of this published notice, the National Cancer Institute receives written evidence and argument that establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR part 404.

In response to this Notice, the public may file comments or objections. Comments and objections, other than those in the form of a completed license application, will not be treated confidentially, and may be made publicly available.

License applications submitted in response to this Notice will be presumed to contain business confidential information and any release of information in these license applications will be made only as required and upon a request under the Freedom of Information Act, 5 U.S.C. 552.

Dated: December 8, 2017.

Richard U. Rodriguez,

Associate Director, Technology Transfer Center, National Cancer Institute.

[FR Doc. 2017–27416 Filed 12–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Neurological Disorders and Stroke Technologies for Large-Scale Recording and Modulation in the Nervous System.

Date: January 18–19, 2018.

Time: 8:00 a.m. to 2:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: Ernest Lyons, Ph.D., Scientific Review Officer; Scientific Review Branch; NINDS/NIH/DHHS; Neuroscience Center; 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529; 301–496–4056; *lyonse@ninds.nih.gov*.

Name of Committee: Neurological Sciences Training Initial Review Group; NST–1 Subcommittee.

Date: January 29–30, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Alexandria Old Town, 1767 King Street, Alexandria, VA 22314.

Contact Person: William Benzing, Ph.D., Scientific Review Officer, Scientific Review Branch, NINDS/NIH/DHHS, Neuroscience Center, 6001 Executive Blvd., Suite 3204, MSC 9529, Bethesda, MD 20892–9529, 301–496–0660, *benzingw@mail.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.853, Clinical Research Related to Neurological Disorders; 93.854, Biological Basis Research in the Neurosciences, National Institutes of Health, HHS)

Dated: December 14, 2017.

Sylvia L. Neal,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27329 Filed 12–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Proposed Collection; 60-Day Comment Request Division of Cancer Epidemiology and Genetics Fellowship Program and Summer Student Applications (DCEG) (National Cancer Institute)

AGENCY: National Institutes of Health.

ACTION: Notice.

SUMMARY: In compliance with the requirement of the Paperwork Reduction Act of 1995 to provide opportunity for public comment on proposed data collection projects, the National Cancer Institute (NCI) will publish periodic summaries of propose projects to be submitted to the Office of Management and Budget (OMB) for review and approval.

DATES: Comments regarding this information collection are best assured of having their full effect if received within 60 days of the date of this publication.

FOR FURTHER INFORMATION CONTACT: To obtain a copy of the data collection plans and instruments, submit comments in writing, or request more information on the proposed project, contact: Jackie Lavigne, Ph.D., M.P.H., Chief, Office of Education, Division of Cancer Epidemiology and Genetics, 9609 Medical Center Drive, MSC, Bethesda, Maryland 20892 or call non-toll-free number 240.276.7237or Email your request, including your address to: *lavignej@mail.nih.gov*. Formal requests for additional plans and instruments must be requested in writing.

SUPPLEMENTARY INFORMATION: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 requires: Written comments and/or suggestions from the public and affected agencies are invited to address one or more of the following points: (1) Whether the proposed collection of information is necessary for the proper performance of the function of the agency, including whether the information will have practical utility; (2) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) Ways to enhance the quality, utility, and clarity of the information to be collected; and (4) Ways to minimize's the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological

collection techniques or other forms of information technology.

Proposed Collection Title: Fellowship Program and Summer Student Applications 0925–0716, Exp., date 5/31/2018, Extension, National Cancer Institute (NCI), National Institutes of Health (NIH).

Need and Use of Information Collection: This is a request for approval of an ''Extension'' for three years. The National Cancer Institute, Division of Cancer Epidemiology and Genetics (DCEG) Office of Education administers a variety of programs and initiatives to recruit pre-college through post-doctoral educational level individuals into the Intramural Research Program to facilitate their development into future biomedical scientists. DCEG trains post-doctoral, doctoral candidates, graduate and baccalaureate students, through full time fellowships, summer fellowships, and internships in preparation for research careers in cancer epidemiology and genetics. The proposed information collection involves brief online applications completed by applicants to the full time and the summer fellowship programs. Full-time fellowships include: Full-time Equivalents (FTE) and non-FTE fellowships for US citizens, permanent residents and international fellows. These applications are essential to the administration of these training programs as they enable OE to determine the eligibility and quality of potential awardees; to assess their potential as future scientists; to determine where mutual research interests exist; and to make decisions regarding which applicants will be proposed and approved for traineeship awards. In each case, completing the application is voluntary, but in order to receive due consideration, the prospective trainee is encouraged to complete all relevant fields. The information is for internal use to make decisions about prospective fellows and students that could benefit from the DCEG program.

OMB approval is requested for 3 years. There are no costs to respondents other than their time. The total estimated annualized burden hours are 218 hours.

ESTIMATED ANNUALIZED BURDEN HOURS

Type of respondent	Number of respondents	Number of responses per respondent	Average time per response (in hours)	Total annual burden hour
Full-time Fellows	150	1	30/60	75
Summer Students	430	1	20/60	143
Total	580	580	.....	218

Dated: December 4, 2017.

Karla Bailey,

Project Clearance Liaison, National Cancer Institute, National Institutes of Health.

[FR Doc. 2017–27415 Filed 12–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The invention listed below is owned by an agency of the U.S. Government and is available for licensing to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

FOR FURTHER INFORMATION CONTACT: Dr. Natalie Greco, 301–761–7898; *Natalie.Greco@nih.gov.* Licensing information and copies of the patent applications listed below may be obtained by communicating with the indicated licensing contact at the Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases, 5601 Fishers Lane, Rockville, MD 20852; tel. 301–496–2644. A signed Confidential Disclosure Agreement will be required to receive copies of unpublished patent applications.

SUPPLEMENTARY INFORMATION: Technology description follows.

Enhanced Tissue Clearing Solution, Clearing-Enhanced 3D (Ce3D), Compatible With Advanced Fluorescence Microscopy Imaging

Description of Technology: NIH immunologists have created a solution, Clearing-enhanced 3D (Ce3D), that can be used to make entire organs extremely transparent. This allows the tissue to be imaged using advanced fluorescence microscopy techniques. Unlike current tissue clearing solutions, the Ce3D tissue clearing solution is robustly compatible with a variety of staining methods, and preserves tissue morphology and reporter fluorescence. Ce3D enabled microscopy provides unprecedented insight into the spatial organization of cells within intact organs. Further, when Ce3D enabled microscopy is coupled with multiplexed staining and a newly developed analysis pipeline, investigators are able to extensively characterize densely packed cells *in situ,* providing advantages to phenotyping cells with flow cytometric techniques.

This technology is available for licensing for commercial development in accordance with 35 U.S.C. 209 and 37 CFR part 404, as well as for further development and evaluation under a research collaboration.

Potential Commercial Applications:

- Research reagent—can be applied to a variety of biological disciplines.
- Diagnostic medical imaging reagent—characterization of disease state/condition.

Competitive Advantages:

- Simple, quick and inexpensive procedure that has been extensively validated.
- Generates excellent tissue transparency, resulting in high quality images.
- Compatible with highly multiplexed staining/labeling techniques, including antibody-based methods, fluorescently tagged reporter proteins, and RNA–FISH.
- Fluorescence is maintained in diverse fluorescent proteins and fluorophores.
- Enables quantitative analysis of tissue composition and cellular distribution in whole organs, and has advantages over flow cytometric techniques.

Development Stage:

• Prototype.

Inventors: Ronald N. Germain, Michael Y. Gerner, Weizhe Li (All from NIAID).

Publications: Li W, et al. (2017)—Multiplex, quantitative cellular analysis in large tissue volumes with clearing-enhanced 3D microscopy (Ce3D) [PMID: 28808033—PMCID: PMC5584454].

Intellectual Property: PCT Patent Application—PCT/US2017/049133, HHS Reference No. E–168–2016.

Licensing Contact: Dr. Natalie Greco, 301–761–7898; *Natalie.Greco@nih.gov.*

Collaborative Research Opportunity: The National Institute of Allergy and Infectious Diseases is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate or commercialize tissue-clearing technologies. For collaboration opportunities, please contact Dr. Natalie Greco, 301–761–7898; *Natalie.Greco@nih.gov.*

Dated: December 13, 2017.

Suzanne Frisbie,

Deputy Director, Technology Transfer and Intellectual Property Office, National Institute of Allergy and Infectious Diseases.

[FR Doc. 2017–27417 Filed 12–19–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[Docket No. USCG–2017–0466]

Removal of Conditions of Entry for Certain Vessels Arriving to the United States From Two Port Facilities in Côte d'Ivoire

AGENCY: Coast Guard, DHS.

ACTION: Notice.

SUMMARY: The Coast Guard announces that it is modifying the conditions of entry for vessels arriving to the United States from Côte d'Ivoire by adding an exception to the conditions of entry for two facilities in the Republic of Côte d'Ivoire.

DATES: The policy takes effect January 3, 2018.

FOR FURTHER INFORMATION CONTACT: For information about this document call or email Juliet Hudson, International Port Security Evaluation Division, United States Coast Guard, telephone 202–372–1173.

SUPPLEMENTARY INFORMATION:

Discussion

The authority for this notice is 5 U.S.C. 552(a), 46 U.S.C. 70110, and Department of Homeland Security Delegation No. 0170.1(II)(97.f). Section 70110(a) provides that the Secretary of Homeland Security may impose conditions of entry into the United States from ports that are not maintaining effective anti-terrorism measures. Section 70110(d) provides that these conditions may be removed upon Secretary's determination that the measures are maintained. The Secretary delegated the authority to carry out the provisions of these sections to the Coast Guard. Section 552(a)(1)(E) requires an agency to provide a **Federal Register** notice to the public in regards to any amendment, revision or repeal of a rule adopted as authorized by law. The Regulatory Docket for this Notice (USCG–2017–0466) contains previous notices imposing or removing conditions of entry on vessels arriving from certain countries.

On May 27, 2011, the Coast Guard determined that ports in the Republic of Côte d'Ivoire did not maintain effective anti-terrorism measures and that Côte d'Ivoire's designated authority's oversight, access control and cargo control remained deficient (76 FR 30954). However, since 2014 the Coast Guard has assessed and found that the port facilities listed in Table 1 do have effective anti-terrorism measures. As such, port facilities listed in Table 1 are exempted from the conditions of entry previously imposed.

TABLE 1—EXEMPTED PORT FACILITIES

Port	IMO port No.
Carena Shipyard	CIABJ–0004
Terminal A Containers, Abidjan.	CIABJ–0015

Accordingly, beginning January 3, 2018, the conditions of entry shown in Table 2 below will apply to any vessel that visited a non-exempted Côte d'Ivoire port facility in its last five port calls.

TABLE 2—CONDITIONS OF ENTRY FOR VESSELS VISITING CÔTE D'IVOIRE'S PORTS NOT LISTED IN TABLE 1

No.	Each vessel must:
1	Implement measures per the vessel's security plan equivalent to Security Level 2 while in a port in the Republic of Côte d'Ivoire. As defined in the ISPS Code and incorporated herein, ''Security Level 2'' refers to the ''level for which appropriate additional protective security measures shall be maintained for a period of time as a result of heightened risk of a security incident.''
2	Ensure that each access point to the vessel is guarded and that the guards have total visibility of the exterior (both landside and waterside) of the vessel while the vessel is in ports in the Republic of Côte d'Ivoire.
3	Guards may be provided by the vessel's crew; however, additional crewmembers should be placed on the vessel if necessary to ensure that limits on maximum hours of work are not exceeded and/or minimum hours of rest are met, or provided by outside security forces approved by the vessel's master and Company Security Officer. As defined in the ISPS Code and incorporated herein, ''Company Security Officer'' refers to the ''person designated by the Company for ensuring that a ship security assessment is carried out; that a ship security plan is developed, submitted for approval, and thereafter implemented and maintained and for liaison with port facility security officers and the ship security officer.''
4	Attempt to execute a Declaration of Security while in a port in the Republic of Côte d'Ivoire.
5	Log all security actions in the vessel's log; and
6	Report actions taken to the cognizant Coast Guard Captain of the Port (COTP) prior to arrival into U.S. waters.
7	In addition, based on the findings of the Coast Guard boarding or examination, the vessel may be required to ensure that each access point to the vessel is guarded by armed, private security guards and that they have total visibility of the exterior (both landside and waterside) of the vessel while in U.S. ports. The number and position of the guards has to be acceptable to the cognizant COTP prior to the vessel's arrival.

The list of countries that do not maintain effective anti-terrorist measures is available in a Port Security Advisory notice available at *http://www.dco.uscg.mil/Our-Organization/Assistant-Commandant-for-Prevention-Policy-CG-5P/International-Domestic-Port-Assessment/;* Port Security Advisory link.

Dated: November 1, 2017.

Charles W. Ray,

Deputy Commandant for Operations, USCG.

[FR Doc. 2017–27402 Filed 12–19–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6005–N–01]

60-Day Notice of Proposed Information Collection: Comment Request: Agency Information Collection Activities: Consolidated Discretionary Grant Programs Solicitations (Funding Opportunities) Templates and Forms

AGENCY: Office of Strategic Planning and Management, Grants Management and Oversight Division, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* February 20, 2018.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW, Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ann vom Eigen, Grants Management and Oversight Division, Office of Strategic Planning and Management, Department of Housing and Urban Development, 451 Seventh St. SW, Room 3156, Washington, DC 20410 or by email *Ann.H.vomEigen@hud.gov* or telephone 202–402–2146. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of the proposed data collection forms may be requested from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). HUD is seeking approval from OMB for the information collection described in Section A.

HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Consolidated Discretionary Grant Programs Solicitations (Funding Opportunities) Templates and Forms

OMB Approval Number: Consolidation of existing collections, renewals as well as new and pending collections listed as follows:

HUD Standard Forms

OMB Control Number: 4040–0004
- Application for Federal Assistance (SF–424)

OMB Control Number: 2501–0017
- Grant Application Detailed Budget Form (HUD–424–CB)
- Grant Application Detailed Budget Worksheet (HUD–424–CBW)

OMB Control Number: 2535–0011
- Applicant/Recipient Disclosure/Update Report (HUD–2880)

OMB Control Number: 2577–0259
- Acknowledgment of Application Receipt (HUD–2993)

OMB Control Number: 4040–0013
- Disclosure of Lobbying (SF–LLL)
- Certification Regarding Lobbying (SF–LLLa)

OMB Control Number: 2502–0261
- Funding Matrix (HUD 424–M)

OMB Control Number: 2502–0447
- Survey on Ensuring Equal Opportunity for Applicants (HUD–424–SUP)

New Collection: Pending OMB Approval (Number not yet Assigned)

- Discretionary Program Notice of Funding Availability Template
- CoC Notice of Funding Availability Template

Approved Collections Using HUD Standard Forms for Applications

OMB Control Number: 2577–0283
OMB Control Number: 2539–0015
OMB Control Number: 2528–0299
OMB Control Number: 2506–0195
OMB Control Number: 2506–0197
OMB Control Number: 2506–0210
OMB Control Number: 2506–0157
OMB Control Number: 2529–0033
OMB Control Number: 2502–0613

HUD Common Forms

OMB Control Number: 2535–0120
- Removal of Regulatory Barriers (form HUD–27300)

OMB Control Number: 2502–0267
- Sponsor's Conflict of Interest Resolution (form HUD–92041)

OMB Control Number: 2506–0112
- Fair Housing Certification (form HUD–40090–4)

OMB Control Number: 2506–0182
OMB Control Number: 2502–0261
- Housing Counseling Agency Fiscal Year Activity Report (form HUD–9902)
- Housing Counseling Charts (form HUD–9906 A, B, C, D, E, F, G)

OMB Control Number: 2577–0269
- Eligible Neighborhoods Documentation—Inadequate School Documentation (HUD–53153)
- Eligible Target Housing Documentation—Severe Distress of Targeted Project Certification (HUD–53232)

OMB Control Number: 2502–0118
- Previous Participation Certification—Multifamily (form HUD–2530)

OMB Control Number: 2535–0113
- Race and Ethnicity Reporting (form HUD–27061)

OMB Control Number: 2577–0169
- Funding Application, Section 8 Tenant-Based Assistance, Rental Certificate Program, Rental Voucher Program (form HUD–52515)

Program Specific Forms

OMB Control Number: 2577–0191
- Contract and Subcontract Activity Report (form HUD–2516)
- Cost Summary Indian Community Development Block Grant (ICDBG) (form HUD–4123)
- Implementation Schedule Indian Community Development Block Grant (ICDBG) (form HUD 4125)

OMB Control Number: Pending OMB Approval
- Jobs Plus Summary Budget (form HUD–50144)

OMB Control Number: 2577–0178
- Family Self-Sufficiency (FSS) Program Contract of Participation (form HUD–52650)

- Family Self Sufficiency Program Coordinator Funding (form HUD–52651)
- Family Self Sufficiency (FSS) Escrow Account Credit Worksheet (form HUD–52652)

OMB Control Number: 2577–0229

- Sample Contract Admin Partnership Agreement (form HUD–52755)
- Resident Opportunities and Self Sufficiency (ROSS) Service Coordinators Funding Request (revised version) (form HUD–52768)
- Certification of Consistency with the Indian Housing Plan (form HUD–52752)
- Certification of Election of Resident Housing Board (form HUD–52753)

OMB Control Number: 2577–0269

- Application Checklist/Table of Contents (form HUD–53230)
- Choice Neighborhoods Implementation Grants Resident and Community Involvement Certification (form HUD–53231)
- Choice Neighborhoods Implementation Grants Application Information (HUD–53233)
- Choice Neighborhoods Attachments 2 and 3: Existing Units, Occupancy, and Vacancy and Planned Units (form HUD–53234)
- Choice Neighborhoods Implementation Grant Sizing Worksheet (form HUD–53235)
- Choice Neighborhoods Implementation Grants—Budget Form (form HUD–53236)
- Choice Neighborhoods Extraordinary Site Costs Certification (form HUD–53237)
- Choice Neighborhoods Implementation Grants One-for-One Replacement Certification (form HUD–53238)
- Choice Neighborhoods Implementation Leverage Resources; Housing Leverage Documentation; Neighborhood and People Resources (form HUD–53239)
- Choice Neighborhoods Implementation Application Certifications Attachment (form HUD–53240)
- Choice Neighborhoods Application Certification—Implementation Grants (form HUD–53240)
- Application Checklist/Table of Contents (form HUD–53150)
- Key Eligibility Data (form HUD–53152)
- Choice Neighborhoods Planning Grant Match/Leverage Resources (form HUD–53154)
- Choice Neighborhoods Application Certifications—Planning Grants (form HUD–53156)
- Resident Involvement Certification (form HUD–53151)
- Planning Grant Budget Form (form HUD–53421)
- Implementation Grant Budget Form (form HUD–53236)
- Actual Cost Certificate (form HUD–50163)

OMB Control Number: 2577–0208

- HOPE VI Attachment 9 Total Direct Cost/Grant Limitations Worksheet (form HUD–52799)
- Actual HOPE VI Cost Certificate (form HUD–53001–A)
- HOPE VI Budget (form HUD–52825–A)
- HOPE VI Main Street Application Data Sheet (form HUD–52861)
- HOPE VI Relocation Plan (form HUD–52774)
- HOPE VI Revitalization Leverage Resources (form HUD–52797)

OMB Control Number: 2502–0447

- Multifamily Housing Service Coordinator First-Time Funding Request (form HUD–91186)
- Multifamily Grant Extension Request Form (form HUD–91186–A)
- Line of Credit Control System (LOCCS) Payment Voucher (form HUD–50080)

Oversight and Post-Award Forms

OMB Control Number: 4040–0014

- Federal Financial Report (SF–425)

OMB Control Number: 2577–0157

- Annual Statement Performance and Evaluation Report Capital Fund Program (HUD–50075.1)

OMB Control Number: 2502–0447

- Performance Report (HUD 92456)

B. Solicitation of Public Comment

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.

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

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

(4) Ways to minimize the burden of the collection of information on those who are to respond; including using appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Affected Public who will be Asked or Required to Respond as well as a Brief Abstract: The primary respondents are applicants and recipients including, but not limited to, state agencies, local governments, Indian tribes, Tribally Designated Housing Entities (TDHEs), public housing authorities, institutions of higher education, faith based organizations, and non-profit and for profit organizations devoted to community development, housing the homeless, and other activities.

The solicitation template provides a framework for program-specific Notices of Funding Availability (NOFAs) soliciting applications for funding. A program solicitation or NOFA outlines the specific program requirements, describes eligibility requirements, details information, data, and forms applicants must submit in the application process; outlines program evaluation and performance measures; explains selection criteria and the review process; and provides registration dates, deadlines, and instructions on how to apply. The burden associated with the information collection subject to the Paperwork Reduction Act is actually reflected in the information collected through the forms enumerated in this collection rather than the templates themselves.

This collection consolidates many previously approved collections with new collections for the two templates for NOFAs and other pending PRAs. This request includes the burden associated with OMB approved forms as well as reporting where a specific form is not required.

HUD-Standard forms are used by all discretionary grant programs. The HUD Common forms are used by multiple discretionary grant programs or competitions. The Program-Specific forms are used by individual programs or competitions. Post-Award forms are used for reporting and oversight.

The information collected and to be collected is used in evaluating applications for HUD financial assistance and oversight of awards. Changes may be made based on actions of the Appropriations Committees and revisions to Departmental policies.

Estimate of the Total Number of Respondents and the Amount of Time Estimated for an Average Respondent To Respond:

Burden on Respondents:

The following table shows the estimated burden on applicants to prepare responses for information requests in applications by application.

Estimated respondents	Frequency	Estimated number of responses	Estimated hours per application	Estimated burden hours	Total estimated burden [1]
18,000	1	18,000	60	1,080,000	$64,800,000

The following table shows the estimated burden on recipients who submit performance and financial reports.

Estimated respondents	Frequency	Estimated number of responses	Estimated annual hours per respondent	Estimated annual burden hours	Total estimated burden [1]
12,000	5	12,000	8	96,000	$5,532,480

Burden on the Federal Government

Federal staff and others review and rate applications. The following table shows the average burden of reviewing applications for HUD's discretionary grant programs.

Estimated respondents	Frequency	Estimated number of responses	Estimated hours per respondent	Estimated annual burden hours	Total estimated burden [2]
18,000	1	18,000	20	360,000	$21,499,200

The following table shows the estimated burden of Federal oversight per financial assistance award.

Estimated respondents (awards)	Frequency (per quarter and annual reports per year)	Estimated number of responses	Estimated burden hours per reports & recordkeeping review (4 hrs. per report)	Estimated burden hours per year	Total estimated burden [2]
12,000	5	12,000	20 hrs./award	240,000	$14,332,800

C. Authority

Section 2 of the Paperwork Reduction Act of 1995, as codified at 44 U.S.C. 3507.

Dated: December 12, 2017.

Henry Hensley,

Director, Office of Strategic Planning and Management.

[FR Doc. 2017–27327 Filed 12–19–17; 8:45 am]

BILLING CODE 4210–67–P

[1] Estimated cost for respondents is calculated from the June 2017 Department of Labor Bureau of Labor Statistics report on Employer Costs for Employee Compensation determined that the hourly rate of management, professional and related wages and salaries averaged $39.75 per hour plus $17.88 per hour for fringe benefits for a total $57.63 per hour.

[2] Federal staff time is estimated for a GS–13 step 5 hourly rate at $51.48 per hour (from the Office of Personnel Management pay table with Washington-Baltimore-Arlington locality pay), plus 16% fringe benefit for a total of $59.72 per hour. The application review is estimated based on 2 staff people spending 10 hours reviewing each application.

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[Docket No. FWS–HQ–IA–2017–0033; Docket No. FWS–HQ–IA–2017–0077; FXIA16710900000–178–FF09A30000]

Foreign Endangered and Threatened Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered and threatened species. With some exceptions, the Endangered Species Act prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before January 19, 2018.

ADDRESSES: *Submitting Comments:* You may submit comments by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments on Docket No. FWS–HQ–IA–2017–0033 and/or Docket No. FWS–HQ–IA–2017–0077, as indicated in III. Permit Applications, below.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: Docket No. FWS–HQ–IA–2017–0033 and/or Docket

No. FWS–HQ–IA–2017–0077; U.S. Fish and Wildlife Service, MS: BPHC; 5275 Leesburg Pike, Falls Church, VA 22041–3803.

When submitting comments, please also indicate the name of the applicant and the PRT# you are commenting on. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see Public Comments, below, for more information).

Viewing Comments: Comments and materials we receive will be available for public inspection on *http://www.regulations.gov,* or by appointment, between 8 a.m. and 4 p.m., Monday through Friday, except Federal holidays, at the U.S. Fish and Wildlife Service, Division of Management Authority, 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2095.

FOR FURTHER INFORMATION CONTACT: Joyce Russell, Government Information Specialist, Division of Management Authority, U.S. Fish and Wildlife Service Headquarters, MS: IA; 5275 Leesburg Pike, Falls Church, VA 22041–3803; telephone 703–358–2023; facsimile 703–358–2280.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **FOR FURTHER INFORMATION CONTACT**. Please include the **Federal Register** notice publication date, the docket number, PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* ESA), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; Jan. 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

We invite the public to comment on applications to conduct certain activities with endangered species. With some exceptions, the ESA prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

Applicant: Audubon Nature Institute, New Orleans, LA; PRT–50379C; Docket No. FWS–HQ–IA–2017–0077

The applicant requests a permit to import one captive-born male orangutan (*Pongo abelii*) from the Hannover Zoo, Hannover, Germany, to enhance the propagation or survival of the species. This notification is for a single import.

Applicant: University of California, Davis, Davis, CA; PRT–50259C; Docket No. FWS–HQ–IA–2017–0077

The applicant requests a permit to import any endangered or threatened wildlife and plant species from worldwide sources, for the purpose of scientific research in applied animal ecology using stable isotope analysis. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Ronald Grant, Brackettville, TX; PRT–65097A; Docket No. FWS–HQ–IA–2017–0077

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess red lechwe (*Kobus leche*) from captive herds maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Christopher Murray, Cookeville, TN; PRT–28444C; Docket No. FWS–HQ–IA–2017–0077

The application requests a permit authorizing multiple-use import of American crocodile (*Crocodylus acutus*) scientific samples from Costa Rica, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: University of Michigan Museum of Zoology, Ann Arbor, MI; PRT–41443C; Docket No. FWS–HQ–IA–2017–0077

The applicant requests a permit to import howler monkey (*Alouatta palliata*) blood and hair samples from Nicaragua, for the purpose of scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Busch Gardens, Tampa, FL; PRT–24014C; Docket No. FWS–HQ–IA–2017–0033

In the **Federal Register** of July 6, 2017 (82 FR 31346), we published a notice inviting the public to comment on an application we received from Busch Gardens, Tampa, FL. Two species—black rhinoceros (*Diceros bicornus*) and common chimpanzee (*Pan troglodytes*)—were inadvertently left out of the description of the application. We are reopening the comment period on this application. We must receive comments or requests for documents on or before the date shown in the **DATES** section. The full, correct description of the Busch Gardens application reads as follows:

The applicant requests a captive-bred wildlife registration under 50 CFR

17.21(g) to enhance the propagation or survival of the following species:

African slender-snouted crocodile (*Crocodylus cataphractus*), Asian elephant (*Elephas maximus*), black rhinoceros (*Diceros bicornus*), cheetah (*Acinonyx jubatus*), Malayan tiger (*Panthera tigris corbetti*), western gorilla (*Gorilla gorilla*), common chimpanzee (*Pan troglodytes*), Bornean orangutan (*Pongo pygmaeus*), red-fronted lemur (*Eulemur rufus*), mongoose lemur (*Eulemur mongoz*), ring-tailed lemur (*Lemur catta*), red-ruffed lemur (*Varecia rubra*), Cuban parrot (*Amazona leucocephala*), blue-throated macaw (*Ara glaucogularis*), and golden parakeet (*Guarouba guarouba*). This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Morani River Ranch, Uvalde, TX; PRT–49112A; Docket No. FWS–HQ–IA–2017–0033

In the **Federal Register** of July 6, 2017 (82 FR 31346), we published a notice inviting the public to comment on an application we received from Morani River Ranch, Uvalde, TX. In that notice, the application was described incorrectly as a captive-bred wildlife application rather than a culling application. We are reopening the comment period on this application. We must receive comments or requests for documents on or before the date shown in the **DATES** section. The full, correct description of the Morani River Ranch application reads as follows:

The applicant requests a renewal of their permit authorizing the culling of excess barasingha (also known as ''swamp deer''; *Cervus duvauceli*), red lechwe (*Kobus leche*), Arabian oryx (*Oryx leucoryx*), and Eld's brow-antlered deer (*Cervus eldi*) from the captive herd maintained at their facility, to enhance the propagation or survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: National Marine Fisheries Service, Southwest Fisheries Science Center, La Jolla, CA; PRT–69509B; Docket No. FWS–HQ–IA–2017–0077

The applicant requests authorization to export and reimport nonliving museum specimens of endangered and threatened species previously accessioned into the applicant's collection for scientific research. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: H & L Sales, Inc., Hunt, Texas; PRT–704025; Docket No. FWS–HQ–IA–2017–0077

The applicant requests a permit authorizing the culling of excess barasingha (*Rucervus dubauceli*) and Arabian oryx (*Oryx leucoryx*) from the captive herd maintained at their facility, to enhance the species' propagation and survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Trophy Applicants (Docket No. FWS–HQ–IA–2017–0077)

The following applicants each request a permit to import a sport-hunted trophy of a male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancing the propagation or survival of the species.

Applicant: Larry Fliehs, Groton, SD; PRT–42537C

Applicant: Waggoner M. McDonnold, Midland TX; PRT–49644C

Applicant: Justin M. Bates, Dublin, OH; PRT–49643C

Applicant: Corbin J. Robertson Jr., Houston, TX; PRT–40255C

Applicant: Richard M. Bradish, Belgrade, MT; PRT–46591C

Applicant: Danny R. Hendrickson, Abilene, TX; PRT–47478C

Applicant: George Alan Clark, San Antonio, TX; PRT–54418C

Applicant: James R. Rymer, Jones, OK; PRT–45743C

IV. Next Steps

If the Service decides to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**. You may locate the **Federal Register** notice announcing the permit issuance date by searching *regulations.gov* under the permit number listed in this document.

V. Public Comments

You may submit your comments and materials concerning this notice by one of the methods listed in **ADDRESSES**. We will not consider comments sent by email or fax or to an address not listed in **ADDRESSES**.

If you submit a comment via *regulations.gov*, your entire comment, including any personal identifying information, will be posted on the website. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so.

We will post all hardcopy comments on *regulations.gov* under the applicable docket number.

VI. Authority

The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Joyce Russell,

Government Information Specialist, Branch of Permits, Division of Management Authority.

[FR Doc. 2017–27375 Filed 12–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R6–ES–2017–N153; FXES11130600000–189–FF06E00000]

U.S. Endangered Species; Receipt of Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comments.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits to conduct activities intended to enhance the propagation or survival of endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits certain activities that constitute take of listed species unless a Federal permit is issued that allows such activity. The ESA also requires that we invite public comment before issuing these permits.

DATES: To ensure consideration, we must receive your written comments by January 19, 2018.

ADDRESSES:

Document availability: The applications, as well as any comments and other materials that we receive, will be available for public inspection in hard copy for viewing by appointment between 8 a.m. and 4 p.m. Monday through Friday, except Federal holidays, at Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225; telephone 719–628–2670.

Submitting Comments: You may submit comments by one of the following methods. Please specify applicant name(s) and application number(s) to which your comments pertain (*e.g.,* Application No. TE–XXXXXX).

- *Email: permitsR6ES@fws.gov.* Please refer to the respective permit number (*e.g.,* Application No. TE–XXXXXX) in the subject line of your email message.

• *U.S. Mail:* Ecological Services, U.S. Fish and Wildlife Service, P.O. Box 25486–DFC, Denver, CO 80225.

• *Hand-delivery, Pickup, or Viewing:* Call 719–628–2670 to make an appointment during regular business hours at 134 Union Blvd., Suite 645, Lakewood, CO 80228.

FOR FURTHER INFORMATION CONTACT: Kathy Konishi, Recovery Permits Coordinator, Ecological Services, 719–628–2670 (phone); *permitsR6ES@fws.gov* (email).

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service, invite the public to comment on applications for permits to conduct activities intended to promote recovery of species that are listed as endangered under the Endangered Species Act (16 U.S.C. 1531 *et seq.*; ESA). With some exceptions, the ESA prohibits certain activities with endangered species unless a Federal permit allows such activity. The ESA also requires that we invite public comment before issuing these permits.

Background

The ESA prohibits certain activities with endangered and threatened species unless authorized by a Federal permit. The ESA and our implementing regulations in part 17 of title 50 of the Code of Federal Regulations (CFR) provide for the issuance of such permits and require that we invite public comment before issuing permits for activities involving endangered species.

A recovery permit issued under section 10(a)(1)(A) of the ESA authorizes the permittee to conduct activities with endangered species for scientific purposes that promote recovery or for enhancement of propagation or survival of the species. Our regulations implementing section 10(a)(1)(A) for these permits are found at 50 CFR 17.22 for endangered wildlife species, 50 CFR 17.32 for threatened wildlife species, 50 CFR 17.62 for endangered plant species, and 50 CFR 17.72 for threatened plant species.

Permit Applications Available for Review and Comment

We invite local, state and Federal agencies, tribes, and the public to comment on the following applications.

Application No.	Applicant	Species	Location	Activity	Type of take	Action
TE057485–3	Zion National Park	California condor (*Gymnogyps californianus*), *Astragalus ampullarioides* (Shivwitz milkvetch).	UT	Survey, monitor	Harass	Renew.
TE054317–1	InterWest Wildlife & Ecological Services, Inc.	Southwestern willow flycatcher (*Empidonax traillii extimus*).	CO, UT	Survey, monitor	Harass	Renew.
TE56825C–0	South Dakota State University.	Poweshiek skipperling (*Oarisma poweshiek*).	SD	Survey, monitor, voucher.	Capture, harm, and harass.	New.
TE165829–3	Bureau of Land Management State Office.	*Lepidium barnebyanum* (Barneby ridge-cress), *Schoenocrambe barnebyi* (Barney reed-mustard), *Astragalus holmgreniorum* (Holmgren milk-vetch), *Lesquerella tumulosa* (Kodachrome bladderpod), *Pediocactus despainii* (San Rafael cactus), *Astragalus ampullarioides* (Shivwits milkvetch), *Schoenocrambe suffrutescens* (shrubby reed-mustard), *Sclerocactus wrightiae* (Wright-fishhook cactus).	UT	Survey, monitor, voucher, collect seeds, sample tissues for genetic studies, propagate.	Harm	Renew.
TE180540–1	Bureau of Land Management Kanab Field Office.	Southwestern willow flycatcher (*Empidonax traillii extimus*).	UT	Survey and monitor	Harass	Renew.
TE237960–3	Power Engineers, Inc.	American burying beetle (*Nicrophorus americanus*).	KS, NE, OK, SD, TX.	Survey and monitor	Harass	Amend.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. If you submit a hardcopy comment that includes personal identifying information, you may request at the top of your document that we withhold this information from public review; however, we cannot guarantee that we will be able to do so.

Contents of Public Comments

Please make your comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations.

Next Steps

If we decide to issue permits to any of the applicants listed in this notice, we will publish a notice in the **Federal Register**.

Authority

We publish this notice under section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*)

Michael Thabault,

Deputy Assistant Regional Director Mountain-Prairie Region.

[FR Doc. 2017–27398 Filed 12–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2017–N148]; [FXES11140800000–178–FF08E00000]

Draft Habitat Conservation Plan for the Desert Tortoise and Mohave Ground Squirrel and Draft Environmental Assessment; Hinkley Groundwater Remediation Project; San Bernardino County, California

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability; request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the receipt and availability of a draft Habitat Conservation Plan (HCP) and draft environmental assessment (EA), which evaluates the impacts of, and alternatives to, the proposed Hinkley Groundwater Remediation Project. The Hinkley HCP was submitted by Pacific Gas & Electric Company (PG&E) in support of an application under the Endangered Species Act of 1973, as amended, for a permit authorizing the incidental take of covered species resulting from covered activities. PG&E's application is for a 50-year incidental take permit to cover groundwater remediation activities within a plan area of approximately 29,927 acres in and around Hinkley, California. We request review and comment on the Hinkley HCP and the draft EA from local, State, and Federal agencies; Tribes; and the public.

DATES: To ensure consideration, please send your written comments by January 19, 2018.

ADDRESSES: *Obtaining Documents:*

- *Internet:* You may obtain copies of the Hinkley HCP and draft EA on the Hinkley Groundwater Remediation website at *https://www.hinkleygroundwater.com.*
- *U.S. Mail:* A limited number of CD–ROM and printed copies of the Hinkley HCP and draft EA and are available, by request, from the Palm Springs Fish and Wildlife Office at 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262; by mail at the Hinkley Independent Review Panel (IRP) Manager Office, 36236 Serra Rd., Hinkley, CA 92347; by phone at (714) 338–1800; or by email at *info@projectnagivator.com.* Please specify that your request is about the Hinkley HCP.
- *In-Person:* Copies of the Hinkley HCP and draft EA are also available for public inspection and review at the following locations, by appointment and written request only, 8 a.m. to 4:30 p.m.:
  - Hinkley IRP Manager Office, 36236 Serra Rd., Hinkley, CA 92347.
  - PG&E Public Outreach Office, 22999 Community Blvd., Hinkley, CA 92347.
  - Barstow Library, 304 E Buena Vista St, Barstow, CA 92311.

Submitting Comments: You may submit comments by one of the following methods:

- *Email: fw8cfwocomments@fws.gov;* please include ''Hinkley HCP'' in the subject line.
- *U.S. Mail:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, Attn: Hinkley HCP, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262, Attn: Hinkley HCP.
- *Telephone:* Kennon A. Corey, Palm Springs Fish and Wildlife Office, (760) 322–2070.

FOR FURTHER INFORMATION CONTACT: Scott Hoffmann, by mail at the U.S. Fish and Wildlife Service, 777 East Tahquitz Canyon Way, Suite 208, Palm Springs, CA 92262; or by phone at (760) 322–2070.

SUPPLEMENTARY INFORMATION: We, the U.S. Fish and Wildlife Service (Service), announce the receipt and availability of a draft Habitat Conservation Plan (HCP) and draft environmental assessment (EA), which evaluates the impacts of, and alternatives to, the proposed Hinkley Groundwater Remediation Project. The Hinkley HCP was submitted by the Pacific Gas & Electric Company (PG&E) in support of an application under section 10 of the Endangered Species Act of 1973, as amended (ESA), for a permit authorizing the incidental take of covered species resulting from covered activities. The proposed Hinkley HCP area encompasses approximately 29,927 acres in the southeastern portion of San Bernardino County, within the State of California.

Introduction

Under section 10(c) of the ESA and under the National Environmental Policy Act of 1969 (NEPA), this notice advises the public of the receipt and availability for public review of the draft Hinkley HCP and draft EA, which evaluates the impacts of, and alternatives to, the Hinkley HCP, submitted with an application for a permit to authorize the incidental take of federally listed covered species resulting from covered activities within the plan area. The Service is the Lead Agency pursuant to NEPA. The proposed Federal action is issuance to PG&E of an incidental take permit (ITP) under section 10(a)(1)(B) of the ESA.

Background

Section 9 of the ESA prohibits ''take'' of fish and wildlife species listed as endangered under section 4 (16 U.S.C. 1538, 1533, respectively). Section 10(a)(1)(B) of the ESA provides for the issuance of a permit for the taking of listed fish and wildlife species that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity (''incidental take''). The ESA implementing regulations extend, under certain circumstances, the prohibition of take to threatened species (50 CFR 17.31). Regulations governing permits for endangered and threatened species are at 50 CFR 17.22 and 17.32. For more about the HCP program, go to *http://www.fws.gov/endangered/esa-library/pdf/hcp.pdf.*

Under section 10(a) of the ESA, the Service may issue permits to authorize incidental take of listed fish and wildlife species. Section 10(a)(2)(B) of the ESA contains criteria for issuing ITPs to non-Federal entities for the take of endangered and threatened species, provided the following criteria are met:

- The taking will be incidental;
- The applicant will, to the maximum extent practicable, minimize and mitigate 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; and
- The applicant will carry out any other measures that the Secretary may require as being necessary or appropriate for the purposes of the HCP.

The purpose of issuing an ITP to PG&E would be to permit incidental take of the covered species resulting from groundwater remediation activities conducted by PG&E and conditioned on PG&E's minimization and mitigation of the impacts of such take in accordance with an approved Hinkley HCP. Implementation of the Hinkley HCP is intended to maximize the benefits of conservation measures for covered species and eliminate expensive and time-consuming efforts associated with processing individual ITPs for each groundwater remediation project within PG&E's plan area.

The proposed Hinkley HCP includes measures intended to minimize and mitigate the impacts of the taking to the maximum extent practicable from groundwater remediation activities within the plan area.

Proposed Action

The proposed action is the issuance of an ITP by the Service to PG&E for the

incidental take of covered species from groundwater remediation activities, including the avoidance, minimization, and mitigation of impacts to covered species within the 29,927-acre plan area for 50 years. The proposed Hinkley HCP is a conservation plan for two species, the desert tortoise (federally listed as threatened) and the Mohave ground squirrel (not currently listed). The groundwater remediation activities that will be covered by the ITP include groundwater monitoring, freshwater injection into the water table, operation of agricultural units for bioremediation, below- and above-ground treatments, access road construction, structure demolition, and emergency repair of infrastructure. Potential impacts to covered species include disruption of normal behavior by covered activities, movement of animals away from work areas, and injury or death due to construction activities. The Hinkley HCP would provide a comprehensive approach to the protection and management of these species and their habitat within the plan area.

The plan area is approximately 29,927 acres, and includes all areas within which PG&E is proposing to conduct groundwater remediation activities. The plan area is common to both alternatives analyzed in the EA, and represents the surface area above the projected maximum spatial extent of contaminated groundwater. The plan area also defines the maximum spatial extent of surface areas within which PG&E may implement groundwater remediation activities, and the maximum spatial extent of potential groundwater effects such as drawdown or accumulation of remediation byproducts.

Alternatives

We considered two alternatives in the EA: (1) The Proposed Action as described in the HCP, and (2) the No Action alternative. Two other alternatives, discussed in the HCP as alternatives considered but not utilized, were not carried forward for analysis in the EA. The No Action alternative is based on PG&E's continued implementation of groundwater remediation activities, consistent with current laws and regulations, in areas where take of listed species would be avoided; under this alternative we would not issue an ITP.

Request for Comments

Consistent with section 10(c) of the ESA, we invite your submission of written comments, data, or arguments with respect to PG&E's permit application, the Hinkley HCP, and proposed permitting decision.

Public Availability of Comments

Written comments we receive 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.

Next Steps

Issuance of an incidental take permit is a Federal proposed action subject to compliance with NEPA. We will evaluate the application, associated documents, and any public comments we receive to determine whether the application meets the requirements of section 10(a) of the ESA. If we determine that those requirements are met, we will issue a permit to the applicant for the incidental take of the covered species. We will make our final permit decision no sooner than 30 days after the public comment period closes.

Authority

We provide this notice under section 10(c) of the ESA (16 U.S.C. 1531 *et seq.*) and its implementing regulations (50 CFR 17.22 and 17.32) and NEPA (42 U.S.C. 4321 *et seq.*) and its implementing regulations (40 CFR 1506.6).

G. Mendel Stewart,

Field Supervisor, Carlsbad Fish and Wildlife Office, Carlsbad, California.

[FR Doc. 2017–27440 Filed 12–19–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCAC06000 L14400000 EU0000 17X L1109AF; CACA 52759]

Notice of Realty Action: Proposed Non-Competitive (Direct) Sale of Public Land in Santa Barbara County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The Bureau of Land Management (BLM) is proposing to sell 5.93 acres of public land to resolve an unauthorized use and occupancy in Santa Barbara County, California, to Arc Vineyards, LLC, under the Federal Land Policy and Management Act of 1976 (FLPMA), as amended, at not less than the fair market value of $19,500.

DATES: Submit written comments to the BLM at the address below. Comments must be received by the BLM on or before February 5, 2018.

ADDRESSES: Bureau of Land Management, Bakersfield Field Office, 4801 Pegasus Dr., Bakersfield, CA 93308. Attn: Gabriel Garcia, Field Manager.

FOR FURTHER INFORMATION CONTACT: Maria Soto, Realty Specialist, 661–391–6023, at the above address or email to *msoto@blm.gov.* Persons who use a telecommunication device for the deaf (TDD) may call the Federal Relay Service (FRS) at 1–800–877–8339 to leave a message or question for the above individual. FRS is available 24 hours a day, 7 days a week. Replies are provided during normal business hours.

SUPPLEMENTARY INFORMATION: The following described land located in Santa Barbara County, California, is proposed for direct sale under the authority of Section 203 of FLPMA (43 U.S.C. 1713).

San Bernardino Meridian, California

T. 9 N, R. 33 W,

Sec. 20, lot 1.

The area described contains 5.93 acres.

The BLM determined the land is no longer required for any other Federal purpose. A direct sale of this parcel is in conformance with the 1997 Caliente Resource Management Plan (RMP), as amended by Environmental Assessment DOI–BLM–CA–C060–2012–0021 Decision Record signed on July 2, 2014. Subsequently, the 2014 Bakersfield RMP replaced the Caliente RMP. The parcel was identified as suitable for disposal and sale under Section 203 of FLPMA and is limited to the smallest acreage necessary to resolve the unauthorized use and occupancy. The BLM found no significant biological or cultural resource values on the lands and expects no impacts to resource values from this action. An Environmental Site Assessment has been performed and is available for review. The sale would dispose of an isolated public land parcel that is difficult to manage because it is completely surrounded by private land and there is no legal access, would

allow the buyer to resolve an inadvertent unauthorized use (43 CFR 2711.3–3(a)(5)) and would set aside the unused area to meet Santa Barbara County's development/permitting requirements for open space. There is no public access. Arc Vineyards owns and controls the access to this public land parcel across its private land north and adjacent to the parcel.

The regulation at 43 CFR 2711.3–3(a)(5) authorizes the BLM to make direct sale of public lands when a competitive sale is not appropriate and the public interest would be best served by a direct sale. The BLM determined a direct sale will serve important public objectives by disposing of a parcel of isolated public land that the public cannot use or legally access and that the BLM cannot properly manage, and to resolve the inadvertent unauthorized use and occupancy of the land. The BLM prepared a mineral potential report dated October 25, 2011, concluding there are known mineral values in the land offered for sale. Therefore, the BLM will reserve the Federal mineral interest to the United States. Such minerals will be subject to the right to explore, prospect for, mine, and remove under applicable law and regulations.

On December 20, 2017, the above described parcel will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Until completion of the sale or termination of the segregation, the BLM will no longer accept land-use applications affecting the identified public lands, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregation will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or 2 years after the date of publication, whichever occurs first, unless extended by the BLM State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date. The BLM will also publish this Notice in the Santa Maria Times once a week for 3 consecutive weeks. The parcel will not be sold until at least 60 days after the date of publication of this Notice in the **Federal Register**.

Conveyance of the identified public land would be subject to valid existing rights of record and the following terms, conditions, and reservations:

1. A right-of-way thereon for ditches and canals constructed by authority of the United States, Act of August 30, 1890 (43 U.S.C. 945).

2. A reservation of all minerals to the United States, and the right to prospect for, mine, and remove the minerals under applicable law and any regulations that the Secretary of the Interior may prescribe, including all necessary access and exit rights.

3. An appropriate indemnification clause protecting the United States from claims arising out of the patentee's use, occupancy, or occupation on the patented land.

Detailed information, including NEPA documentation and all other documents associated with this sale, are available for review during the 45-day public comment period for this notice at the Bakersfield Field Office at the above address.

For a period until February 5, 2018, interested parties and the general public may submit in writing any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the identified land, to the Field Manager, BLM Bakersfield Field Office, at the above address. Email will also be accepted and should be sent to: *BLM_CA_Bakersfield_Public_Comments@blm.gov* with ''Public Land Sale'' inserted in the subject line. Comments, including names and street addresses or respondents, will be available for public review at the BLM Bakersfield Office at the above address.

Individual respondents may request confidentiality. Before including your address, telephone number, email address, or other personal identifying information in your comment, the BLM will make your entire comment—including your personal identifying information—publicly available at any time. While you can ask in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an official or representative of a business or organization.

The BLM California State Director or other authorized official of the Department of the Interior will review comments regarding the sale and may sustain, vacate, or modify this realty action in whole or in part. In the absence of timely filed objections, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2710 and 43 CFR 2711)

Danielle Chi,

Deputy State Director, Division of Resources.

[FR Doc. 2017–27414 Filed 12–19–17; 8:45 am]

BILLING CODE 4310–40–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1091]

Certain Color 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 color intraoral scanners and related hardware and software by reason of infringement of one or more of U.S. Patent No. 8,363,228 (''the '228 patent''); U.S. Patent No. 8,451,456 (''the '456 patent''); U.S. Patent No. 8,675,207 (''the '207 patent''); U.S. Patent No. 9,101,433 (''the '433 patent''); U.S. Patent No. 6,948,931 (''the '931 patent''); and U.S. Patent No. 6,685,470 (''the '470 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 color intraoral scanners and related hardware and software by reason of infringement of one or more of claims 1, 2, 4, 5, 7, 18, 20, 21, and 26 of the '228 patent; claims 1–8 and 15–18 of the '456 patent; claims 1, 2, 4, and 15–21 of the '207 patent; claims 1, 4, 7, 10, 12, and 14 of the '433 patent; and claims 1–12 of the '931 patent; and claims 1–12 of the '470 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, and the Chief Administrative Law Judge is authorized to consider whether to consolidate Inv. No. 337–TA–1091 with Inv. No. 337–TA–1090, and to consolidate them if he deems it appropriate.

The Office of Unfair Import Investigations will not participate as a party in this investigation.

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. 2017–27321 Filed 12–19–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–865–867 (Third Review)]

Stainless Steel Butt-Weld Pipe Fittings From Italy, Malaysia, and the Philippines

Determinations

On the basis of the record [1] 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 duty orders on stainless steel butt-weld pipe fittings from Italy, Malaysia, and the Philippines 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 June 1, 2017 (82 FR 25324) and determined on September 5, 2017 that it would conduct expedited reviews (82 FR 46524, October 5, 2017).

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 January 8, 2018. The views of the Commission are contained in USITC Publication 4751 (January 2018), entitled *Stainless Steel Butt-Weld Pipe Fittings from Italy, Malaysia, and the Philippines: Investigation Nos. 731–TA–865–867 (Third Review).*

By order of the Commission.

Issued: December 15, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–27391 Filed 12–19–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

On December 14, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Northern District of New York in the lawsuit entitled

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

United States v. *Honeywell International Inc.,* Civil Action No. 5:17–cv–01344–FJS–DEP. In a civil action filed under Section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9607(a) (CERCLA), on December 14, 2017, the United States sought recovery from Honeywell International Inc. (''Honeywell'') of costs of response action at the Onondaga Lake Superfund Site (Site) in Syracuse, New York. The proposed Consent Decree resolves the liability of defendant Honeywell for response costs incurred by the United States in connection with the Site.

The proposed Consent Decree requires Honeywell to pay $7.3 million in reimbursement of response costs incurred by the United States with respect to the Site. The proposed Consent Decree provides Honeywell with a covenant not to sue for response costs incurred by the United States in connection with the Site through the date of lodging of the Consent Decree. Honeywell previously entered into a settlement with the New York State Department of Environmental Conservation (NYSDEC) that required Honeywell to perform a cleanup of the Lake Bottom portion of the Site.

The proposed Consent Decree also resolves the liability of other potentially responsible parties (''Other Settling Parties'') who have previously settled (or may settle in the future) with Honeywell, and the United States provides the Other Settling Parties with a covenant not to sue for certain of the costs incurred by the United States in connection with the Site. The Other Settling Parties also agree to provide a covenant not to sue the United States for certain costs and natural resource damages in connection with the Site.

The proposed Consent Decree also resolves Honeywell's claim against the United States under Section 113(f) of CERCLA and requires the United States to reimburse Honeywell $6.25 million of Honeywell's costs incurred in cleaning up the Site. Honeywell alleges that certain federal agencies were liable for the disposal of contaminants at the Site during World War II. Under the proposed Consent Decree, Honeywell provides the United States with a covenant not to sue for response costs and natural resource damages incurred or to be incurred by Honeywell in connection with the Site.

The publication of this notice opens a period for public comment on the Consent Decree. Please address comments to the Assistant Attorney General, Environment and Natural Resources Division and refer to *United States* v. *Honeywell International Inc.* D.J. Ref. No. 90–11–3–08348. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department website: *http://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $10.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–27400 Filed 12–19–17; 8:45 am]

BILLING CODE 4410–15–P

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nature McGinn, ACA Permit Officer, Office of Polar Programs, National Science Foundation, 2415 Eisenhower Avenue, Alexandria, VA 22314; 703–292–8030; email: *ACApermits@nsf.gov.*

SUPPLEMENTARY INFORMATION: On October 27, 2017, the National Science Foundation published notices in the **Federal Register** of a permit applications received. The permits were issued on December 15, 2017 to:

1. Cory Wolff, Permit No. 2018–023
2. Joseph A. Covi, Permit No. 2018–024

Nadene G. Kennedy,

Polar Coordination Specialist, Office of Polar Programs.

[FR Doc. 2017–27385 Filed 12–19–17; 8:45 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 70–1257; NRC–2017–0148]

AREVA, Inc.; Richland, Washington; Indirect Transfer of License; Order

AGENCY: Nuclear Regulatory Commission.

ACTION: Indirect transfer of license; order.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing an Order approving the indirect transfer of several licenses. AREVA, Inc., is the holder of materials license no. SNM–1227, which authorizes the possession and use of special nuclear material (SNM) at the AREVA, Inc. site in Richland, Washington. AREVA, Inc. is also the holder of export license nos. XSNM3551, XSNM3697, XSNM3747, XSOU8833, XCOM1202, XW015, XCOM1304, XSNM3780, XSNM3781, XSNM3782, and import license no. IW009 which authorize the import and export of licensed materials/components to and from facilities in the United States. The Order approves the indirect transfer of control of the above licenses resulting from a planned reorganization of AREVA, Inc.'s parent company and the sale of part of the parent company. There will be no direct transfer of control because AREVA, Inc. will continue to be the license holder. The Order became effective upon issuance.

DATES: The Order was issued on November 14, 2017, and is applicable until March 31, 2018.

ADDRESSES: Please refer to Docket ID NRC–2017–0148 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–2017–0148. 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. In addition, for the convenience of the reader, the ADAMS accession numbers are provided in a table in the ''Availability of Documents'' section of 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: Kevin M. Ramsey, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–7506, email: *Kevin.Ramsey@nrc.gov.*

SUPPLEMENTARY INFORMATION: The text of the Order is attached.

Availability of Documents

The documents identified in the following table are available to interested persons through one or more of the following methods, as indicated.

Document	ADAMS Accession No.
Letter dated April 14, 2017, titled ''AREVA Internal Reorganization and Indirect Transfer to EDF: Request for NRC Consent to License Transfers''.	ML17108A259
Letter dated July 14, 2017, titled ''AREVA Internal Reorganization and Indirect Transfer to EDF: Request for NRC Consent to License Transfers''.	ML17200C949
Letter dated August 31, 2017, titled ''Response to a Request for Additional Information Regarding Application for NRC Consent to License Transfers''.	ML17265A374
Letter dated October 4, 2017, titled ''Update to Request for NRC Consent to License Transfers''	ML17283A110
Letter dated November 14, 2017, titled ''AREVA, Inc.—Order Approving Indirect Transfer of Control of Licenses''	ML17269A246

Dated at Rockville, Maryland, this 13th day of December, 2017.

For the Nuclear Regulatory Commission.

Robert K. Johnson,

Chief, Fuel Manufacturing Branch, Division of Fuel Cycle Safety, Safeguards, and Environmental Review, Office of Nuclear Material Safety and Safeguards.

Attachment—Order Approving Indirect Transfer of Control of License

UNITED STATES OF AMERICA NUCLEAR REGULATORY COMMISSION

Docket Nos. 70–1257, 110–6288, 110–5623, 110–5959, 110–6110, 110–6153, 110–5788, 110–5149, 110–5789, 110–6231, 110–6265, 110–6267; License Nos. SNM–1227, XSNM3782, XSNM3551, XSNM3697, XSNM3747, XSOU8833, XCOM1202, IW009, XW015, XCOM1304, XSNM3780, XSNM3781

In the Matter of AREVA, Inc., Richland, Washington

ORDER APPROVING INDIRECT TRANSFER OF CONTROL OF LICENSE

I

AREVA, Inc., is the holder of materials license no. SNM–1227, which authorizes the possession and use of special nuclear material (SNM) at the AREVA, Inc. site in Richland, Washington. AREVA, Inc. is also the holder of export license nos. XSNM3551, XSNM3697, XSNM3747, XSOU8833, XCOM1202, XW015, XCOM1304, XSNM3780, XSNM3781, XSNM3782, and import license no. IW009 which authorize the import and export of licensed materials/components to and from facilities in the United States.

II

By letter dated April 14, 2017, and supplemented by letters dated July 14, August 31, and October 4, 2017 (collectively the Application), AREVA, Inc. requested the U.S. Nuclear Regulatory Commission's (NRC's) approval of the indirect transfer of control of the licenses listed above. The indirect transfer of control would result from a planned reorganization of AREVA SA to create a new, wholly-owned subsidiary and the sale of controlling interest in the new subsidiary to Electricite de France (EDF). AREVA SA, a company organized under the laws of France, is the ultimate parent company of AREVA NP SAS, a company organized under the laws of France and the current intermediate parent of AREVA, Inc. After the reorganization is complete, AREVA NP SAS will have a new, wholly-owned subsidiary called New NP SA. AREVA, Inc. will be a wholly-owned subsidiary of New NP SA, which in turn will be a wholly-owned subsidiary of AREVA NP SAS and indirect subsidiary of AREVA SA. AREVA SA will transfer controlling interest in New NP SA to EDF, a company organized under the laws of France. AREVA, Inc. will be an indirect subsidiary of EDF. The transaction will thus involve the indirect transfer of control over AREVA, Inc.'s NRC-issued licenses.

There will be no direct transfer of control because AREVA, Inc. will continue to be the license holder. There will be no change in the management or technical personnel responsible for licensed activities. The current safety, security, and licensing organizations within AREVA, Inc. will remain unchanged. Additionally, there are no planned changes in the operational organization, location, facilities, equipment, or procedures associated with the NRC licenses, and there will be no changes in AREVA, Inc. operating procedures, emergency procedures, or decommissioning financial assurance. Because the licensee remains the same, there will be no physical transfer of any records. All records concerning the safe and effective decommissioning of the facility, public dose, and waste disposal will remain physically located, maintained, and available at the Richland, Washington, site. EDF will abide by, and be ultimately responsible for meeting, all commitments and representations previously made by AREVA, Inc. with respect to the licenses listed above. These include, but are not limited to, maintaining decommissioning records, implementing decontamination activities, and eventually decommissioning the facilities and site. No physical or operational changes affecting the AREVA site and licensed activities were proposed in the Application.

Approval of the change of control was requested pursuant to Section 184 of the Atomic Energy Act of 1954, as amended (the Act), and Title 10 of the *Code of Federal Regulations* (10 CFR) Sections 70.36 and 110.50. A notice of receipt of the Application and opportunity to request a hearing and provide written comments was published in the **Federal Register** on June 9, 2017 (82 FR 29586–29588). No comments or requests for a hearing were received in response to the notice. A corrected notice was published on November 8, 2017 (82 FR 51880–51883), to add several export licenses omitted from the original Application.

Pursuant to 10 CFR 70.36, no 10 CFR part 70 license shall be transferred, assigned, or in any manner disposed of, either voluntarily or involuntarily, directly or indirectly, unless the NRC, after securing full information, finds that the transfer is in accordance with the provisions of the Act, and gives its consent in writing. Pursuant to 10 CFR 110.50, a specific license under Part 110 may be transferred, disposed of, or assigned to another person only with the approval of the Commission. After review of the information

in the Application, and relying on the representations and agreements contained in the Application, the NRC staff has determined that EDF is qualified to hold the ownership interests previously held by AREVA NP SAS, and that the transfers of ownership and operating interests to EDF, described in the Application, are otherwise consistent with applicable provisions of law, regulations, and previous NRC orders. These findings are subject to the conditions set forth below. The NRC staff further finds that: (1) The requested change of control will not be inimical to the common defense and security or to the health and safety of the public; and (2) the change of control will be in accordance with 10 CFR part 51 of the NRC's environmental regulations, and all applicable requirements have been satisfied.

The findings set forth above are supported by the NRC's Safety Evaluation Report issued with this Order.

III

Accordingly, pursuant to Sections 161b, 161i, 183, and 184 of the Act; 42 U.S.C. 2201(b), 2201(i), 2233, and 2234; and 10 CFR 70.36 and 110.50, IT IS HEREBY ORDERED that the Application regarding the indirect transfer of control over licenses listed above from AREVA SA to EDF is approved, subject to the following conditions:

1. With respect to the licenses listed above, EDF, as stated in the Application, will abide by all commitments and representations previously made by AREVA, Inc. These include, are not limited to, maintaining decommissioning records and financial assurance, implementing decontamination activities, and eventually decommissioning the site.

2. The commitments/representations made in the Application regarding reporting relationships and authority over safety and security issues and compliance with NRC requirements shall be adhered to and may not be modified without the prior written consent from the Director, Office of Nuclear Material Safety and Safeguards, or his designee.

IT IS FURTHER ORDERED that AREVA, Inc. at least one (1) business day before all actions necessary to accomplish the indirect transfer of control are completed shall so inform the Director of the Office of Nuclear Material Safety and Safeguards, in writing. If the necessary supporting actions have not been completed by March 31, 2018, this Order shall become null and void; provided, however, that, upon timely written application and for good cause shown, such completion date may be extended by further Order.

This Order is effective on issuance.

For further details with respect to this Order, see the initial Application listed in Section II above, and the Safety Evaluation Report supporting this action, which are available for public inspection at the Commission's Public Document Room (PDR), located at One White Flint North, Public File Area 01–F21, 11555 Rockville Pike (first floor), Rockville, Maryland, and accessible, electronically, through the Agencywide Documents Access and Management System (ADAMS) Public Electronic Reading Room, on the internet the NRC website *http://www.nrc.gov/reading-rm/adams.html.* Persons who do not have access to ADAMS, or who encounter problems in accessing the documents located in ADAMS, should contact the NRC PDR reference staff, by telephone, at 1–800–397–4209, 301–415–4737, or via email, to *pdr@nrc.gov.*

Dated and issued this 14th day of November, 2017.

For the Nuclear Regulatory Commission.

Marc L. Dapas,

Director, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–27436 Filed 12–19–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0166]

Information Collection: Registration Certificate—In Vitro Testing With Byproduct Material Under General License

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, NRC Form 483, Registration Certificate—''*In Vitro* Testing With Byproduct Material Under General License.''

DATES: Submit comments by January 19, 2018.

ADDRESSES: Submit comments directly to the OMB reviewer at: Brandon DeBruhl, Desk Officer, Office of Information and Regulatory Affairs (3150–0038), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–0710, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0166 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–2017–0166.
- *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 supporting statement and the revised NRC Form 483 are available in ADAMS under Accession Nos. ML17348B437 and ML17300B398, respectively.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

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

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

Background

Under the provisions of the Paperwork Reduction Act of 1995 (44

U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 483, ''Registration Certificate—*In Vitro* Testing With Byproduct Material Under General License.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 28, 2017 (82 FR 40809).

1. *The title of the information collection:* NRC Form 483, Registration Certificate—*In Vitro* Testing With Byproduct Material Under General License.

2. *OMB approval number:* 3150–0038.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 483.

5. *How often the collection is required or requested:* There is a one-time submittal of information to receive a validated copy of the NRC Form 483 with an assigned registration number. In addition, any changes in the information reported on the NRC Form 483 must be reported in writing to the NRC within 30 days after the effective date of the change.

6. *Who will be required or asked to respond:* Any physician, veterinarian in the practice of veterinary medicine, clinical laboratory, or hospital which desires a general license to receive, acquire, possess, transfer, or use specified units of byproduct material in certain *in vitro* clinical or laboratory tests.

7. *The estimated number of annual responses:* 6.

8. *The estimated number of annual respondents:* 6.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 1.12 hours.

10. *Abstract:* Section 31.11 of Title 10 of the *Code of Federal Regulations* (10 CFR), established a general license authorizing any physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital to possess certain small quantities of byproduct material for *in vitro* clinical or laboratory test not involving the internal or external administration of the byproduct material or the radiation therefrom to human beings or animals. Possession of byproduct material under 10 CFR 31.11 is not authorized until the physician, clinical laboratory, veterinarian in the practice of veterinary medicine, or hospital has filed the NRC Form 483 and received from the Commission a validated copy of the NRC Form 483 with a registration number. The licensee can use the validated copy of the NRC Form 483 to obtain byproduct material from a specifically licensed supplier. The NRC incorporates this information into a database which is used to verify that a general licensee is authorized to receive the byproduct material.

Dated at Rockville, Maryland, this 15th day of December, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–27407 Filed 12–19–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0274]

Information Collection: Request for Approval of Official Foreign Travel

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget; request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to the Office of Management and Budget (OMB) for review. The information collection is entitled, ''NRC Form 445, ''Request for Approval of Official Foreign Travel.''

DATES: Submit comments by January 19, 2018.

ADDRESSES: Submit comments directly to the OMB reviewer at: Brandon De Bruhl, Desk Officer, Office of Information and Regulatory Affairs (3150–0193), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–0710, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0274 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–2016–0274.
- *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 supporting statement and Request for Approval of Official Foreign Travel is available in ADAMS under Accession No. ML17320A776.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

B. Submitting Comments

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

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

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, NRC Form 445, ''Request for Approval of Official Foreign Travel.'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on September 12, 2017; 82 FR 42842.

1. *The title of the information collection:* NRC Form 445, ''Request for Approval of Official Foreign Travel.''

2. *OMB approval number:* 3150–0193.

3. *Type of submission:* Extension.

4. *The form number if applicable:* NRC Form 445.

5. *How often the collection is required or requested:* On occasion.

6. *Who will be required or asked to respond:* Non-Federal consultants, contractors and NRC invited travelers (*i.e.,* non-NRC employees).

7. *The estimated number of annual responses:* 50.

8. *The estimated number of annual respondents:* 50.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 50.

10. *Abstract:* Form 445, ''Request for Approval of Foreign Travel,'' is supplied by consultants, contractors, and NRC invited travelers who must travel to foreign countries in the course of conducting business for the NRC. In accordance with 48 CFR 20, ''NRC Acquisition Regulation,'' contractors traveling to foreign countries are required to complete this form. The information requested includes the name of the Office Director/Regional Administrator or Chairman, as appropriate, the traveler's identifying information, purpose of travel, listing of the trip coordinators, other NRC travelers and contractors attending the same meeting, and a proposed itinerary.

Dated at Rockville, Maryland, this 14th day of December, 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–27383 Filed 12–19–17; 8:45 am]

BILLING CODE 7590–01–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 14, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 391 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–56, CP2018–92.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27355 Filed 12–19–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 14, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 390 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–55, CP2018–91.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27354 Filed 12–19–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: *Date of notice required under 39 U.S.C. 3642(d)(1):* December 20, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on December 14, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express Contract 55 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–57, CP2018–94.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27356 Filed 12–19–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82331; File No. SR–CboeEDGX–2017–005]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend Rule 19.6, Series of Options Contracts Open for Trading

December 14, 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 4, 2017, Cboe EDGX Exchange, Inc. (''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend Rule 19.6, Series of Options Contracts Open for Trading.

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to amend Rule 19.6 to modify the strike setting regime for IVV, SPY, and DIA options. Specifically, for IVV, SPY, and DIA options the Exchange proposes to explicitly allow $1 strike price intervals. The Exchange believes that the proposed rule change would make IVV, SPY, and DIA options easier for investors and traders to use and more tailored to their investment needs, as well as to better align BZX's strike regime with other options exchange. The Exchange notes that this proposal is based on the rules of BOX Options Exchange LLC (''Box'') and the Cboe Exchange, Inc. (f/k/a Chicago Board Options Exchange, Inc.) (Cboe).[5]

Rule 19.6(d)(4) provides that:

> The interval between strike prices of series of options on Fund Shares approved for options trading pursuant to Rule 19.3(i) shall be fixed at a price per share which is reasonably close to the price per share at which the underlying security is traded in the primary market at or about the same time such series of options is first open for trading on BZX Options, or at such intervals as may have been established on another options exchange prior to the initiation of trading on BZX Options.[6]

Rule 19.6.02(a) provides:

> BZX Options may list $1 Strike Prices on any other option classes if those classes are specifically designated by other national securities exchanges that employ a similar $1 Strike Price Program under their respective rules.[7]

Pursuant to Rule 19.6.02(a) and the last clause in Rule 19.6(d)(4), IVV, SPY, and DIA options may be listed in $1 strike price intervals when another options exchange lists $1 strikes. The Exchange seeks to amend Rule 19.6(d)(4) to explicitly allow $1 strike price intervals regardless of whether another exchange has already listed series of IVV, SPY, and DIA options.

The SPY and IVV exchange-traded funds (''ETFs'') are designed to roughly track the performance of the S&P 500 Index. The DIA ETF is designed to roughly track the performance of the Dow Jones Industrial Average (''DJIA'') with the price of SPY and IVV designed to roughly approximate 1/10th of the price of the S&P 500 Index and the price of DIA designed to roughly approximate 1/100th of the price of the DJIA. Accordingly, SPY and IVV strike prices reflect a value roughly equal to 1/10th of the value of the S&P 500 Index and DIA strike prices reflect a value roughly equal to 1/100th of the value of the DJIA with each having a multiplier of $100. For example, if the S&P 500 Index is at 1972.56, SPY options might have a value of approximately 197.26 with a notional value of $19,726. If the DJIA is at 16,569.98, DIA options may have a value of 165.70 with a notional value of $16,570. In general, SPY, IVV, and DIA options provide retail investors and traders with the benefit of trading the broad market in a manageably sized contract. As options with an ETP underlying, SPY, IVV, and DIA options are listed in the same manner as equity options under the Rules.

Unlike other options exchanges, BZX rules do not specifically identify the strike price interval for IVV, SPY, and DIA options. This proposed rule change seeks to match the strike setting regime for IVV, SPY, and DIA options available on other options exchanges.[8]

Due to the Exchange's current ability to list $1 strikes in IVV, SPY, and DIA options when another options exchange lists such strikes, this proposed rule change is unlikely to augment the potential total number of options series available on the Exchange. However, the Exchange believes it and the Options Price Reporting Authority (''OPRA'') have the necessary systems capacity to handle any potential additional traffic associated with this proposed rule change. The Exchange also believes that Trading Permit Holders will not have a capacity issue due to the proposed rule change. In addition, the Exchange represents that it does not believe that this expansion will cause fragmentation of liquidity.

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. Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) 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) requirement that the rules of an exchange not be designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

In particular, the proposed rule change will allow investors to more easily use SPY, IVV, DIA options, which protects investors and the public interest. The Exchange also believes the proposed rule change is consistent with Section 6(b)(1) of the Act, which provides that the Exchange be organized and have the capacity to be able to carry out the purposes of the Act and the rules and regulations thereunder, and the rules of the Exchange. The Exchange does not believe that the proposed rule would create additional capacity issues or affect market functionality. The Exchange believes that the proposed rule change, like other strike price programs currently offered by the Exchange, will benefit investors by giving them increased flexibility to more closely tailor their investment and hedging decisions. Moreover, the

[5] *See* Box Rule IM–5050–1 and Cboe Rule 5.5.08(b).

[6] *See* Rule 19.6(d)(4).

[7] *See* Rule 19.6.02(a).

[8] *See* Box Rule IM–5050–1 and Cboe Rule 5.5.08(b).

proposed rule change is consistent with the rules of other exchanges.[9]

(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. Rather, the Exchange believes that the proposed rule change will result in additional investment options and opportunities to achieve the investment and trading objectives of market participants seeking efficient trading and hedging vehicles, to the benefit of investors, market participants, and the marketplace in general. Additionally, this proposed rule change seeks to match the strike setting regime for IVV, SPY, and DIA options available on other options exchanges; thus, the proposed rule change may alleviate any potential burden on competition.[10]

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and paragraph (f)(6) of Rule 19b–4 thereunder,[12] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeEDGX–2017–005 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–CboeEDGX–2017–005. 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–CboeEDGX–2017–005 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27350 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[9] *See* Box Rule IM–5050–1 and Cboe Rule 5.5.08(b).

[10] *Id.*

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4.

[13] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32939; 812–14785]

Ausdal Financial Partners, Inc. and Ausdal Unit Investment Trust

December 14, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under (a) section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 2(a)(35), 14(a), 19(b), 22(d) and 26(a)(2)(C) of the Act and rules 19b–1 and rule 22c–1 thereunder and (b) sections 11(a) and 11(c) of the Act for approval of certain exchange and rollover privileges.

Applicants: Ausdal Financial Partners, Inc. (''Ausdal'') and Ausdal Unit Investment Trust.[1]

Summary of Application: Applicants request an order to permit certain unit investment trusts (''UIT'') to: (a) impose sales charges on a deferred basis and waive the deferred sales charge in certain cases; (b) offer unitholders certain exchange and rollover options; (c) publicly offer units without requiring the Depositor to take for its own account $100,000 worth of units; and (d) distribute capital gains resulting from the sale of portfolio securities within a reasonable time after receipt.

Filing Dates: The application was filed on June 20, 2017, and amended on October 27, 2017.

Hearing or Notification of Hearing: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may

[1] Applicants also request relief for future registered unit investment trusts (collectively, with Ausdal Unit Investment Trust, the ''Trusts'') and series of the Trusts (''Series'') that are sponsored by Ausdal or any entity controlling, controlled by or under common control with Ausdal (together with Ausdal, the ''Depositor''). Any future Trust and Series that relies on the requested order will comply with the terms and conditions of the application. All existing entities that currently intend to rely on the requested order are named as applicants.

request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 8, 2018, and should be accompanied by proof of service on applicants, in the form of an affidavit, or for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090; Applicants, 3250 Lacey Road, Suite 130, Downers Grove, IL 60515, and Morrison C. Warren, Walter L. Draney and Suzanne M. Russell, Chapman and Cutler LLP, 111 West Monroe Street, Chicago, IL 60603.

FOR FURTHER INFORMATION CONTACT: Laura L. Solomon, Senior Counsel, at (202) 551–6915, or David J. Marcinkus, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants' Representations:

1. Ausdal Unit Investment Trust and any future Trust will be a UIT registered under the Act. Ausdal, an Iowa corporation, is registered under the Securities Exchange Act of 1934 as a broker-dealer and will be the Depositor of Ausdal Unit Investment Trust. Each Series will be created by a trust indenture between the Depositor and a banking institution or trust company as trustee.

2. The Depositor acquires a portfolio of securities, which it deposits with the series trustee (''Trustee'') in exchange for certificates representing units of fractional undivided interest in the Series' portfolio (''Units''). The Units are offered to the public through the Depositor and dealers at a price which, during the initial offering period, is based upon the aggregate market value of the underlying securities, or, the aggregate offering side evaluation of the underlying securities if the underlying securities are not listed on a securities exchange, plus a front-end sales charge, a deferred sales charge or both. The maximum sales charge may be reduced in compliance with rule 22d–1 under the Act in certain circumstances, which are disclosed in the Series' prospectus.

3. The Depositor may, but is not legally obligated to, maintain a secondary market for Units of an outstanding Series. Other broker-dealers may or may not maintain a secondary market for Units of a Series. If a secondary market is maintained, investors will be able to purchase Units on the secondary market at the current public offering price plus a front-end sales charge. If such a market is not maintained at any time for any Series, holders of the Units (''Unitholders'') of that Series may redeem their Units through the Trustee.

A. Deferred Sales Charge and Waiver of Deferred Sales Charge Under Certain Circumstances

1. Applicants request an order to the extent necessary to permit one or more Series to impose a sales charge on a deferred basis (''DSC''). For each Series, the Depositor would set a maximum sales charge per Unit, a portion of which may be collected ''up front'' (*i.e.,* at the time an investor purchases the Units). The DSC would be collected subsequently in installments (''Installment Payments'') as described in the application. The Depositor would not add any amount for interest or any similar or related charge to adjust for such deferral.

2. When a Unitholder redeems or sells Units, the Depositor intends to deduct any unpaid DSC from the redemption or sale proceeds. When calculating the amount due, the Depositor will assume that Units on which the DSC has been paid in full are redeemed or sold first. With respect to Units on which the DSC has not been paid in full, the Depositor will assume that the Units held for the longest time are redeemed or sold first. Applicants represent that the DSC collected at the time of redemption or sale, together with the Installment Payments and any amount collected up front, will not exceed the maximum sales charge per Unit. Under certain circumstances, the Depositor may waive the collection of any unpaid DSC in connection with redemptions or sales of Units. These circumstances will be disclosed in the prospectus for the relevant Series and implemented in accordance with rule 22d–1 under the Act.

3. Each Series offering Units subject to a DSC will state the maximum charge per Unit in its prospectus. In addition, the prospectus for such Series will include the table required by Form N–1A (modified as appropriate to reflect the difference between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment, along with the duration of the collection period. The prospectus also will disclose that portfolio securities may be sold to pay the DSC if distribution income is insufficient and that securities will be sold pro rata, if practicable, otherwise a specific security will be designated for sale.

B. Exchange Option and Rollover Option

1. Applicants request an order to the extent necessary to permit Unitholders of a Series to exchange their Units for Units of another Series (''Exchange Option'') and Unitholders of a Series that is terminating to exchange their Units for Units of a new Series of the same type (''Rollover Option''). The Exchange Option and Rollover Option would apply to all exchanges of Units sold with a front-end sales charge, a DSC or both.

2. A Unitholder who purchases Units under the Exchange Option or Rollover Option would pay a lower sales charge than that which would be paid for the Units by a new investor. The reduced sales charge will be reasonably related to the expenses incurred in connection with the administration of the DSC program, which may include an amount that will fairly and adequately compensate the Depositor and participating underwriters and brokers for their services in providing the DSC program.

Applicants' Legal Analysis:

A. DSC and Waiver of DSC

1. Section 4(2) of the Act defines a ''unit investment trust'' as an investment company that issues only redeemable securities. Section 2(a)(32) of the Act defines a ''redeemable security'' as a security that, upon its presentation to the issuer, entitles the holder to receive approximately his or her proportionate share of the issuer's current net assets or the cash equivalent of those assets. Rule 22c–1 under the Act requires that the price of a redeemable security issued by a registered investment company for purposes of sale, redemption or repurchase be based on the security's current net asset value (''NAV''). Because the collection of any unpaid DSC may cause a redeeming Unitholder to receive an amount less than the NAV of the redeemed Units, applicants request relief from section 2(a)(32) and rule 22c–1.

2. Section 22(d) of the Act and rule 22d–1 under the Act require a registered investment company and its principal underwriter and dealers to sell securities only at the current public offering price described in the investment company's prospectus, with the exception of sales of redeemable securities at prices that reflect scheduled variations in the sales load. Section 2(a)(35) of the Act defines the term ''sales load'' as the difference between the sales price and the portion of the proceeds invested by the depositor or trustee. Applicants request relief from section 2(a)(35) and section 22(d) to permit waivers, deferrals or other scheduled variations of the sales load.

3. Under section 6(c) of the Act, the Commission may exempt classes of transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants state that their proposal meets the standards of section 6(c). Applicants state that the provisions of section 22(d) are intended to prevent (a) riskless trading in investment company securities due to backward pricing, (b) disruption of orderly distribution by dealers selling shares at a discount, and (c) discrimination among investors resulting from different prices charged to different investors. Applicants assert that the proposed DSC program will present none of these abuses. Applicants further state that all scheduled variations in the sales load will be disclosed in the prospectus of each Series and applied uniformly to all investors, and that applicants will comply with all the conditions set forth in rule 22d–1.

4. Section 26(a)(2)(C) of the Act, in relevant part, prohibits a trustee or custodian of a UIT from collecting from the trust as an expense any payment to the trust's depositor or principal underwriter. Because the Trustee's payment of the DSC to the Depositor may be deemed to be an expense under section 26(a)(2)(C), applicants request relief under section 6(c) from section 26(a)(2)(C) to the extent necessary to permit the Trustee to collect Installment Payments and disburse them to the Depositor. Applicants submit that the relief is appropriate because the DSC is more properly characterized as a sales load.

B. Exchange Option and Rollover Option

1. Sections 11(a) and 11(c) of the Act prohibit any offer of exchange by a UIT for the securities of another investment company unless the terms of the offer have been approved in advance by the Commission. Applicants request an order under sections 11(a) and 11(c) for Commission approval of the Exchange Option and the Rollover Option.

C. Net Worth Requirement

1. Section 14(a) of the Act requires that a registered investment company have $100,000 of net worth prior to making a public offering. Applicants state that each Series will comply with this requirement because the Depositor will deposit more than $100,000 of securities. Applicants assert, however, that the Commission has interpreted section 14(a) as requiring that the initial capital investment in an investment company be made without any intention to dispose of the investment. Applicants state that, under this interpretation, a Series would not satisfy section 14(a) because of the Depositor's intention to sell all the Units of the Series.

2. Rule 14a–3 under the Act exempts UITs from section 14(a) if certain conditions are met, one of which is that the UIT invest only in ''eligible trust securities,'' as defined in the rule. Applicants state that they may not rely on rule 14a–3 because certain Series (collectively, ''Structured Series'') will invest all or a portion of their assets in equity securities, certain debt securities, shares of registered investment companies, Flexible Exchange® Options (''FLEX Options''),[2] or other assets which do not satisfy the definition of eligible trust securities.

3. Applicants request an exemption under section 6(c) of the Act to the extent necessary to exempt the Structured Series from the net worth requirement in section 14(a). Applicants state that the Series and the Depositor will comply in all respects with the requirements of rule 14a–3, except that the Structured Series will not restrict their portfolio investments to ''eligible trust securities.''

D. Capital Gains Distribution

1. Section 19(b) of the Act and rule 19b–1 under the Act provide that, except under limited circumstances, no registered investment company may distribute long-term gains more than once every twelve months. Rule 19b–1(c), under certain circumstances, exempts a UIT investing in eligible trust securities (as defined in rule 14a–3) from the requirements of rule 19b–1. Because the Structured Series do not limit their investments to eligible trust securities, however, the Structured Series will not qualify for the exemption in paragraph (c) of rule 19b–1. Applicants therefore request an exemption under section 6(c) from section 19(b) and rule 19b–1 to the extent necessary to permit capital gains earned in connection with the sale of portfolio securities to be distributed to Unitholders along with the Structured Series' regular distributions. In all other respects, applicants will comply with section 19(b) and rule 19b–1.

2. Applicants state that their proposal meets the standards of section 6(c). Applicants assert that any sale of portfolio securities would be triggered by the need to meet Trust expenses, Installment Payments, or by redemption requests, events over which the Depositor and the Structured Series do not have control. Applicants further state that, because principal distributions must be clearly indicated in accompanying reports to Unitholders as a return of principal and will be relatively small in comparison to normal dividend distributions, there is little danger of confusion from failure to differentiate among distributions.

Applicants' Conditions:

Applicants agree that any order granting the requested relief will be subject to the following conditions:

A. DSC Relief and Exchange and Rollover Options

1. Whenever the Exchange Option or Rollover Option is to be terminated or its terms are to be amended materially, any holder of a security subject to that privilege will be given prominent notice of the impending termination or amendment at least 60 days prior to the date of termination or the effective date of the amendment, provided that: (a) No such notice need be given if the only material effect of an amendment is to reduce or eliminate the sales charge payable at the time of an exchange, to add one or more new Series eligible for the Exchange Option or the Rollover Option, or to delete a Series which has terminated; and (b) no notice need be given if, under extraordinary circumstances, either (i) there is a suspension of the redemption of Units of the Series under section 22(e) of the Act and the rules and regulations promulgated thereunder, or (ii) a Series temporarily delays or ceases the sale of its Units because it is unable to invest amounts effectively in accordance with

[2] Applicants state that a Structured Series will invest in FLEX Options with expiration dates that coincide with the Structured Series' maturity date and any relief granted from the provisions of sections 14(a) and 19(b) of the Act and rule 19b–1 under the Act included in the requested order will not extend to any Series that intends to hold a derivative security other than FLEX Options.

applicable investment objectives, policies and restrictions.

2. An investor who purchases Units under the Exchange Option or Rollover Option will pay a lower sales charge than that which would be paid for the Units by a new investor.

3. The prospectus of each Series offering exchanges or rollovers and any sales literature or advertising that mentions the existence of the Exchange Option or Rollover Option will disclose that the Exchange Option and the Rollover Option are subject to modification, termination or suspension without notice, except in certain limited cases.

4. Any DSC imposed on a Series' Units will comply with the requirements of subparagraphs (1), (2) and (3) of rule 6c–10(a) under the Act.

5. Each Series offering Units subject to a DSC will include in its prospectus the disclosure required by Form N–1A relating to deferred sales charges (modified as appropriate to reflect the differences between UITs and open-end management investment companies) and a schedule setting forth the number and date of each Installment Payment.

B. Net Worth Requirement

Applicants will comply in all respects with the requirements of rule 14a–3 under the Act, except that the Structured Series will not restrict their portfolio investments to ''eligible trust securities.''

For the Commission, by the Division of Investment Management, under delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27337 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82327; File No. SR–NASDAQ–2017–129]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) To Reduce the Length of the ''Display-Only Period'' for the Initial Pricing on Nasdaq of a Security That Is the Subject of an Initial Public Offering

December 14, 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 December 8, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) [3] to reduce the length of the ''Display-Only Period'' for the initial pricing on Nasdaq of a security that is the subject of an initial public offering (''IPO'').

The text of the proposed rule change is available on the Exchange's website at *http://nasdaq.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this proposal is to amend Rule 4120 (Limit Up-Limit Down Plan and Trading Halts) to reduce the length of the Display-Only Period for the initial pricing on Nasdaq of a security that is the subject of an IPO from 15 minutes to 10 minutes. In all other respects, the process for conducting the initial pricing of an IPO security will remain unchanged.

Initial pricing of an IPO security on Nasdaq occurs by means of the IPO Halt Cross provided for in Rule 4753. Prior to the IPO Halt Cross, trading in the security is halted, pursuant to Rule 4120(a)(7), until such time as the conditions in Rule 4120(c)(8) are satisfied and Nasdaq releases the security for trading. Market participants may enter orders in the security for participation in the IPO Halt Cross beginning at 4:00 a.m. As the scheduled time for the IPO Halt Cross approaches, the security enters a Display-Only Period during which indicative information about the potential outcome of the IPO Halt Cross is displayed to market participants and during which market participants may continue to enter orders.

After the conclusion of the Display-Only Period, the security enters a ''Pre-Launch Period'' of indeterminate duration, during which indicative information continues to be disseminated.[4] The Pre-Launch Period ends and the security is released for trading by Nasdaq when the conditions described in paragraphs (c)(8)(A)(i), (ii), and (iii) of Rule 4120 are all met:

- Nasdaq receives notice from the underwriter of the IPO that the security is ready to trade. The Nasdaq system then calculates the Current Reference Price at that time (the ''Expected Price'') and displays it to the underwriter. If the underwriter then approves proceeding, the Nasdaq system will conduct two pricing validation checks.
- First, the Nasdaq system must determine that all market orders will be executed in the IPO Halt Cross; and
- Second, if the actual price calculated by the IPO Halt Cross differs from the Expected Price by an amount in excess of a price band previously selected by the underwriter, the security will not be released for trading and the Pre-Launch Period will continue.

The failure to satisfy these conditions during the process to release the security for trading will result in a delay of the release for trading of the IPO security, and a continuation of the Pre-Launch Period, until all conditions have been satisfied. Market participants may continue to enter orders and order cancellations for participation in the IPO Halt Cross during the Pre-Launch Period up to the point that the IPO Halt Cross auction process commences.

Based on feedback from underwriters participating in the IPO process, Nasdaq is proposing to reduce the time of the Display-Only Period from 15 minutes to 10 minutes. As discussed above, market participants may begin entering orders in an IPO security at 4:00 a.m., while the initial pricing of IPOs occurs no

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] References to rules are to Nasdaq rules, unless otherwise noted.

[4] Nasdaq Rule 4753(b)(1).

earlier than 10 a.m. Thus, market participants have ample opportunity to enter order for participation in the IPO Halt Cross. Moreover, the IPO Halt Cross does not actually occur until the conditions described above, including a decision from the underwriter that the security is ready to commence trading, have been satisfied. The underwriter generally bases this decision upon a determination that expected trading interest with respect to the IPO Halt Cross has been entered and that the IPO Halt Cross will occur at a stable price and quantity consistent with the underwriter's expectations. In some IPOs, particularly smaller ones, this determination can be made relatively quickly after the commencement of the Display-Only Period, but Rule 4120 does not allow the IPO Halt Cross to occur until after the end of the 15-minute Display-Only Period. Thus, shortening the Display-Only Period to 10 minutes will provide the underwriter with greater flexibility to initiate trading more quickly where circumstances warrant. On the other hand, since the IPO Halt Cross will not occur until all of the conditions provided for by the rule (including underwriter approval) are satisfied, the change will not prevent the continuation of a longer pre-IPO Halt Cross period if more time is needed to allow further order entry and greater price stability.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] 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, Nasdaq believes that the change will facilitate the commencement of orderly trading in securities that are the subject of an IPO, by providing the underwriter with greater flexibility to allow an earlier commencement of trading in cases, such as smaller IPOs, where an extended pre-Cross period is not required to allow order entry and the development of price stability. At the same time, the change will not constrain the underwriter from requiring a longer pre-Cross period in cases where extensive order entry is still occurring or where price stability has not yet developed.

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

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 particular, the Exchange believes that the change will enhance the competitiveness of its process for initial pricing of IPO securities without imposing any burdens on the ability of underwriters or other market participants to participate in that process.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

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 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:

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and the text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–129 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–129. 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–NASDAQ–2017–129 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27348 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82319; File No. SR–GEMX–2017–55)

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Market Access and Routing Subsidy Program

December 14, 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 GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend a subsidy program, the Market Access and Routing Subsidy (''MARS''), for GEMX Members that provide certain order routing functionalities [3] to other GEMX Members and/or use such functionalities themselves.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the definition of Eligible Contracts to exclude options overlying NDX [4] as Eligible Contracts from MARS. Options overlying NDX would not be eligible for MARS Payments.

By way of background, MARS pays a subsidy to GEMX Members that provide certain order routing functionalities to other GEMX Members and/or use such functionalities themselves. GEMX pays participating GEMX Members to subsidize their costs of providing routing services to route orders to GEMX. The Exchange believes that MARS will attract higher volumes of equity and ETF options volume to the Exchange from non-GEMX market participants as well as GEMX Members.

MARS System Eligibility

To qualify for MARS, a GEMX Member's order routing functionality would be required to meet certain criteria. Specifically the Member's routing system (hereinafter ''System'') would be required to: (1) Enable the electronic routing of orders to all of the U.S. options exchanges, including GEMX; (2) provide current consolidated market data from the U.S. options exchanges; and (3) be capable of interfacing with GEMX's API to access current GEMX match engine functionality. The Member's System would also need to cause GEMX to be one of the top four default destination exchanges for (a) individually executed marketable orders if GEMX is at the national best bid or offer (''NBBO''), regardless of size or time or (b) orders that establish a new NBBO on GEMX's Order Book, but allow any user to manually override GEMX as the default destination on an order-by-order basis. Any GEMX Member may apply for MARS, provided the above-referenced requirements are met, including a robust and reliable System.

MARS Eligible Contracts

A MARS Payment is paid to GEMX Members that have System Eligibility and have routed the requisite number of Eligible Contracts daily in a month, which were executed on GEMX. For the purpose of qualifying for the MARS Payment, Eligible Contracts include Non-Nasdaq GEMX Market Maker (FARMM),[5] Firm Proprietary [6]/Broker-Dealer [7] and Professional Customer [8] Orders that are executed. Eligible Contracts do not include qualified contingent cross or ''QCC'' Orders [9] or Price Improvement Mechanism or ''PIM'' Orders.[10]

MARS Payment

GEMX Members that have System Eligibility and have executed the requisite number of Eligible Contracts in a month are paid the following per contract rebates:

Tiers	Average daily volume (''ADV'')	MARS payment
1	10,000	$0.07
2	15,000	0.10
3	20,000	0.13

The specified MARS Payment is paid on all executed Eligible Contracts that add liquidity, which are routed to GEMX through a participating GEMX Member's System and meet the requisite Eligible Contracts ADV. No payment will be made with respect to orders that are routed to GEMX, but not executed.

Proposal

The Exchange proposes to exclude options overlying NDX from Eligible Contracts for purposes of qualifying for a MARS Payment. Only Eligible Contracts are paid rebates, therefore no MARS Payment would be paid on options overlying NDX.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[11] in general, and furthers the

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The order routing functionalities permit a GEMX Member to provide access and connectivity to other Members as well utilize such access for themselves. The Exchange notes that under this arrangement it will be possible for one GEMX Member to be eligible for payments under MARS, while another GEMX Member might potentially be liable for transaction charges associated with the execution of the order, because those orders were delivered to the Exchange through a GEMX Member's connection to the Exchange and that Member qualified for the MARS Payment.

[4] NDX represents options on the Nasdaq 100 Index traded under the symbol NDX (''NDX'').

[5] A ''Non-Nasdaq GEMX Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[6] A ''Firm Proprietary'' order is an order submitted by a Member for its own proprietary account.

[7] A ''Broker-Dealer'' order is an order submitted by a Member for a broker-dealer account that is not its own proprietary account.

[8] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

[9] A QCC Order is comprised of an originating order to buy or sell at least 1000 contracts that is identified as being part of a qualified contingent trade, as that term is defined in Supplementary Material .01 of GEMX Rule 715, coupled with a contra-side order or orders totaling an equal number of contracts. *See* Rule 715(j).

[10] Price Improvement Mechanism (''PIM'') is the Exchange's price improvement mechanism for crossing transactions. *See* Rule 723.

[11] 15 U.S.C. 78f(b).

objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[12] 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's proposal to exclude options overlying NDX from MARS Eligible Contracts is reasonable because the Exchange believes that despite the exclusion of NDX, the MARS program will continue to attract higher volumes of equity and ETF options volume to the Exchange, which will benefit all GEMX Members by offering greater price discovery, increased transparency, and an increased opportunity to trade on the Exchange.

The Exchange's proposal to exclude options overlying NDX from MARS Eligible Contracts is equitable and not unfairly discriminatory because any qualifying GEMX Member that offers market access and connectivity to the Exchange and/or utilizes such functionality themselves may earn the MARS Payment for all Eligible Contracts, excluding NDX. The Exchange would not pay any MARS Payment on options overlying NDX because options overlying NDX will uniformly be excluded from the volume calculation for all qualifying GEMX Members for MARS. Further, MARS Payments are only made on Eligible Contracts so no GEMX Member would be paid a MARS rebate on options overlying NDX.

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.

The Exchange believes that excluding option overlying NDX from the Eligible Contracts does not create an undue burden on intra-market competition because options overlying NDX will uniformly be excluded from the volume calculation for all qualifying GEMX Members for MARS. Further, MARS Payments are only made on Eligible Contracts so no GEMX Member would be paid a MARS rebate on options overlying NDX. The MARS Program should continue to generate increased order flow which should bring increased liquidity to the Exchange for the benefit of all market participants. To the extent the purpose of the proposed MARS program is achieved, all market participants should benefit from the improved market liquidity.

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.[13] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–GEMX–2017–55 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–GEMX–2017–55. 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–GEMX–2017–55 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27339 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 15 U.S.C. 78f(b)(4) and (5).

[13] 15 U.S.C. 78s(b)(3)(A)(ii).

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82321; File No. SR–MSRb–2017–06)

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Accelerated Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Consisting of Proposed Amendments to MSRB Rule G–34, on CUSIP Numbers, New Issue, and Market Information Requirements

December 14, 2017.

I. Introduction

On August 30, 2017, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') filed with the Securities and Exchange Commission (the ''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'' or ''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of proposed amendments to MSRB Rule G–34, on CUSIP numbers, new issue, and market information requirements, to more clearly express in the rule language the MSRB's longstanding interpretation that brokers, dealers and municipal securities dealers (collectively, ''dealers'') when acting as a placement agent in a private placement of municipal securities are subject to the CUSIP number requirements under Rule G–34(a); to expand the application of the rule to cover not only dealer municipal advisors but also non-dealer municipal advisors in competitive sales of municipal securities; and to provide a limited exception from the requirements to apply for CUSIP numbers and to apply for depository eligibility (the ''proposed rule change''). The proposed rule change was published for comment in the **Federal Register** on September 18, 2017.[3]

The Commission received eleven comment letters on the proposed rule change.[4] On October 18, 2017, the MSRB granted an extension of time for the Commission to act on the filing until December 15, 2017. On November 7, 2017, the MSRB responded to those comments [5] and filed Amendment No. 1 to the proposed rule change (''Amendment No. 1'').[6] The Commission published notice of Amendment No. 1 in the **Federal Register** on November 17, 2017.[7] In response to Amendment No. 1, the Commission received two comment letters.[8] On December 8, 2017, the MSRB submitted a response to comments received on Amendment No. 1.[9] This order approves the proposed rule change, as modified by Amendment No. 1, on an accelerated basis.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 81595 (September 13, 2017) (the ''Notice of Filing''), 82 FR 43587 (September 18, 2017).

[4] *See* Letter to Secretary, Commission, from Leslie M. Norwood, Managing Director and Associate General Counsel, Securities Industry and Financial Markets Association (''SIFMA''), dated October 10, 2017 (the ''First SIFMA Letter''); Letter to Secretary, Commission, from Susan Gaffney, Executive Director, National Association of Municipal Advisors (''NAMA''), dated October 10, 2017 (the ''NAMA Letter''); Letter to Secretary, Commission, from Steve Apfelbacher, President, Ehlers Inc., dated October 10, 2017 (the ''Ehlers Letter''); Letter to Secretary, Commission, from Noreen P. White, Co-President, and Kim W. Whelan, Co-President, Acacia Financial Group, Inc., dated October 10, 2017 (the ''Acacia Letter''); Letter to Secretary, Commission, from Cristeena G. Naser, Vice President and Senior Counsel, American Bankers Association (''ABA''), dated October 10, 2017 (the ''First ABA Letter''); Letter to Secretary, Commission, from Michael G. Sudsina, President, Sudsina & Associates, LLC, dated October 10, 2017 (the ''Sudsina Letter''); Letter to Secretary, Commission, from Marianne F. Edmonds, Senior Managing Director, Public Resources Advisory Group (''PRAG''), dated October 10, 2017 (the ''PRAG Letter''); Letter to Secretary, Commission, from Emily Swenson Brock, Director, Federal Liaison Center, Government Finance Officers Association (''GFOA''), dated October 10, 2017 (the ''GFOA Letter''); Letter to Secretary, Commission, from Peter Warms, Senior Manager of Fixed Income, Entity, Regulatory Content and Symbology, Bloomberg L.P., dated October 10, 2017 (the ''Bloomberg Letter''); Letter to Secretary, Commission, from Dennis Dix, Principal, DIXWORKS LLC, dated October 10, 2017 (the ''DIXWORKS Letter''); Letter to Secretary, Commission, from Stephan Wolf, CEO, Global Legal Entity Identifier Foundation (''GLEIF''), dated October 9, 2017 (the ''GLEIF Letter''). Staff from the Office of Municipal Securities discussed the proposed rule change with representatives from PFM Financial Advisors LLC and PFM Asset Management LLC on October 26, 2017.

[5] *See* Letter to Secretary, Commission, from Margaret R. Blake, Associate General Counsel, MSRB, dated November 7, 2017 (the ''November Response Letter''), available at *https://www.sec.gov/comments/sr-msrb-2017-06/msrb201706-2674227-161458.pdf.*

[6] *Id.* Amendment No. 1 is available at *http://www.msrb.org/~/media/Files/SEC-Filings/2017/MSRb-2017-06-A-1.ashx.*

[7] *See* Exchange Act Release No. 82053 (Nov. 13, 2017), 82 FR 54455 (Nov. 17, 2017) (the ''Notice of Amendment No. 1''). The comment period closed on December 1, 2017.

[8] *See* Letter to Secretary, Commission, from Tab Stewart, Senior Counsel, ABA, dated November 30, 2017 (the ''Second ABA Letter''); and Letter to Secretary, Commission, Leslie M. Norwood, Managing Director and Associate General Counsel, SIFMA, dated December 1, 2017 (the ''Second SIFMA Letter'').

[9] *See* Letter to Secretary, Commission, from Margaret R. Blake, Associate General Counsel, MSRB, dated December 8, 2017 (the ''December Response Letter'' and, together with the November Response Letter, the ''MSRB Response Letters''), available at *https://www.sec.gov/comments/sr-msrb-2017-06/msrb201706-2779641-161626.pdf.*

II. Description of Proposed Rule Change

As described more fully in the Notice of Filing and Amendment No.1, the MSRB stated that the purpose of the proposed rule change is to: Clarify the application of the CUSIP number requirements to dealers in private placements; apply the CUSIP number requirements to all municipal advisors advising on a competitive sale of municipal securities; provide an exception from the CUSIP number and depository eligibility requirements in certain circumstances; and make certain technical and non-substantive changes.[10]

The MSRB stated that proposed rule change would amend Rule G–34(a)(i)(A) to delete the definition of ''underwriter'' from the rule text and would add a new definition of ''underwriter'' in new section (e), on definitions. New subsection (e)(vii) of Rule G–34 would cross reference the term ''underwriter'' to the same term as it is defined in Exchange Act Rule 15c2–12(f)(8).[11] The MSRB stated that this proposed rule change would codify existing interpretations and clarify in the text of the rule that dealers acting as placement agents in private placement transactions, including direct purchases of municipal securities, are subject to the CUSIP-related requirements set forth in Rule G–34(a).[12]

The MSRB stated that paragraph (a)(i)(A) of Rule G–34 would be amended to apply the CUSIP number requirements to all municipal advisors (whether dealers or non-dealers) advising on a competitive sale of a new issue of municipal securities.[13] The MSRB noted that, in 1986, the MSRB amended Rule G–34(a)(i)(A) to require a dealer ''acting as a financial advisor'' in a competitive sale of a new issue to apply for CUSIP numbers so as to allow assignment of the number prior to the date of award.[14] The MSRB stated that, from a policy standpoint, the market efficiencies served by the 1986 amendments also would be served by these amendments because a dealer no longer would be the first party to begin the process to obtain the CUSIP number after the award in a competitive sale where a non-dealer municipal advisor has been engaged.[15]

The proposed rule change would amend subparagraph (a)(i)(A)(3) of Rule G–34 which clarifies the timeframe within which municipal advisors

[10] *See* Notice of Filing and Amendment No. 1.

[11] *See* Notice of Filing.

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] *Id.*

advising on a competitive sale must make application for a CUSIP number.[16] The MSRB stated that the current provision indicates that the financial advisor must make application by no later than one business day after dissemination of a notice of sale.[17] The proposed rule change would amend subparagraph (a)(i)(A)(3) of Rule G–34 to include ''or other such request for bids.'' The MSRB stated that the additional language added by the proposed rule change would ensure the timing of the application for a CUSIP number in those instances where a municipal advisor seeks bids in a competitive sale of municipal securities using documentation other than a traditional notice of sale.[18]

The proposed rule change, as modified by Amendment No. 1, would amend Rule G–34(a)(i) to add paragraph (F), to add an exception from the CUSIP number requirement for situations where municipal securities are purchased directly by a bank,[19] any entity directly or indirectly controlled by the bank or under common control with the bank, other than a dealer registered under the Exchange Act (''non-dealer control affiliate''), or a consortium of the entities described above, or by a municipal entity with funds that are, at least in part, proceeds of, or fully or partially secure or pay, the purchasing entity's issue of municipal obligations (*e.g.,* state revolving fund or bond bank), if the dealer or municipal advisor reasonably believes (based on, for example, a written representation from the purchaser) that the purchaser is purchasing the new issue of municipal securities with the present intent to hold the securities to maturity or earlier redemption or mandatory tender.[20] The term ''bank'' in proposed new paragraph (F) would have the same meaning as set forth in Exchange Act Section 3(a)(6).[21] The MSRB stated that it believes that obtaining CUSIP numbers is generally a necessary aspect of, for example, tracking the trading, recordkeeping, clearance and settlement, customer account transfers and safekeeping of municipal securities, including those issued in private placements.[22] The MSRB also stated that it is of the view that the increase in the number of direct purchase transactions between municipal issuers and banks as an alternative to letters of credit and other similar types of financings supports a limited exception from the blanket requirement to apply for CUSIP numbers in all private placements.[23] Also, the MSRB stated that it believes that, where a municipal entity is purchasing municipal securities using funds that are at least in part proceeds of that purchasing entity's issuance of other municipal obligations, or where the municipal securities being purchased are used to fully or partially secure or pay the purchasing entity's issue of municipal obligations, there is a strong expectation that the underlying municipal securities purchased are intended to be held and not traded in the secondary market.[24] As with the exception for dealers (or municipal advisors in a competitive sale) engaging in direct purchase transactions of new issue municipal securities to banks, the MSRB believes that requiring a CUSIP number in these scenarios would not serve the purposes of Rule G–34 to, among other things, improve efficiencies in the processing, receiving, delivering and safekeeping of municipal securities.[25]

The proposed rule change would clarify that the depository eligibility requirements of Rule G–34(a)(ii)(A) do not apply in the case of an exemption under Rule G–34(d), which exempts securities that are ineligible for CUSIP number assignment and municipal fund securities.[26] Further, the proposed rule change would add subparagraph (a)(ii)(A)(3), providing an exception from the depository eligibility requirements in instances where the new issue is purchased directly by a bank, any entity directly or indirectly controlled by the bank or under common control with the bank, other than a broker, dealer or municipal securities dealer registered under the Exchange Act, or a consortium of such entities; or by a municipal entity with funds that are, at least in part, proceeds of, or fully or partially secure or pay, the purchasing entity's issue of municipal obligations (*e.g.,* state revolving fund or bond bank), from an issuer in which an underwriter reasonably believes (*e.g.,* by obtaining a written representation) that the present intent of the purchasing entity or entities is to hold the municipal securities to maturity or earlier redemption or mandatory tender.[27] The MSRB stated that, for consistency, the proposed rule change would amend paragraph (a)(ii)(C), to clarify that the requirement to input information about a new issue into DTCC's New Issue Information Dissemination Service only applies to an issue that has been made depository eligible.[28]

The MSRB stated that the proposed rule change also would make technical and non-substantive amendments as follows:[29]

- The proposed rule change would move definitions that apply generally throughout the rule into a new section (e) on definitions, and, as noted above, would add a new definition of ''underwriter'' in subsection (e)(vii). The terms moved into the new section (e) would be (i) auction agent; (ii) auction rate security; (iii) notification period; (iv) program dealer; (v) remarketing agent; (vi) SHORT system; (vii) underwriter; and (viii) variable rate demand obligation.
- The proposed rule change would amend the rule to make more specific references to the provision that describes information necessary for CUSIP number assignments. Currently, the rule refers throughout to paragraph (a)(i)(A). The proposed rule change would amend these references to refer to subparagraph (a)(i)(A)(4). Similarly, references in the rule to the enumerated items to be included in a CUSIP number application would be changed from ''(1) through (8)'' to ''(a) through (h).''
- The proposed rule change would change capitalized defined terms to lower case, as appropriate throughout the rule, and would amend references to sections, subsections, paragraphs and subparagraphs, as necessary, to be consistent with other MSRB rule formatting.

The MSRB requested that the proposed rule change be effective six months from the date of Commission approval and is requesting accelerated approval of Amendment No. 1.[30]

III. Summary of Comments Received and MSRB's Responses to Comments

As noted previously, the Commission received eleven comment letters in response to the Notice of Filing and two comment letters in response to Amendment No. 1. The MSRB responded to the comment letters on the Notice of Filing in its November Response Letter,[31] and the MSRB responded to the comment letters on

[16] *Id.*

[17] *Id.*

[18] *Id.*

[19] The MSRB noted that a ''bank'' for purposes of the proposed exception would not include a ''separately identifiable department or division'' of a bank, within the meaning of MSRB Rule G–1(a).

[20] *See* Notice of Filing and Amendment No. 1.

[21] *See* Notice of Filing.

[22] *Id.*

[23] *Id.*

[24] *See* Amendment No. 1.

[25] *Id.*

[26] *See* Notice of Filing.

[27] *See* Notice of Filing and Amendment No. 1.

[28] *See* Notice of Filing.

[29] *Id.*

[30] *See* Notice of Filing and Amendment No. 1.

[31] *See* November Response Letter.

Amendment No. 1 in its December Response Letter.[32]

A. Application of CUSIP Number Requirements to All Municipal Advisors

In response to the Notice of Filing, six commenters opposed requiring municipal advisors in competitive sales to apply for CUSIP numbers, and instead suggested dealers, in all instances, should bear the responsibility of obtaining a CUSIP number for new issue municipal securities.[33] Commenters indicated that removing the obligation for the municipal advisor to obtain a CUSIP number would result in a more efficient process and consistent expectations because the CUSIP numbers would always be obtained by the dealer in all relevant transactions.[34] Some commenters indicated that imposing the CUSIP number requirement on non-dealer municipal advisors would not increase transparency or efficiencies or serve a useful purpose, and instead would pose an undue burden on independent municipal advisors.[35] One commenter stated that the costs to non-dealer municipal advisors to comply with the proposed rule change were not addressed in the MSRB's economic analysis.[36]

The MSRB stated that the policy reason for initially adopting a requirement for financial advisors to apply for CUSIP numbers in competitive sales of new issue municipal securities was meant to provide for assignment of a CUSIP number prior to the award date of the sale.[37] The MSRB noted that this policy reason continues to apply where a municipal advisor is retained because in such a scenario, the winning dealer would no longer be the first party to begin the process of obtaining a CUSIP number after the award has been made in a competitive sale.[38] Several commenters indicated their understanding that the practice of obtaining a CUSIP number in competitive sales only applies where a municipal advisor is engaged. Commenters noted that this practice would make municipal entities less likely to retain municipal advisors in such transactions and indicated that the MSRB should clarify who is responsible for obtaining CUSIP numbers when a municipal advisor is not retained. The MSRB noted that Rule G–34(a)(i)(A)(2) requires underwriters in a competitive sale to obtain CUSIP numbers where no CUSIP number has been pre-assigned.[39] The MSRB further noted that because the CUSIP numbers would have been applied for earlier in the process, this facilitates the ability to trade in the new issue immediately upon award.[40]

The MSRB stated that while it appreciates commenters' views that the dealer, in all instances, should be required to apply for the CUSIP number, it believes this arrangement could have unintended results in the market.[41] The MSRB stated that under the current rule, where an issuer in a competitive sale of municipal securities engages a non-dealer municipal advisor and does not engage a dealer, there is no party responsible for applying for CUSIP numbers.[42] Similarly, the MSRB noted, if the responsibility to apply for CUSIP numbers were placed only on dealers, as commenters suggested, issuers choosing to engage only a municipal advisor in a competitive sale would find themselves in a situation where no party is responsible for applying for CUSIP numbers on the new issue.[43] The MSRB stated that across the market, there potentially would be a universe of new issue municipal securities being issued without CUSIP numbers assigned.[44] The MSRB stated that by requiring all municipal advisors in a competitive sale to apply for CUSIP numbers, and dealers in a competitive sale to apply for CUSIP numbers where none have been pre-assigned, Rule G–34 ensures that all new issue municipal securities in a competitive sale where a dealer or municipal advisor is engaged, other than those falling within the proposed principles-based exception, have CUSIP numbers assigned as early as possible in the issuance process.[45] The MSRB stated that it previously considered the impact of the new requirement on non-dealer municipal advisors and concluded that, while non-dealer municipal advisors are likely to incur up-front costs associated with development of regulatory compliance policies and procedures to address the new requirements, the costs would be justified by the likely aggregate benefits of the proposed rule change over time.[46] The MSRB stated that it continues to believe that expanding the requirements of Rule G–34 to apply to all municipal advisors in competitive sales of new issue municipal securities will encourage uniformity and efficiency in competitive sales of municipal securities by ensuring that CUSIP numbers are obtained consistently and earlier in the process so as to allow for immediate trading upon award.[47]

B. Municipal Advisor Engaging in Broker-Dealer Activity

In response to the Notice of Filing, commenters noted their concern about the proposed requirement that a municipal advisor relying on the principles-based exception in a competitive transaction must have a reasonable belief as to the purchaser's present intent. These commenters indicated that when a municipal advisor interacts with investors, for example, to obtain their present intent, the municipal advisor may be viewed as engaging in broker-dealer activity.[48] One commenter indicated that requiring municipal advisors to apply for CUSIP numbers promotes violations of the Exchange Act by requiring municipal advisors to act in a manner that may be viewed as broker-dealer activity.[49]

The MSRB stated that it appreciates the commenters concerns and understands that determining whether an activity may be deemed broker-dealer in nature is a facts and circumstances analysis that must be closely considered.[50] The MSRB stated that, when drafting the proposed rule change, it purposefully proposed a principles-based exception to allow dealers and municipal advisors alike to establish policies and procedures consistent with their relevant business activities.[51] The MSRB stated that it is not suggesting that a municipal advisor engage in any activity that could be viewed as broker-dealer in nature, but rather that the municipal advisor develop a process for reaching a reasonable belief as to an investor's present intent consistent with the municipal advisor's allowable business activities.[52] Thus, the MSRB stated, in the proposed rule change, the MSRB suggested looking to a written representation from the purchaser as just one example for determining the purchaser's present intent.[53] The MSRB

[32] *See* December Response Letter.

[33] *See* Acacia Letter; DIXWORKS Letter, Ehlers Letter; NAMA Letter; PRAG Letter and Sudsina Letter.

[34] *See* Acacia Letter; Ehlers Letter; NAMA Letter; PRAG Letter; Sudsina Letter.

[35] *See* Acacia Letter; DIXWORKS Letter; NAMA Letter; PRAG Letter and Sudsina Letter.

[36] *See* NAMA Letter.

[37] *See* November Response Letter.

[38] *Id.*

[39] *Id.*

[40] *Id.*

[41] *Id.*

[42] *Id.*

[43] *Id.*

[44] *Id.*

[45] *Id.*

[46] *Id.*

[47] *Id.*

[48] *See* Acacia Letter; DIXWORKS Letter; NAMA Letter and Sudsina Letter.

[49] *See* NAMA Letter.

[50] *See* November Response Letter.

[51] *Id.*

[52] *Id.*

[53] *Id.*

stated that it believes that by creating a principles-based exception, municipal advisors (and dealers) relying thereon are free to define the process by which they reach a reasonable belief regarding a purchaser's present intent.[54] The MSRB also noted that in addition to reviewing a written representation, this could include, for example, reviewing transaction documentation without interacting with the purchaser.[55] The MSRB also stated that the proposed rule change is not intended to require or encourage municipal advisors to engage in activity they deem outside the scope of their allowed activities.[56]

C. Present Intent to Hold

In response to the Notice of Filing, several commenters indicated that the principles-based exception in the original proposed rule change did not accurately reflect the fundamental workings of the direct purchase market.[57] Specifically, according to commenters, the requirement in the principles-based exception that the dealer (or municipal advisor in a competitive sale) have a reasonable belief that the purchaser is purchasing the municipal securities with the ''present intent to hold the securities to maturity'' does not take into account those scenarios where the transaction documentation provides for an earlier call provision to permit a refinancing or other restructuring. Commenters suggested revising the proposed language to account for this common practice. In consideration of such commenters' suggestions, the MSRB filed Amendment No. 1, which makes amendments to Rule G–34(a)(i)(F) to reflect the suggested changes.[58] In particular, the MSRB stated that Amendment No. 1 would require the dealer (or municipal advisor in a competitive sale) relying on the principles-based exception to have a reasonable belief that the purchaser is purchasing the municipal securities with the ''present intent to hold the securities to maturity or earlier redemption or mandatory tender.'' [59] The MSRB stated that it believes Amendment No. 1 more accurately reflects the terms of direct purchase transactions and as a result creates a more useful exception.[60] The MSRB also stated that, for consistency, Amendment No. 1 would make the same amendment to the proposed principles-based exception for dealers from the depository eligibility requirements in Rule G–34(a)(ii)(A)(3).[61]

In response to the Notice of Filing, one commenter suggested that more clarity should be provided as to the documentation underwriters and municipal advisors may be required to produce during an examination and that sufficient documentation to reach the ''reasonable belief'' should include any reasonable indicia of an investor's present intent.[62] SIFMA suggested this should include an investor letter or other certification or a term sheet stating conditions of the transaction.[63] The MSRB stated that it had indicated in the proposed rule change and also in the proposed rule language that one example by which an underwriter or municipal advisor could arrive at a reasonable belief as to the purchaser's present intent would be by obtaining a written representation.[64] The MSRB stated that it agrees that there are other reasonable indicia that could be considered in order to reach a reasonable belief regarding the purchaser's present intent, but does not believe an amendment to the proposed rule change is necessary on this point. The MSRB also noted that it believes that the proposed rule language makes clear that obtaining a written representation is just one method by which a reasonable belief as to a purchaser's present intent could be met.[65]

In response to Amendment No. 1 and the November Response Letter, SIFMA reiterated its concerns about the proposed rule change, as modified by Amendment No.1, particularly the scope of the proposed principles-based exception in the proposed rule change as so modified, and urged the SEC to institute disapproval proceedings.[66] SIFMA focused its concern on the requirement that dealers (and municipal advisors in a competitive sale) relying on the principles-based exception are required to have a reasonable belief that the ''present intent of the purchasing entity or entities is to hold the municipal securities to maturity or earlier redemption or mandatory tender.'' [67] SIFMA stated that investors are not always willing to make a representation as to the timeframe for which they intend to hold a security, ''other than setting forth their present intention to hold a security.'' [68] SIFMA stated that an investor may be hesitant to ''make a statement currently required by the amendment . . . that may be second-guessed if they, *e.g.,* many years later, determine to sell their securities.'' [69] SIFMA stated that other rules, such as Exchange Act Rule 15c2–12, do not require a specific time frame as to a purchaser's intention to hold securities, and thus questioned why such a requirement is necessary in Rule G–34.[70] In particular, SIFMA noted that it may be difficult for dealers or municipal advisors to obtain a representation from investors as to the timeframe for which they intend to hold a security.[71] Finally, SIFMA stated that the current principles-based exception is ''unduly restrictive'' and suggested that the exception should be refined to require the dealer or municipal advisor to have a ''reasonable belief (*e.g.,* by obtaining a written representation) that [the] purchasing entity or entities has no present intent to sell or distribute the municipal securities.'' [72]

The MSRB stated that it addressed most of SIFMA's concerns about the proposed principles-based exception in the November Response Letter and Amendment No. 1.[73] The MSRB stated that one method by which an underwriter or municipal advisor could arrive at a reasonable belief as to the purchaser's present intent would be by obtaining a written representation.[74] However, the MSRB stated that it agreed with commenters that there are other reasonable indicia that could be considered in order to reach a reasonable belief regarding the purchaser's present intent.[75] The MSRB noted, as an example, that another method of reaching a reasonable belief as to the investor's intention would be by reviewing transaction documentation.[76] The MSRB stated that it continues to believe there are multiple ways by which a dealer or municipal advisor could reach a reasonable belief regarding the purchaser's intent with respect to holding the securities in question.[77] The MSRB stated that it purposefully made the exception principles based so dealers and

[54] *Id.*

[55] *Id.*

[56] *Id.*

[57] *See* First ABA Letter, NAMA Letter and First SIFMA Letter.

[58] *See* November Response Letter and Amendment No. 1.

[59] *Id.*

[60] *Id.*

[61] *Id.*

[62] *See* First SIFMA Letter.

[63] *Id.*

[64] *See* November Response Letter.

[65] *Id.*

[66] *See* Second SIFMA Letter.

[67] *Id.*

[68] *Id.*

[69] *Id.*

[70] *Id.*

[71] *Id.*

[72] *Id.*

[73] *See* December Response Letter.

[74] *See* November Response Letter, December Response Letter.

[75] *See* December Response Letter.

[76] *Id.*

[77] *Id.*

municipal advisors could determine, based on their particular business activities, the most effective way of reaching a reasonable belief as to an investor's intent.[78] The MSRB noted that obtaining a written representation is merely one method for making such a determination.[79]

In the First SIFMA Letter, SIFMA stated that the proposed language in the principles-based exception was ''unduly restrictive'' because ''[f]or a bond maturing in 20 or 30 years, it is typical to include a call or mandatory tender date at 5 to 10 years to permit a refinancing or other restructuring.'' [80] The MSRB responded that it agreed with SIFMA and other commenters and proposed in Amendment No. 1 to refine the language to more accurately reflect the terms of direct purchase transactions including the potential for earlier redemption or mandatory tender.[81] SIFMA noted that the language in Amendment No. 1 is still ''unduly restrictive'' and may make a purchasing entity uncomfortable to certify as to its present intent to hold the securities to a date certain.[82] SIFMA suggested alternative language that would require the dealer or municipal advisor to have a ''reasonable belief (*e.g.,* by obtaining a written representation) that [the] purchasing entity or entities has no present intent to sell or distribute the municipal securities.'' [83]

The MSRB noted that the principles-based exception requires that the dealer or municipal advisor reach a reasonable belief as to the purchaser's present intent regarding holding the municipal securities in question.[84] The MSRB stated that this language recognizes that, in those transactions included in the principles-based exception, the dealer or municipal advisor is not required to speculate as to a purchaser's future intent.[85] The MSRB stated that the rule language makes clear that it is solely the present intent of the purchaser that need be considered.[86] The MSRB noted that the purpose of the principles-based exception is to acknowledge those scenarios where a CUSIP number may not be necessary. The MSRB stated that, in particular, the exception addresses the direct purchase market, which, according to earlier comment letters, typically involves banks purchasing municipal securities with the intention of holding them to maturity.[87] The MSRB stated that Amendment No. 1 merely recognizes that often there are early redemption provisions or mandatory tenders in such arrangements, and thus, the securities are not held to maturity in all instances.[88] The MSRB added that if a purchaser's present intent is to hold the securities today, but perhaps sell them tomorrow or sometime before maturity, redemption or tender, this is not the type of transaction the principles-based exception was created to address.[89] Further, the MSRB noted, the industry group representing many purchasers in direct purchase transactions supported the proposed rule change with Amendment No. 1, indicating that ''the exception language in the proposed rule change and Amendment No. 1 to the proposed rule change appropriately recognizes the realities of the direct purchase market.'' [90]

D. Sales of Municipal Securities to Other Municipal Entities

In response to the Notice of Filing, several commenters stated that the principles-based exception from the CUSIP number requirements should be expanded to include private placements of municipal securities with other municipal entities, including state revolving funds.[91] According to commenters, in this sort of transaction, a state revolving fund issuance is secured by local government bonds which are held by the state issuer and not traded in the secondary market. Other commenters asked generally that all sales of municipal securities to another municipal entity be excepted from the requirements of Rule G–34.

The MSRB stated that, in consideration of comments received from commenters, it amended the proposed rule change, in Amendment No. 1, to expand the principles-based exception to include issuances of municipal securities purchased by a municipal entity with funds that are, at least in part, from the proceeds of, or used to fully or partially secure or pay, the purchasing entity's issue of municipal obligations, such as in the case of a state revolving fund or bond bank.[92] The MSRB stated that it believes these scenarios are, for purposes of this context, comparable to sales of municipal securities to banks in direct purchase transactions in that the municipal securities being sold to the purchasing municipal entity are not intended to be sold in the secondary market.[93] In addition, the MSRB stated that, as with the principles-based exception for direct purchase transactions with a bank, in order to rely on the exception, a dealer (or municipal advisor in a competitive sale) must have a reasonable belief that the purchasing municipal entity has the present intent to hold the securities to maturity or earlier redemption or mandatory tender.[94]

The MSRB stated that it believes a dealer (or municipal advisor in a competitive sale) should apply for a CUSIP number in sales of municipal securities between municipal entities, other than in the scenarios discussed above.[95] The MSRB stated that it understands that municipal entities purchasing municipal securities for investment purposes may have a need for liquidity prior to the maturity of the issue and may want to sell the municipal securities into the secondary market.[96] In such a scenario, the MSRB stated, the purchasing entity may find it difficult to resell the municipal securities without a CUSIP number and, based on discussions with industry participants, the MSRB stated that it understands there is no existing process in place to obtain a CUSIP number later for secondary market trading.[97] The MSRB stated that it believes that applying for a CUSIP number at the time of the new issue will avoid this situation and will ensure the municipal securities are tradeable in the secondary market.[98]

E. Use of Other Standard Identifiers

In response to the Notice of Filing, one commenter suggested that the proposed rule change be amended to permit the use of ''appropriate open-standard identifiers.'' [99] In particular, this commenter emphasized concerns that Rule G–34 is an endorsement of a commercial entity's product and is contradictory to SEC policy. The MSRB stated that it recognizes the commenter's concerns and is aware of efforts in the industry exploring a move towards an open-standard identifier environment.[100] However, the MSRB

[78] *Id.*
[79] *Id.*
[80] *See* First SIFMA Letter.
[81] *See* Amendment No. 1 and December Response Letter.
[82] *See* Second SIFMA Letter.
[83] *Id.*
[84] *See* December Response Letter.
[85] *Id.*
[86] *Id.*
[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *See* Second ABA Letter and December Response Letter.
[91] *See* GFOA Letter, NAMA Letter and First SIFMA Letter.
[92] *See* November Response Letter.
[93] *Id.*
[94] *Id.*
[95] *Id.*
[96] *Id.*
[97] *Id.*
[98] *Id.*
[99] *See* Bloomberg Letter.
[100] *See* November Response Letter.

stated that it understands that the use of an identifier other than a CUSIP number extends well beyond the municipal securities market and a change to expand the universe of identifiers would require significant coordination between all market participants.[101] The MSRB stated that it believes that merely adding in language to Rule G–34 to allow the use of ''other standard identifiers'', as the commenter suggested, without significant coordination among other market participants and consideration of how such a change would impact all aspects of the overall securities market could cause substantial confusion.[102] The MSRB stated that, along with other industry stakeholders, it will continue exploring the expansion of the universe of securities identifiers, but that it does not believe amending Rule G–34 at this time to include the use of other identifiers is appropriate without further information gathering and industry input.[103]

F. Use of Legal Entity Identifier

In response to the Notice of Filing, one commenter suggested that the SEC should require issuers of municipal securities to be identified by a legal entity identifier (''LEI'') as part of the proposed rule change.[104] The commenter suggested the SEC could use LEIs in its regulatory data collection framework to identify parties and market participants by a standard method. The MSRB stated that it recognizes the potential for LEIs to provide useful information on municipal issuers and is in the process of gathering industry input on the availability and value of obtaining this information in the market.[105] Specifically, the MSRB noted, in a concept proposal issued on September 14, 2017, the MSRB sought industry comment on whether issuers and obligors typically have LEIs and if so, whether that information should be collected by the MSRB on its Form G–32 and included in Rule G–34 to permit or require dealers to submit such information if available.[106] The MSRB stated that it will consider this issue further, once the results of the request for comment are received and fully evaluated.[107]

G. Other Comments

In response to the Notice of Amendment No. 1, the ABA stated that it maintains its support for the exception to the proposed rule requirement to obtain CUSIP numbers for dealers and municipal advisors in private placements of municipal obligations to a single bank, its affiliates (other than a registered broker-dealer), or a consortium of such entities if the intent of the purchasing entity or entities is to hold the municipal obligation until maturity.[108] The ABA stated that it supports the modification included in Amendment No. 1 and that it ''appreciates the MSRB's acknowledgment of the banking industry's concerns about the impact of the CUSIP requirements on the direct purchase market.'' [109] The ABA also stated that it believes that the modifications to the proposed rule change made by Amendment No. 1 ''appropriately recognizes the realities of the direct purchase market.'' [110]

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, the comment letters received, the MSRB Response Letters, and Amendment No. 1. The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to the MSRB.

In particular, the proposed rule change, as modified by Amendment No. 1, is consistent with Section 15B(b)(2)(C) of the Act.[111] Section 15B(b)(2)(C) of the Act requires that the MSRB's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, in general, to protect investors, municipal entities, obligated persons, and the public interest.[112]

The Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the provisions of Section 15B(b)(2)(C) [113] of the Act because it would remove impediments to and perfect the mechanism for a free and open municipal securities market by codifying existing MSRB interpretations and clarifying in the text of the rule that dealers acting as placement agents in private placement transactions, including direct purchases of municipal securities, are subject to the CUSIP-related requirements set forth in Rule G–34(a). In addition, the Commission believes that the proposed rule change, as modified by Amendment No. 1, would help prevent fraudulent and manipulative practices, promote just and equitable principles of trade and protect investors, municipal entities, obligated persons and the public interest by ensuring that eligible municipal securities, including those issued in a private placement, have an appropriate identifier assigned in order to provide market participants with greater ability to receive, deliver, and safekeep such securities. The Commission believes that the availability of a limited exception to this requirement would eliminate impediments to and perfect the mechanism of a free and open market in municipal securities by allowing dealers and municipal advisors to provide services in certain direct purchase transactions without inhibiting their issuer clients' access to financings that otherwise might not be available if CUSIP numbers were required. In addition, the Commission believes that the proposed rule change, as modified by Amendment No. 1, would remove impediments to a free and open market by requiring all municipal advisors to comply with the requirements of Rule G–34(a)(i)(A), thus encouraging consistency and efficiency in competitive sales of municipal securities and ensuring that CUSIP numbers are obtained by municipal advisors earlier in a competitive deal to allow for immediate trading upon award.

In approving the proposed rule change, as modified by Amendment No. 1, the Commission also has considered the impact of the proposed rule change, as modified by Amendment No. 1, on efficiency, competition, and capital formation.[114] The Commission believes the proposed rule change, as modified by Amendment No. 1, would reduce regulatory uncertainty for underwriters and municipal advisors with regard to the requirement to apply for CUSIP numbers because dealers and municipal

[101] *Id.*
[102] *Id.*
[103] *Id.*
[104] *See* GLEIF Letter.
[105] *See* November Response Letter.
[106] *Id.*
[107] *Id.*
[108] *See* Second ABA Letter.
[109] *Id.*
[110] *Id.*
[111] 15 U.S.C. 78*o*–4(b)(2)(C).
[112] *See* 15 U.S.C. 78*o*–4(b)(2)(C).
[113] *Id.*
[114] 15 U.S.C. 78c(f).

advisors would know with greater certainty when application for a CUSIP number is required in private placement transactions. Similarly, the Commission believes that while in practice some non-dealer municipal advisors may be applying for CUSIP numbers in a competitive offering before the final award is made, the proposed rule change, as modified by Amendment No. 1,would ensure that this is the case, thus reducing the risk of delays in secondary market trading where a competitive offering is awarded but no CUSIP number has been assigned. The Commission notes that the MSRB considered the impact of the proposed rule change on non-dealer municipal advisors and concluded that, while non-dealer municipal advisors are likely to incur up-front costs associated with compliance with the proposed rule change, the cost would be justified by the likely benefits of the proposed rule change over time.[115]

As noted above, the Commission received eleven comment letters on the Notice of Filing and two comment letters on Amendment No. 1. The Commission believes that the MSRB, through its responses and through Amendment No. 1, has addressed commenters' concerns.

For the reasons noted above, the Commission believes that the proposed rule change, as modified by Amendment No. 1, is consistent with the Act.

VI. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, prior to the 30th day after the date of publication of the Notice of Amendment No. 1 in the **Federal Register**. As discussed above, Amendment No. 1 modifies the proposed rule change by amending proposed paragraph Rule G–34(a)(i)(F) of the proposed rule change to require dealers (and municipal advisors in a competitive sale) seeking to rely on the principles-based exception to reasonably believe the purchaser's present intent is to hold the municipal securities to maturity ''or earlier redemption or mandatory tender.'' Amendment No. 1 also would modify the proposed rule change to expand the principles-based exception in proposed paragraph Rule G–34(a)(i)(F) to include cases where a municipal entity purchases the municipal securities with funds that are at least in part proceeds of the purchasing entity's issue of municipal obligations, or the municipal securities being purchased are used to fully or partially secure or pay the purchasing entity's issue of municipal obligations. For consistency, Amendment No. 1 also would apply the same amendments to the principles-based exception for dealers from the depository eligibility requirements of the rule set forth in subparagraph Rule G–34(a)(ii)(A)(3).[116]

The MSRB stated that the only substantive change made by Amendment No. 1 to the proposed rule change is responsive to commenters and that Amendment No. 1 expands the application of the previously proposed principles-based exception to include sales of new issue municipal securities to municipal entities that are purchasing the underlying municipal securities with funds that are at least in part proceeds of the purchasing entity's issue of municipal obligations, or the municipal securities being purchased are used to fully or partially secure or pay the purchasing entity's issue of municipal obligations.[117] The MSRB further noted that the other amendment to the proposed rule change made by Amendment No. 1 merely clarifies that in a direct purchase transaction there may be a redemption or mandatory tender that occurs prior to the municipal security's maturity.[118] Additionally, the MSRB stated that, in light of one of the purposes of the principles-based exception in the proposed rule change—to allow dealers and municipal advisors to provide services without inhibiting their issuer clients' access to certain financings—the revisions are consistent with the proposed rule change.[119]

For the foregoing reasons, the Commission finds good cause for approving the proposed rule change, as modified by Amendment No. 1, on an accelerated basis, pursuant to Section 19(b)(2) of the Act.

VIII. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[120] that the proposed rule change (SR–MSRB–2017–06), as modified by Amendment No. 1, be, and hereby is, approved on an accelerated basis.

For the Commission, pursuant to delegated authority.[121]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27342 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[115] *See* November Response Letter.

[116] *See* Amendment No. 1.

[117] *Id.*

[118] *Id.*

[119] *Id.*

[120] 15 U.S.C. 78s(b)(2).

[121] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82326; File No. SR–GEMX–2017–56]

Self-Regulatory Organizations; Nasdaq GEMX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Primary Market Maker Obligations

December 14, 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 GEMX, LLC (''GEMX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 701, entitled ''Openings,'' to specify the obligations of a Primary Market Maker (''PMM'') when entering Valid Width Quotes [3] during the Opening Process.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqgemx.cchwallstreet.com/,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Valid Width Quote'' is a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). *See* Rule 701(a)(8).

Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 701, Openings, to amend the obligations of a PMM when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a PMM and a Competitive Market Maker (''CMM'') once an options series has opened.

Currently, Rule 701(c)(1) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f)–(j) of GEMX Rule 701 on or after 9:30 a.m. Eastern Time if: The ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) any of the following: (i) The PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMM or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.

Thereafter, Rule 701(c)(3) specifies that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

The Exchange proposes to make clear that a PMM has the obligations specified in GEMX Rule 701(c)(3) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the PMM's assigned series was not already opened by a CMM as permitted by Rule 701(c)(1)(ii) and (iii) as noted herein. The PMM would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the PMM to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if an options series has opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3). Also, the PMM assigned in a particular U.S. dollar-settled foreign currency option would not be required to enter a Valid Width Quote for 10% of their assigned series, not later than one minute after the announced market opening during the Opening Process if an options series opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3).

Today GEMX Rule 701 requires a PMM to open the market and provides an alternative mechanism to permit an alternative opening by a CMM.[4] The proposal seeks to make clear the obligations of the PMM with respect to options series that were open by a CMM as well as the quoting obligations of a CMM that opened the options series. The Exchange proposes to amend GEMX Rule 701(c)(3) to state that once an option series has opened pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in such option series pursuant to Supplementary .01 to GEMX Rule 804. The Exchange also proposes to amend Rule 701(c)(4) to state that a CMM that submits a quote during the opening in any option series pursuant to Rule 701(c)(1)(ii) or (iii) must submit continuous, two-sided quotes in such options series pursuant to GEMX Rule 804(e)(2)(iii) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 701(c)(3) to provide that ''once an options series has opened f pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804.'' Further, the Exchange proposes to add rule text to Rule 701(c)(4) to states that ''A CMM that submits a quote pursuant to Rule 701 in any option series when the PMM's quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii).''

The Exchange proposes to make clear that a PMM has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 701(c)(3). In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), a PMM would be required to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, in this instance, a CMM would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii). The Exchange notes that a CMM would not have an obligation to quote in such option series pursuant to Rule 804(e)(2)(iii), unless the CMM submitted a quote pursuant to Rule 701 or otherwise submitted a quote intra-day.[5] The purpose of this new rule text is to make clear the quoting obligations for both PMMs and CMMs during the opening and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] 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

[4] *See* GEMX Rule 701(c)(1)(i)–(iii).

[5] *See* GEMX Rule 804(e)(2)(i) which states, ''On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed.''

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

system, and, in general to protect investors and the public interest by amending GEMX Rule 701(c)(3) to further specify a PMM's obligations during the Opening Process and once an options series as opened as well as the obligations of a CMM to the extent that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The Exchange believes that this proposal is consistent with the Act because a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), the CMM must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 804(e)(2)(iii). The Exchange believes that this proposed rule change will make clear the obligations of the PMM with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a CMM may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of a PMM and CMM during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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. Once an options series has opened, [sic] a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, if an options series opened pursuant to GEMX Rule 701(c)(1)(ii) or (iii), a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened. pursuant to Rule 804(e)(2)(iii). This proposed rule text makes clear that CMMs are required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii), in the event an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange represents that the proposed rule change would clarify the quoting obligations for both PMMs and CMMs during the Opening Process and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other. According to the Exchange, these obligations should be immediately clarified to prevent confusion and uncertainty for Market Makers quoting on the Exchange. For the reasons articulated by the Exchange, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–GEMX–2017–56 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–GEMX–2017–56. 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

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–GEMX–2017–56 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27347 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82332; File No. SR–NYSE–2017–30]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Designation of Longer Period for Commission Action on Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 3, To Amend Section 102.01B of the NYSE Listed Company Manual To Provide for the Listing of Companies That List Without a Prior Exchange Act Registration and That Are Not Listing in Connection With an Underwritten Initial Public Offering and Related Changes to Rules 15, 104, and 123D

December 14, 2017.

On June 13, 2017, the New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Section 102.01B of the NYSE Listed Company Manual to modify the provisions relating to the qualification of companies listing without a prior Exchange Act registration in connection with an underwritten initial public offering. The proposal also would (i) eliminate the requirement to have a private placement market trading price if there is a valuation from an independent third-party of $250 million in market value of publicly-held shares; (ii) amend Rule 15 to add a Reference Price for when a security is listed under Footnote (E) to Section 102.01B; (iii) amend Rule 104 to specify Designated Market Maker (''DMM'') requirements when a security is listed under Footnote (E) to Section 102.01B and there has been no trading in the private market for such security; and (iv) amend Rule 123D to specify that the Exchange may declare a regulatory halt in a security that is the subject of an initial listing on the Exchange.

The proposed rule change was published for comment in the **Federal Register** on June 20, 2017.[3] The Commission received one comment in response to the Original Notice.[4] The Exchange filed Amendment No. 1 to the proposed rule change on July 28, 2017, which, as noted below, was later withdrawn. On August 3, 2017, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to approve or disapprove the proposed rule change to September 18, 2017.[5]

On August 16, 2017, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety.[6] The Commission published Amendment No. 2 for comment in the **Federal Register** on August 24, 2017.[7] On September 15, 2017, the Commission instituted proceedings to determine whether to approve or disapprove the proposed rule change, as modified by Amendment No. 2.[8] Following the Order Instituting Proceedings, the Commission received one additional comment letter.[9] On December 8, 2017, the Exchange filed Amendment No. 3 to the proposed rule change, which superseded and replaced the proposed rule change in its entirety.

Section 19(b)(2) of the Act[10] provides that, after initiating proceedings, the Commission shall issue an order approving or disapproving the proposed rule change not later than 180 days after the date of publication of notice of the filing of the proposed rule change. The Commission may extend the period for issuing an order approving or disapproving the proposed rule change, however, by not more than 60 days if the Commission determines that a longer period is appropriate and publishes the reasons for such determination. The proposed rule change was published for notice and comment in the **Federal Register** on June 20, 2017.[11] The 180th day after publication of the Original Notice is December 17, 2017. The Commission is extending the time period for approving or disapproving the proposal for an additional 60 days.

The Commission finds that it is appropriate to designate a longer period within which to issue an order approving or disapproving the proposed rule change so that it has sufficient time to consider the proposed rule change, as modified by Amendment No. 3. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[12] designates February 15, 2018 as the date by which the Commission should either approve or disapprove the proposed rule change (File No. SR–NYSE–2017–30), as modified by Amendment No. 3.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27351 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80933 (June 15, 2017), 82 FR 28200 (June 20, 2017) (''Original Notice'').

[4] *See* letter to the Commission from James J. Angel, Ph.D., CFA, Georgetown University, dated July 28, 2017.

[5] *See* Securities Exchange Act Release No. 81309 (August 3, 2017), 82 FR 37244 (August 9, 2017).

[6] *See* Notice, *infra* note 7, at n. 8, which describes the changes proposed in Amendment No. 2 from the original proposal.

[7] *See* Securities Exchange Act Release No. 81440 (August 18, 2017), 82 FR 40183 (August 24, 2017) (''Notice'').

[8] *See* Securities Exchange Act Release No. 81640 (September 15, 2017), 82 FR 44229 (September 21, 2017) (''Order Instituting Proceedings'').

[9] *See* letter to Brent J. Fields, Commission, from Cleary Gottlieb Steen & Hamilton, dated October 12, 2017.

[10] 15 U.S.C. 78s(b)(2).

[11] *See supra* note 3.

[12] 15 U.S.C. 78s(b)(2).

[13] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82328; File No. SR–CboeBZX–2017–011]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade the Common Shares of Beneficial Interest of the PowerShares Income Builder Portfolio, a Series of PowerShares Exchange-Traded Fund Trust II

December 14, 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 1, 2017, Cboe BZX Exchange, Inc. (''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed proposed rule change to list and trade under BZX Rule 14.11(c)(3) the common shares of beneficial interest of the PowerShares Income Builder Portfolio (the ''Fund''), a series of PowerShares Exchange-Traded Fund Trust II (the ''Trust''). The common shares of beneficial interest of the Fund are referred to herein as the ''Shares.''

The text of the proposed rule change is available at the Exchange's website at *www.markets.cboe.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

[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 Exchange proposes to list and trade the Shares of the Fund under BZX Rule 14.11(c)(5),[3] which governs the listing and trading of Index Fund Shares based on equity and fixed income securities indexes.[4] The Shares will be offered by the Fund, which will be a passively managed index-based exchange-traded fund (''ETF''). The Fund is a series of the Trust, which was established as a Massachusetts business trust on October 10, 2006. The Trust is registered with the Commission as an open-end management investment company and has filed a post-effective amendment to its registration statement on Form N–1A (the ''Registration Statement'') with the Commission to register the Fund and its Shares under the Investment Company Act of 1940 (''1940 Act'') and the Securities Act of 1933.[5]

Invesco PowerShares Capital Management LLC will be the investment adviser (the ''Adviser'') to the Fund. Invesco Advisers, Inc. will be the investment sub-adviser (the ''Sub-Adviser'') to the Fund.[6] Invesco Distributors, Inc. will be the distributor (the ''Distributor'') of the Shares. The Bank of New York Mellon (the ''Custodian'') will act as the custodian, administrator, accounting agent and transfer agent for the Fund.

As discussed in more detail below, the Fund's investment objective is to seek to track the investment results (before fees and expenses) of the Goldman Sachs Bond Buyers Equity Basket Index (the ''Underlying Index''). The Underlying Index is designed to measure the performance of a hypothetical portfolio of common equity stocks with an overlay of fully-collateralized written put options on those stocks.

The Underlying Index was developed by Goldman, Sachs & Co. (''Goldman Sachs''). Solactive AG (the ''Calculation Agent'') maintains, calculates, and publishes the value of the Underlying Index on each business day. The Calculation Agent is not registered as an investment adviser or broker-dealer and is not affiliated with any broker-dealers. The Calculation Agent has also implemented and will maintain procedures designed to prevent the use and dissemination of material, non-public information regarding the Underlying Index as required under Rule 14.11(c)(5)(A)(iii). None of the Trust, the Adviser, the Sub-Adviser, the Custodian or the Distributor is affiliated with Goldman Sachs, the Calculation Agent or their respective affiliates.

The Exchange is submitting this proposed rule change because the Underlying Index for the Fund does not meet the listing requirements of Rule 14.11(c)(5) applicable to an index that consists of both equity securities (and with respect to this underlying index, U.S. Component Stocks)[7] and Fixed Income Securities,[8] which requires that the equity and fixed income component securities separately meet the criteria set forth in Rules 14.11(c)(5) because the Underlying Index consists partially of put options. The Fixed Income Security component of the Underlying Index, which consists of only Treasury bills, meets the ''generic'' listing requirements of Rule 14.11(c)(4).

All statements and representations made in this filing regarding the Underlying Index composition, the description of the portfolio or reference assets, limitations on portfolio holdings or reference assets, dissemination and availability of the Underlying Index, reference asset, and intraday indicative values, and the applicability of

[3] The Commission approved BZX Rule 14.11(c) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018).

[4] BZX Rule 14.11(c)(1)(A)(i) provides that an Index Fund Share is a security that is issued by an open-end management investment company based on a portfolio of stocks or fixed income securities or a combination thereof, that seeks to provide investment results that correspond generally to the price and yield performance or total return performance of a specified foreign or domestic stock index, fixed income securities index or combination thereof.

[5] *See* Registration Statement on Form N–1A for the Trust, filed on July 31, 2017 (File Nos. 333–138490 and 811–21977). The descriptions of the Fund and the Shares contained herein are based, in part, on information in the Registration Statement. In addition, the Commission has issued an order granting certain exemptive relief to the Trust under the 1940 Act. *See* Investment Company Act Release No. 27841 (May 25, 2007) (File No. 812–13335) (''Exemptive Order'').

[6] The Adviser and the Sub-Adviser are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio.

[7] As defined in Rule 14.11(c)(1)(D), the term ''U.S. Component Stock'' shall mean an equity security that is registered under Sections 12(b) or 12(g) of the Act, or an American Depositary receipt, the underlying equity security of which is registered under Sections 12(b) or 12(g) of the Act.

[8] As defined in Rule 14.11(c)(4), the term ''Fixed Income Security'' shall mean debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, Treasury bills, government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or subdivision thereof.

Exchange rules specified in this filing shall constitute continued listing requirements for the Fund.

Description of the Fund

As noted above, the Underlying Index will consist of a mixture of (1) 100 U.S. exchange-listed common stocks of large capitalization that have listed options traded on a U.S. exchange (the ''Stock Component''), (2) put options [9] that are sold (or ''written'') on those same 100 stocks that comprise the Stock Component (the ''Options Strategy''), and (3) Treasury bills (the ''Collateral''), which are intended to collateralize the Options Strategy.

Under normal market conditions,[10] the Fund will seek to achieve its investment objective by generally investing at least 90% of its total assets in the components of the Underlying Index.[11] The Fund will use an ''indexing'' investment approach to seek to achieve its investment objective. The Adviser will seek a correlation over time of 0.95 or better between the Fund's performance and the performance of the Underlying Index; a figure of 1.00 would represent perfect correlation.[12] The Fund generally will employ a ''full replication'' methodology, meaning that generally it will seek to invest in all of the components of the Underlying Index (*i.e.,* all of the stocks in the Stock Component, the Options Strategy, and the Collateral for the put options) in proportion to their weightings in the Underlying Index. However, under various circumstances, it may not be possible or practicable for the Fund to purchase all of the components of the Underlying Index in the same weightings as the Underlying Index. In those circumstances, the Fund may purchase a representative sample of securities in the Underlying Index in pursuing its investment objective.[13]

Index Methodology

The Underlying Index is composed of a Stock Component (represented by 100 U.S. exchange-listed common stocks of large capitalization that have listed options traded on a U.S. exchange), the Options Strategy, and Collateral (represented by Treasury bills) intended to fully-collateralize the Options Strategy. The selection of common stocks for the Stock Component, the selection of strike prices of the fully-collateralized put options for the Options Strategy, and the asset allocation between the Stock Component and Collateral are determined pursuant to the Underlying Index's methodology, as described more fully below.

According to the Registration Statement, the Underlying Index is designed to obtain yield from three sources: (1) The dividends and returns on the common stocks in the Stock Component, (2) the premiums received from the put options sold via the Options Strategy,[14] and (3) the yield from Treasury bills serving as Collateral.[15]

The constituents in the Stock Component are selected in accordance with Goldman Sachs' rules-based methodology, as described herein. The Underlying Index is designed to identify common stocks of companies with relatively low volatility, issued by companies with relatively strong financial conditions (as measured by a company's ''free cash flow'' (''FCF'')). Companies with high FCF have a lower probability of entering distress and/or higher probability of paying consistent dividends.[16]

From an investible universe consisting of common stocks (which excludes American depositary receipts and ETFs) that have listed options traded on a U.S. stock exchange, the Underlying Index identifies the 800 largest stocks (based on the issuer's capitalization) and applies two screens: (1) The first screen eliminates the 25%

[9] A put option is an option contract giving the contract holder (or ''option holder'') the right, but not the obligation, to sell a specified amount of an underlying stock, typically 100 shares per contract, at a predetermined, specified price (the ''strike price'') at any time within a specified time (the ''expiration date''). If the option holder exercise that right, the seller (or ''writer'') of the put option must transfer to the option holder an amount equal to the product of the strike price and the total number of shares relating to such exercised put options. In exchange for such payment by the seller to the option holder, the option holder will transfer to the seller shares of the underlying stock equal to the total number of shares relating to such exercised put options. Put option sellers risk losses if the price of a stock drops below the strike price (a situation when the option is referred to as ''in-the-money''). An option holder will have an unrealized gain if the written put option purchased by the option holder has appreciated in an amount greater than the purchase price of each such put option purchased by the option holder. The option holder may recognize a realized gain on a put option by exercising the put option and then selling the shares or by selling the put option (*e.g.,* closing out the option transaction with by selling the put options). As an example of the gain by an option holder related to an ''in-the-money'' put option, if a put option has a strike price of $50 per share and at the time the underlying stock price is $40 per share, the option holder will have a gross realized gain of $10 per share. The option holder's realized gain for such transaction would be equal to the $10 per share less the put option purchase price per share paid by the option holder to acquire the put options).

[10] The term ''normal market conditions'' includes, but is not limited to, the absence of trading halts in the applicable financial markets generally; operational issues causing dissemination of inaccurate market information or system failures; or force majeure type events such as natural or man-made disaster, act of God, armed conflict, act of terrorism, riot or labor disruption, or any similar intervening circumstance.

[11] The Fund will operate as an index fund and will not be actively managed. Therefore, the Fund will not adopt temporary defensive strategies. It will continue to invest at least 90% of its assets in the components of the Underlying Index, in accordance with the terms of its Exemptive Order, even during unusual market conditions, including extreme volatility or trading halts in the financial markets generally.

[12] Another means of evaluating the relationship between the returns of the Fund and the Underlying Index is to assess the ''tracking error'' between the two. Tracking error means the variation between the Fund's annual return and the return of the Underlying Index, expressed in terms of standard deviation. The Fund seeks to have a tracking error of less than 5%, measured on a monthly basis over a one-year period by taking the standard deviation of the difference in the Fund's returns versus the Underlying Index's returns.

[13] A ''sampling'' methodology means that the Adviser (or Sub-Adviser) will use a quantitative analysis to select component securities of the Underlying Index for the Fund's portfolio that are a representative sample of securities that have, in the aggregate, investment characteristics similar to the Underlying Index in terms of key risk factors, performance attributes and other characteristics. These include industry weightings, market capitalization, return variability, earnings valuation, yield and other financial characteristics of securities. When employing a sampling methodology, the Adviser (or Sub-Adviser) bases the quantity of holdings in the Fund on a number of factors, including asset size of the Fund, and generally expects the Fund to hold less than the total number of securities in the Underlying Index. However, the Adviser (or Sub-Adviser) reserves the right to invest the Fund in as many securities as it believes necessary to achieve the Fund's investment objective.

[14] As described above, a put option seller will incur a loss if the put option expires in-the-money at the expiration date or if the in-the-money put option is exercised by the option holder and, in each case, the in-the-money amount is greater than the purchase price of the put option (the ''premium'') collected by the put option seller. A put option seller will recognize a realized gain if the put option expires ''out of the money'' (*i.e.,* the underlying stock price is below the put option strike price).

[15] The amount of the premiums received from selling options largely involves the level of implied volatility of the underlying reference security: The measurement of how much the market price of the underlying reference security historically varied from day to day over a specific period of time. The higher the implied volatility, the more likely the underlying reference security will experience large price changes. Another factor bearing on the put option premium is the time value of the options. The more time that remains until the expiration date of the option, the greater the amount of time that an option trade has to become profitable due to a favorable move in the underlying reference security. As a result, investors are willing to pay a higher premium for more time until the expiration date of an option (and conversely, as the expiration date of an option approaches, the market price of the option decreases, and down to zero if the option remains out-of-the-money on the expiration date of the option).

[16] In general, free cash flow is the money a company generates after accounting for daily operations or capital expenditures. Typically, a high or growing FCF indicates that a company has strong financial health (*e.g.,* higher margins, lower interest expense and/or more limited need for cash to maintain ongoing operations), is consistently de-leveraging and/or has the ability to return cash to shareholders through dividends or share buybacks.

of those 800 stocks (that is, 200 stocks) with the least liquidity,[17] and (2) the second screen eliminates the 25% of the remaining 600 stocks (that is, 150 stocks) whose listed options have the lowest liquidity as judged by their ''notional volume.'' [18] Next, the Underlying Index screens each of the remaining 450 eligible securities based on its current five-year credit default swap (''CDS'') spread.[19] A security is eliminated from eligibility if it has a 5-year CDS spread greater than 150 basis points annually.[20]

The Underlying Index calculates the following information for each remaining eligible security: (1) The security's latest available FCF yield [21] (or change in book value (''BV'') [22] for certain stocks, depending on the sector of the stock issuer [23]) for its most recently completed fiscal year (''FY0''); [24] and (2) the security's estimated FCF yield, calculated by estimating the growth in earnings per share for its upcoming fiscal year (''FY1'').[25] Next, each security's ''implied volatility'' [26] over the next 12 months is estimated using publicly available options prices.[27]

The Underlying Index then adjusts each remaining eligible stock's FCF yield based on its implied volatility by dividing each stock's actual FCF yield in FY0 and estimated FCF yield in FY1 by its implied volatility. The result produces two values for each eligible stock: A ''volatility-adjusted'' FCF yield for FY0 and a volatility-adjusted FCF yield for FY1. It then averages the two results from FY0 and FY1 to establish each security's ''average volatility adjusted FCF yield.'' The 100 stocks with the highest average FCF yield, after adjusting for volatility, are included in the Underlying Index, subject to minimum and maximum sector weighting requirements. Stocks with lower implied volatility receive greater weighting in the Underlying Index.[28]

After establishing the Stock Component, the Underlying Index's methodology determines the Options Strategy. The Options Strategy writes or sells put options on the 100 stocks included in the Stock Component. Those put options are standardized options listed and traded on U.S. exchanges and will have terms of at least six but no more than 18 months as of each quarterly rebalance date (described below).

The strike price for each put option will be selected, in accordance with the Underlying Index's methodology, at an amount that will generate a premium that (when annualized) is as close as possible to the expected return of the underlying stock.[29] The put options related to the Options Strategy will have expirations between six and 18 months. All put options in the Underlying Index are fully collateralized with Treasury bills in an amount equal to the outstanding notional value of the put options. The collateral may also include the premiums collected on the put options.

According to the Registration Statement, at any given time, depending on market conditions, the Underlying Index's assets are allocated between the Stock Component and the Collateral to generate income.[30] According to the Registration Statement, the allocation depends on the amount of FCF yield or dividend yield from the Stock Component: During periods when the stocks' FCF yield is high (leading to a lower proportion of puts written) and dividend yield is high (leading to a lower proportion of puts written), a greater percentage of the Underlying Index's assets will be allocated to the Stock Component. Conversely, when the FCF yield and dividend yield of such stocks are low, a greater percentage of the Underlying Index's assets will be allocated to Treasury bills collateralizing the Options Strategy.[31]

The Underlying Index is rebalanced quarterly in March, June, September and December, typically on the Friday before the third Saturday of the month (the ''rebalance date''). The 100 common stocks to be included in the Stock

[17] According to the Registration Statement, a stock's liquidity is measured by its one-year average daily trading dollar volume (with greater volume representing greater liquidity).

[18] According to the Registration Statement, a stock's notional volume is the one-year average notional value of all options traded on that stock.

[19] Generally, a CDS contract is a financial swap agreement wherein the seller of the swap will compensate the buyer should a credit event occur—such as a failure to pay interest or principle on a credit obligation, restructuring or default. A CDS generally operates as a form of insurance to the buyer against the risk of a bond. The buyer of the swap makes a series of payments (often called the ''spread'' or ''premiums'') to the seller up until the maturity date or execution of a contract. In return, the seller agrees that, should the credit event occur, the seller will pay the buyer the face value of a bond in exchange for physical delivery of an applicable bond of the entity.

[20] The ''spread'' of a CDS contract is the annual amount the protection buyer must pay the seller over the length of the contract, expressed as a percentage of the notional amount. For example, if the CDS has a spread of 200 basis points, or 2.0%, then an investor buying $1 million worth of protection from the seller must pay $20,000 annually. Such payments usually continue until either the CDS contract expires or a credit event occurs. In general, the higher the spread, the more likely that the marketplace believes the credit event will occur. Consequently, stocks with greater volatility (and greater likelihood of experiencing a significant decline in value) generally will have CDS contracts with a higher spread.

[21] FCF yield is calculated by dividing a company's FCF per share by the company's current market price per share. FCF yield typically is expressed as a percentage; the greater the number, the greater amount of FCF (relative to its market capitalization) that a company generates annually.

[22] The book value of a company is the total value of that company (measured as the difference between the company's total assets and total liabilities). The change in book value (as a percent of market capitalization) for a stock is a measure of how the issuer's book value changed over the past year relative to the company's latest market value of equity.

[23] The Underlying Index will include stocks from issuers located in each of 9 market sectors (Information Technology, Healthcare, Consumer Services, Consumer Products, Industrials, Financials and Real Estate Investment Trusts, Utilities, Materials and Energy). Stocks issued by companies in the Financials and Real Estate Investment Trusts sector will use BV, while stocks issued by companies in the other 8 market sectors will use FCF yield. References herein to FCF yield are intended to include BV, as applicable, for securities in the Financials and Real Estate Investment Trusts sector.

[24] Securities with a FCF yield that is less than or equal to zero in FY0 are eliminated from eligibility.

[25] A stock's estimated growth in earnings from its most recently completed fiscal year to its next upcoming fiscal year is calculated using analysts' publically available consensuses.

[26] Implied volatility is a way of estimating the future fluctuations in the price of a security based on options prices. Implied volatility represents the marketplace's views about what the volatility of a stock should be in the future (*i.e.,* high implied volatility means the marketplace expects a security to have large price swings, while low implied volatility means that the marketplace expects the price generally will have smaller movements).

[27] A stock's implied volatility typically is a key driver in the pricing of put options on the stock. Options tend to have higher premiums when the underlying stock has high levels of implied volatility. This is because a greater possibility of wider fluctuations in the price of an underlying stock creates a greater likelihood that the stock's price will drop below the option's strike price, resulting in a loss to the seller. By taking greater risk, the put option seller accordingly receives greater premiums.

[28] According to the Registration Statement, the Underlying Index's methodology requires that each of the 9 market sectors have a maximum of 25 stocks included in the Stock Component. The Underlying Index targets a minimum of two stocks from each sector; however, if there are not two stocks in a sector that pass the liquidity and CDS screen, then it is possible to have no stocks from that sector.

[29] Like free cash flow, the annualized premium is expressed as a percentage. For example, the Underlying Index will not sell puts that derive premiums in an amount (when annualized) that is less than 2% of the underlying stock's FCF yield, calculated in the manner described above.

[30] There is no limit to how much or how little the Underlying Index may allocate to the Stock Component (*i.e.,* at any given time, the portion of the Underlying Index's assets allocated to the Stock Component may be anywhere from 0% to 100%).

[31] When companies have low FCF yield, there is elevated risk associated with owning their stock. Therefore, the Underlying Index rebalances to reduce exposure to the Stock Component (where investors have potential losses equal to the stock price) and increases exposure to the Treasury bills collateralizing the Options Strategy (where investors have potential losses equal to the stock price minus the Treasury bill yield and the premiums collected).

Component are made available one week prior to the rebalance date. The put option strike prices and weights of the Underlying Index's components will be made available prior to the end of the business day on the rebalance date.

Other Investments

After investing at least 90% of its total assets in components of the Underlying Index, the Fund may invest up to 10% of its total assets in the following: (i) Exchange-traded U.S. equity securities not included in the Underlying Index, but which the Adviser or Sub-Adviser believes will help the Fund to track the Underlying Index; [32] (ii) high quality securities issued or guaranteed by the U.S. government (in addition to Treasury bills) and non-U.S. governments, and each of their agencies and instrumentalities; (iii) money market instruments, including repurchase agreements or other funds which invest exclusively in money market instruments (subject to applicable limitations under the 1940 Act, or exemptions therefrom); [33] (iv) convertible securities; (v) structured notes; [34] (vi) securities of other investment companies (including affiliated and unaffiliated funds, such as open-end or closed-end management investment companies, and other ETFs) beyond the limits permitted under the 1940 Act, subject to certain terms and conditions set forth in a Commission exemptive order issued to the Trust pursuant to Section 12(d)(1)(J) of the 1940 Act; [35] and (vii) OTC options.[36]

Investment Restrictions

The Fund will concentrate its investments (*i.e.,* invest more than 25% of the value of its net assets) in securities of issuers in any one industry or group of industries only to the extent that the Underlying Index reflects a concentration in that industry or group of industries. The Fund will not otherwise concentrate its investments in securities of issuers in any one industry or group of industries. This restriction will not apply to obligations issued or guaranteed by the U.S. government, its agencies or instrumentalities.[37] The Fund will be classified as a ''non-diversified'' investment company under the 1940 Act.[38]

The Fund may hold up to an aggregate amount of 15% of its net assets (calculated at the time of investment) in assets deemed illiquid by the Adviser or Sub-Adviser.[39] The Fund will monitor its portfolio liquidity on an ongoing basis to determine whether, in light of current circumstances, an adequate level of liquidity is being maintained, and will consider taking appropriate steps in order to maintain adequate liquidity if, through a change in values, net assets, or other circumstances, more than 15% of the Fund's net assets are held in illiquid securities or other illiquid assets.[40] Illiquid securities and other illiquid assets include those subject to contractual or other restrictions on resale and other instruments or assets that lack readily available markets as determined in accordance with Commission staff guidance.[41]

The Fund may loan the equity securities in its portfolio; however, the Fund will not loan its securities if, as a result, the aggregate amount of all outstanding securities loans by the Fund exceeds 33⅓% of the Fund's total assets (including the market value of collateral received). To the extent the Fund engages in securities lending, it will loan securities to broker-dealers that the Adviser believes to be of relatively high credit standing pursuant to agreements that require the loans to be continuously collateralized by cash, liquid securities, or shares of other investment companies with a value at least equal to the market value of the loaned securities.

The Fund intends to qualify for, and to elect to be treated as, a regulated investment company (''RIC'') under Subchapter M of the Internal Revenue Code of 1986, as amended.[42] The Fund will invest its respective assets, and otherwise conduct its operations, in a manner that is intended to satisfy the qualifying income, diversification and distribution requirements necessary to establish and maintain RIC qualification under Subchapter M. In addition to satisfying the above referenced RIC diversification requirements, no portfolio security held by the Fund (other than U.S. government securities) will represent more than 30% of the weight of the Fund's portfolio, and the five most heavily weighted component stocks of the Fund (other than U.S. government securities) will not in the aggregate account for more than 65% of the weight of the Fund's portfolio. For these purposes, the Fund may treat

[32] For example, there may be instances in which the Adviser or Sub-Adviser may choose to purchase or sell securities not in the Underlying Index which the Adviser or Sub-Adviser believes are appropriate to substitute for one or more Underlying Index components in seeking to replicate, before fees and expenses, the performance of the Underlying Index.

[33] The Fund may invest in repurchase agreements with commercial banks, brokers or dealers to generate income from its excess cash balances and to invest securities lending cash collateral.

[34] Structured notes are derivative securities for which the amount of principal repayment and/or interest payments is based on the movement of one or more factors, including but not limited to, currency exchange rates, interest rates (such as the prime lending rate or LIBOR), referenced bonds and stock indices.

[35] *See* Investment Company Act Release No. 30238 (October 23, 2012) (File No. 812–13820).

[36] The Fund may use OTC options, together with positions in cash and money market instruments, to simulate full investment in the Underlying Index. The Fund will only enter into OTC options with counterparties that the Adviser or Sub-Adviser reasonably believes are capable of performing under the contract, and the Fund will post collateral as required by the counterparty and applicable regulations. The Adviser or Sub-Adviser will attempt to mitigate the Fund's respective credit risk by transacting, where possible, with large, well-capitalized institutions using measures designed to determine the creditworthiness of the counterparty. The Adviser and/or Sub-Adviser will evaluate the creditworthiness of counterparties on a regular basis. In addition to information provided by credit agencies, the Adviser and/or Sub-Adviser will review approved counterparties using various factors, which may include the counterparty's reputation, the Adviser's or Sub-Adviser's past experience with the counterparty, and the price/market actions of debt of the counterparty. The Fund may also use various techniques to minimize credit risk, including early termination or reset and payment, using different counterparties, and limiting the net amount due from any individual counterparty. However, the risk of losses to the Fund resulting from counterparty default is still possible.

[37] *See* Form N–1A, Item 9. The Commission has taken the position that a fund is concentrated if it invests more than 25% of the value of its total assets in any one industry. *See, e.g.,* Investment Company Act Release No. 9011 (October 30, 1975), 40 FR 54241 (November 21, 1975).

[38] The diversification standard is set forth in Section 5(b)(1) of the 1940 Act.

[39] In reaching liquidity decisions, the Adviser or Sub-Adviser may consider the following factors: The frequency of trades and quotes for the security; the number of dealers wishing to purchase or sell the security and the number of other potential purchasers; dealer undertakings to make a market in the security; and the nature of the security and the nature of the marketplace in which it trades (*e.g.,* the time needed to dispose of the security, the method of soliciting offers and the mechanics of transfer).

[40] *See* Rule 22e–4(b)(1)(iv), which prohibits a fund from acquiring any illiquid investment if, immediately after the acquisition, the fund would have invested more than 15% of its net assets in illiquid investments that are assets. *See* Investment Company Act Release No. 32315 (Oct. 13, 2016), 81 FR 82142 (Nov. 18, 2016) (adopting Rule 22e–4 under the 1940 Act). Prior to the adoption of Rule 22e–4 in 2016, the Commission had long-standing guidelines that required open-end funds to hold no more than 15% of their net assets in illiquid securities and other illiquid assets. *See* Investment Company Act Release No. 28193 (March 11, 2008), 73 FR 14618 (March 18, 2008), FN 34. *See also* Investment Company Act Release Nos. 5847 (October 21, 1969), 35 FR 19989 (December 31, 1970) (Statement Regarding ''Restricted Securities''); and 18612 (March 12, 1992), 57 FR 9828 (March 20, 1992) (Revisions of Guidelines to Form N–1A).

[41] A fund's portfolio security is illiquid if it cannot be disposed of in the ordinary course of business within seven days at approximately the value ascribed to it by the fund. *See* Investment Company Act Release Nos. 14983 (March 12, 1986), 51 FR 9773 (March 21, 1986) (adopting amendments to Rule 2a–7 under the 1940 Act); and 17452 (April 23, 1990), 55 FR 17933 (April 30, 1990) (adopting Rule 144A under the Securities Act of 1933).

[42] 26 U.S.C. 851 *et seq.*

repurchase agreements collateralized by U.S. government securities as U.S. government securities.

The Fund's investments will be consistent with the Fund's investment objective. The Fund does not presently intend to engage in any form of borrowing for investment purposes, and will not be operated as a ''leveraged ETF'' or ''inverse leveraged ETF,'' *i.e.,* it will not be operated in a manner designed to seek a multiple or an inverse multiple of the performance of an underlying reference index.

Creation and Redemption of Shares

The Fund will issue and sell Shares only in large blocks of Shares (''Creation Units'') in transactions with Authorized Participants, as defined below. The Fund currently anticipates that a Creation Unit will consist of 50,000 Shares, though this number may change from time to time, including prior to the listing of the Fund. The exact number of Shares that will comprise a Creation Unit will be disclosed in the Fund's Registration Statement. The Trust will issue and sell Shares of the Fund in Creation Units on a continuous basis through the Distributor or its agent, without a sales load, at a price based on the Fund's net asset value (''NAV'') per Share next determined after receipt, on any business day.[43]

To initiate an order for a Creation Unit, an Authorized Participant must submit to the Distributor or its agent an irrevocable order to purchase Shares of the Fund, in proper form, generally before 3:30 p.m., Eastern Time, on any business day to receive that day's NAV. On days when the Exchange closes earlier than normal, the Fund may require orders to be placed earlier in the day.

The consideration for a purchase of a Creation Unit of the Fund generally will consist of either (i) the in-kind deposit of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) (''Deposit Securities'') and a corresponding ''Cash Component'' (defined below), computed as described below, or the cash value of the Deposit Securities (''Deposit Cash'') and the ''Cash Component,'' computed as described below.[44]

Together, the Deposit Securities or Deposit Cash, as applicable, and the Cash Component constitute the ''Fund Deposit,'' which will be applicable (subject to possible amendment or correction) to creation requests received in proper form. The Fund Deposit represents the minimum initial and subsequent investment amount for a Creation Unit. The ''Cash Component'' represents the difference between the NAV of the Shares (per Creation Unit) and the market value of the Deposit Securities or Deposit Cash, as applicable. The Cash Component serves the function of compensating for any difference between the NAV per Creation Unit and the market value of the Deposit Securities or Deposit Cash, as applicable.

A portfolio composition file, to be sent via the NSCC, will be made available on each business day, prior to the opening of business of the Exchange (currently 9:30 a.m., Eastern Time), containing a list of the names and the required number of shares of each Deposit Security to be included in the current Fund Deposit (based on information at the end of the previous business day). In addition, on each business day, the estimated Cash Component, effective through and including the previous business day, will be made available through NSCC. Such Fund Deposit is applicable, subject to any adjustments,[45] to purchases of Creation Units of Shares of the Fund until such time as the next-announced Fund Deposit composition is made available.

Shares of the Fund may be redeemed only in Creation Units on a business day, and only by Authorized Participants at the NAV next determined after receipt of a redemption request in proper form by the Distributor or its agent. Unless cash redemptions are permitted or required for the Fund, the redemption proceeds for a Creation Unit generally will consist of a designated portfolio of securities (including any portion of such securities for which cash may be substituted) that will be applicable (subject to possible amendment or correction) to redemption requests received in proper form on that day (the ''Fund Securities''), plus an amount of cash (the ''Cash Amount'') equal to the difference between the NAV of the Shares being redeemed, as next determined after the receipt of a redemption request in proper form, and the value of Fund Securities, less any redemption transaction fees.[46]

The Custodian will make available through the NSCC, prior to the opening of business on the Exchange on each business day, the Fund Securities and corresponding Cash Amount (each being subject to possible amendment or correction) that will be applicable to redemptions requests received in proper form on that day. The Fund reserves the right to honor a redemption request by delivering a basket of securities or cash that differs from the Fund Securities.[47]

Orders to redeem Creation Units of the Fund must be delivered through a DTC Participant that has executed the Participant Agreement with the Distributor. A DTC Participant who wishes to place an order for redemption of Creation Units of the Fund to be effected need not be a Participating Party, but such orders must state that redemption of Creation Units of the Fund will instead be effected through transfer of Creation Units of the Fund directly through DTC. An order to redeem Creation Units of a Fund is deemed received by the Distributor on the transmittal date if (i) such order is received not later than 3:30 p.m. Eastern Time on such transmittal date; (ii) such order is preceded or accompanied by the requisite number of Shares of

[43] To be eligible to place orders with the Distributor or its agent to create a Creation Unit of the Fund, an entity must be: (i) A ''Participating Party,'' *i.e.,* a broker-dealer or other participant in the clearing process through the Continuous Net Settlement System of the National Securities Clearing Corporation (''NSCC'') (the ''Clearing Process''); or (ii) a DTC Participant (as defined below); and, in either case, must have executed an agreement with the Distributor (as it may be amended from time to time in accordance with its terms) (''Participant Agreement''). DTC Participants are participants of the Depository Trust Company (''DTC''), which acts as a securities depositary for Index Fund Shares. A Participating Party and DTC Participant are collectively referred to as an ''Authorized Participant.''

[44] Because OTC options and certain listed options are not currently eligible for in-kind transfer, they will be substituted with an amount of cash of equal value (*i.e.,* Deposit Cash) when the Fund processes purchases of Creation Units in-kind. When accepting purchases of Creation Units for cash, the Fund may incur additional costs associated with the acquisition of Deposit Securities that would otherwise be provided by an in-kind purchase.

[45] The Fund reserves the right to permit or require the substitution of a ''cash in lieu'' amount to be added to the Cash Component to replace any Deposit Security that may not be available in sufficient quantity for delivery or that may not be eligible for transfer through the DTC or the Clearing Process. The Fund also reserves the right to permit or require a ''cash in lieu'' amount in certain circumstances, including circumstances in which the delivery of the Deposit Security by the Authorized Participant would be restricted under applicable securities or other local laws or in certain other situations, such as if the Authorized Participant is not able to trade due to a trading restriction. The Fund also reserves the right to permit or require Creation Units to be issued solely in exchange for cash.

[46] Should the Fund Securities have a value greater than the NAV of the Shares being redeemed, a compensating cash payment to the Trust equal to the differential plus the applicable redemption transaction fee will be required to be arranged for, by or on behalf of, the redeeming shareholder.

[47] The Fund reserves the right to distribute cash as some or all of the payment for Creation Units being redeemed. The Adviser represents that, to the extent that the Trust permits or requires a ''cash in lieu'' amount, such transactions will be effected in the same or equitable manner for all Authorized Participants.

Creation Units specified in such order, which delivery must be made through DTC to the Distributor no later than 11:00 a.m. Eastern Time, on such transmittal date (the ''DTC Cut-Off-Time''); and (iii) all other procedures set forth in the Participant Agreement are properly followed.

After the Distributor has deemed an order for redemption received, the Distributor will initiate procedures to transfer the requisite Fund Securities which are expected to be delivered within two business days and the Cash Amount to the redeeming beneficial owner by the second business day following the transmittal date on which such redemption order is deemed received.

The right of redemption may be suspended or the date of payment postponed with respect to the Fund: (i) For any period during which the Exchange is closed (other than customary weekend and holiday closings); (ii) for any period during which trading on the Exchange is suspended or restricted; (iii) for any period during which an emergency exists as a result of which disposal of the shares of the Fund's portfolio securities or determination of its NAV is not reasonably practicable; or (iv) in such other circumstance as is permitted by the Commission.

Availability of Information

The Trust's website (*www.invesco.com*), which will be publicly available prior to the public offering of Shares, will include a form of the prospectus for the Fund that may be downloaded. The website will include additional quantitative information updated on a daily basis, including, for the Fund: (1) The prior business day's reported NAV, mid-point of the bid/ask spread at the time of calculation of such NAV (the ''Bid/Ask Price''),[48] daily trading volume, and a calculation of the premium and discount of the Bid/Ask Price against the NAV; and (2) data in chart format displaying the frequency distribution of discounts and premiums of the daily Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. Daily trading volume information for the Fund will also be available in the financial section of newspapers, through subscription services such as Bloomberg, Thomson Reuters, and International Data Corporation, which can be accessed by authorized participants and other investors, as well as through other electronic services, including major public websites.

On each business day, before commencement of trading in Shares during the Regular Trading Hours [49] on the Exchange, the Fund will disclose on its website the identities and quantities of the portfolio of securities and other assets in the daily disclosed portfolio held by the Fund (the ''Disclosed Portfolio'') that will form the basis for the Fund's calculation of NAV at the end of the business day.[50] The Disclosed Portfolio will include the following information regarding each portfolio holding, as applicable to the type of holding: Ticker symbol, CUSIP number or other identifier, if any; a description of the holding (including the type of holding); the identity of the security, index or other asset or instrument underlying the holding, if any; for options, the option strike price; quantity held (as measured by, for example, par value, notional value or number of shares, contracts or units); maturity date, if any; coupon rate, if any; effective date, if any; market value of the holding; and the percentage weighting of the holding in the Fund's portfolio. The website and information will be publicly available at no charge. The value of the Underlying Index will be calculated and disseminated at least once every 15 seconds during regular market session and will be available from major market data vendors, provided however, that with respect to the fixed income components of the index, such data points will be calculated and disseminated at least once daily.

In addition, for the Fund, an estimated value, defined in BZX Rule 14.11(c)(6)(A) as the ''Intraday Indicative Value,'' that reflects an estimated intraday value of the Fund's portfolio, will be disseminated. Moreover, the Intraday Indicative Value will be based upon the current value for the components of the Disclosed Portfolio and will be updated and widely disseminated by one or more major market data vendors and broadly displayed at least every 15 seconds during the Exchange's Regular Trading Hours.[51] In addition, the quotations of certain of the Fund's holdings may not be updated if updated prices cannot be ascertained.

The dissemination of the Intraday Indicative Value, together with the Disclosed Portfolio, will allow investors to determine the value of the underlying portfolio of the Fund on a daily basis and will provide a close estimate of that value throughout Regular Trading Hours.

Intraday, closing, and settlement prices of common stocks and other exchange-listed instruments will be readily available from the exchanges trading such securities as well as automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. In addition, price information for U.S. exchange-traded options will be available from the Options Price Reporting Authority. Quotation information from brokers and dealers or pricing services will be available for U.S. government obligations, high quality securities issued or guaranteed by the U.S. government (in addition to Treasury bills) and non-U.S. governments, and each of their agencies and instrumentalities, money market instruments, convertible securities, structured notes, and OTC options.

Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services. Information regarding the previous day's closing price and trading volume for the Shares will be published daily in the financial section of newspapers. Quotation and last sale information for the Shares will be on the facilities of the CTA.

Initial and Continued Listing

The Shares of the Fund will conform to the initial and continued listing criteria under BZX Rule 14.11(c), other than the portion of the Fund that consists of options. The Exchange represents that, for initial and/or continued listing, the Fund and the Trust must be in compliance with Rule 10A–3 [52] under the Act. A minimum of 100,000 Shares of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange

[48] The Bid/Ask Price of the Fund will be determined using the mid-point of the highest bid and the lowest offer on the Exchange as of the time of calculation of the Fund's NAV. The records relating to Bid/Ask Prices will be retained by the Fund and its service providers.

[49] Regular Trading Hours are 9:30 a.m. to 4:00 p.m. Eastern Time.

[50] Under accounting procedures to be followed by the Fund, trades made on the prior business day (''T'') will be booked and reflected in NAV on the current business day (''T+1''). Notwithstanding the foregoing, portfolio trades that are executed prior to the opening of the Exchange on any business day may be booked and reflected in NAV on such business day. Accordingly, the Fund will be able to disclose at the beginning of the business day the portfolio that will form the basis for the NAV calculation at the end of the business day.

[51] Currently, it is the Exchange's understanding that several major market data vendors display and/or make widely available Intraday Indicative Values published via the Consolidated Tape Association (''CTA'') or other data feeds.

[52] *See* 17 CFR 240.10A–3.

will obtain a representation from the issuer of the Shares that the NAV per Share for the Fund will be calculated daily and will be made available to all market participants at the same time.

Trading Halts

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. The Exchange will halt trading in the Shares under the conditions specified in BZX Rule 11.18. Trading may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments constituting the Disclosed Portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. Further, trading in the Shares will be halted if an interruption to the dissemination of either of the Intraday Indicative Value or the value of the Underlying Index persists past the trading day in which it occurred.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Shares subject to the Exchange's existing rules governing the trading of equity securities. The Exchange will allow trading in the Shares from 8:00 a.m. until 5:00 p.m. Eastern Time and has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in BZX Rule 11.11(a), the minimum price variation for quoting and entry of orders in securities traded on the Exchange is $0.01, with the exception of securities that are priced less than $1.00, for which the minimum price variation for order entry is $0.0001.

Surveillance

The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. Trading of the Shares through the Exchange will be subject to the Exchange's surveillance procedures for derivative products, including Index Fund Shares. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will surveil for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under BZX Rule 14.12. All exchange-listed options and equities (including certain investment company securities such as ETFs) held by the Fund will be traded on U.S. exchanges, all of which are members of ISG or are exchanges with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange may obtain information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund via the ISG, from other exchanges that are members or affiliates of the ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[53] The Exchange prohibits the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and that Shares are not individually redeemable); (2) BZX Rule 3.7, which imposes suitability obligations on Exchange members with respect to recommending transactions in the Shares to customers; (3) how information regarding the Intraday Indicative Value and the Underlying Index is disseminated; (4) the risks involved in trading the Shares during the Pre-Opening[54] and After Hours Trading Sessions[55] when an updated Intraday Indicative Value and Underlying Index value will not be calculated or publicly disseminated; (5) the requirement that members deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (6) trading information.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares of the Fund and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares of the Fund will be publicly available on the Fund's website. In addition, the Information Circular will reference that the Fund is subject to various fees and expenses described in the Fund's Registration Statement.

2. Statutory Basis

Item 3(b) Purpose of 19b–4 Information [sic] The Exchange believes that the proposal is consistent with Section 6(b) of the Act[56] in general and Section 6(b)(5) of the Act[57] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the listing criteria in BZX Rule 14.11(c), except that the Underlying Index will consist in part of written put options, which are based on U.S. Component Stocks, rather than completely on U.S. Component Stocks themselves. The Exchange believes that its surveillances, which generally focus on detecting securities trading outside of their normal patterns which could be indicative of manipulative or other

[53] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Disclosed Portfolio for the Fund may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[54] The Pre-Opening Session is from 8:00 a.m. to 9:30 a.m. Eastern Time.

[55] The After Hours Trading Session is from 4:00 p.m. to 5:00 p.m. Eastern Time.

[56] 15 U.S.C. 78f.

[57] 15 U.S.C. 78f(b)(5).

violative activity, and associated surveillance procedures are adequate to properly monitor the trading of the Shares on the Exchange during all trading sessions and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Exchange will communicate as needed regarding trading in the Shares with other markets or other entities that are members of the Intermarket Surveillance group (''ISG''), and may obtain trading information regarding trading in the Shares from such markets or entities. In addition, the Exchange may obtain information regarding trading in the Shares and other exchange-traded securities and instruments held by the Fund from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

The Calculation Agent has implemented and will maintain procedures designed to prevent the use and dissemination of material, non-public information regarding the Underlying Index. The Adviser and the Sub-Adviser are affiliated with a broker-dealer and have implemented, and will maintain, a fire wall with respect to its broker-dealer affiliate regarding access to information concerning the composition and/or changes to the Fund's portfolio.

Under normal market conditions, not less than 90% of the Fund's total assets will be comprised of common stocks, put options, and Treasury bills (serving as collateral for written put options), although the Fund may also invest in other U.S. government and money market instruments. The Fund may hold up to an aggregate amount of 15% of its net assets in illiquid assets (calculated at the time of investment), consistent with Commission guidance. The Fund will not use derivative instruments to enhance leverage.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that a large amount of information will be publicly available regarding the Fund and the Shares, thereby promoting market transparency. The Fund's portfolio holdings will be disclosed on the Fund's website daily after the close of trading on the Exchange and prior to the opening of trading on the Exchange the following day.

Moreover, the Intraday Indicative Value will be widely disseminated by one or more major market data vendors at least every 15 seconds during Regular Trading Hours. The current value of the Underlying Index will be calculated and disseminated at least once every 15 seconds during regular market session and will be available from major market data vendors, provided however, that with respect to the fixed income components of the index, such value will be calculated and disseminated at least once daily. Information regarding market price and trading volume of the Shares will be continually available on a real-time basis throughout the day on brokers' computer screens and other electronic services, and quotation and last sale information will be available via the CTA high-speed line. Quotation and last sale information for U.S. exchange-listed options contracts cleared by The Options Clearing Corporation will be available via the Options Price Reporting Authority. The intra-day, closing and settlement prices of exchange-traded portfolio assets, including investment companies, will be readily available from the securities exchanges trading such securities, as the case may be, automated quotation systems, published or other public sources, or online information services such as Bloomberg or Reuters. Such price information on other portfolio securities, including money market instruments, and other Fund assets traded in the OTC markets, is available from major broker-dealer firms or market data vendors, as well as from automated quotation systems, published or other public sources, or online information services.

The website for the Fund will include the prospectus for the Fund and additional data relating to NAV and other applicable quantitative information. Moreover, prior to the commencement of trading, the Exchange will inform its Members in an information circular of the special characteristics and risks associated with trading the Shares. If the Exchange becomes aware that the NAV is not being disseminated to all market participants at the same time, it will halt trading in the Shares until such time as the NAV is available to all market participants. With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares of the Fund. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable. These may include: (1) The extent to which trading is not occurring in the securities and/or the financial instruments composing the daily disclosed portfolio of the Fund; or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Trading in the Shares also will be subject to Rule 14.11(c)(1)(B)(iv), which sets forth circumstances under which Shares of the Fund may be halted. If the Intraday Indicative Value of the Fund or value of the Underlying Index are not being disseminated as required, the Exchange may halt trading during the day in which the interruption to the dissemination of the Intraday Indicative Value or index value occurs.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace. As noted above, the Exchange has in place surveillance procedures relating to trading in the Shares and may obtain information in the Shares and other exchange-traded securities and instruments held by the Fund via ISG, from other exchanges that are members of ISG, or with which the Exchange has entered into a comprehensive surveillance sharing agreement. In addition, investors will have ready access to information regarding the Intraday Indicative Value and quotation and last sale information for the Shares.

For the above reasons, the Exchange believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

(B) Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of an additional type of exchange-traded product that will enhance competition among market participants, to the benefit of investors and the marketplace.

(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 written 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 proposal is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File No. SR–CboeBZX–2017–011 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 No. SR–CboeBZX–2017–011. 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 such filing will also 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 No. SR–CboeBZX–2017–011 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[58]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27349 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82325; File No. SR–NYSE–2017–67]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 300

December 14, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (the ''Act'')[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 11, 2017, New York Stock Exchange LLC (''NYSE'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 300 (Trading Licenses). The proposed rule change is available on the Exchange's website at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

NYSE Rule 300(b) currently provides that, in each annual offering, up to 1,366 trading licenses for the following calendar year will be sold annually at a price per trading license to be established each year by the Exchange pursuant to a rule filing submitted to the Securities and Exchange Commission (''Commission'') and that the price per trading license will be published each year in the Exchange's price list.

The Exchange proposes to delete the phrase ''each year'' in the first and second sentences of Rule 300(b) and the phrase ''established for that year by the Exchange pursuant to section (b) above'' in Rule 300(b)(i).

The Exchange establishes its fees for trading licenses pursuant to separate proposed rule changes. The last time the Exchange amended its trading license fee was on July 1, 2016.[4] Because the NYSE Price List sets forth this annual fee and is continuously available on the Exchange's website, the Exchange believes it is redundant to make a separate proposed rule change under Rule 300(b) to ''establish'' a trading license fee even if the fee is not changing. The Exchange believes that amending Rule 300(b) by deleting the proposed text would relieve the Exchange of the need to make a rule filing with the Commission in those years when the fee would remain the same, and only require a rule filing when the Exchange is changing the amount of the fee set forth in the NYSE Price List. The proposal is consistent with the way the Exchange handles the other fees set forth in its Price List. The remaining requirements of Rule 300 would remain unchanged.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[5] in general, and

[58] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 78233 (July 6, 2016), 81 FR 45190 (July 12, 2016) (SR–NYSE–2016–47) (establishing the current trading license fee of $50,000 for the first license held by a member organization and no charge for additional licenses held by a member organization).

[5] 15 U.S.C. 78f(b).

Section 6(b)(5) of the Act,[6] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system. In particular, the Exchange believes that the proposal removes impediments to and perfects the mechanism of a free and open market and a national market system by eliminating redundant annual rule filings when the Exchange is not changing its fees. The Exchange further believes that the proposal removes impediments to and perfects the mechanism of a free and open market by reducing potential confusion among market participants and the investing public who may see a rule filing and mistake it for a fee change when in fact a fee is not changing. For these reasons, the Exchange believes that the proposed rule filing would not be inconsistent with the public interest and the protection of investors because investors will not be harmed and in fact would benefit from added clarity and consistency, thereby reducing potential confusion.

For the foregoing reasons, the Exchange believes that the proposal is consistent with the Exchange 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 that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues but rather eliminate the requirement for a rule filing that would not change any fees and that could cause potential confusion that fees may be changing in a year when they are not.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and Rule 19b–4(f)(6) thereunder.[8] Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and subparagraph (f)(6) Rule 19b–4 thereunder.[10]

A proposed rule change filed pursuant to Rule 19b–4(f)(6) under the Act[11] normally does not become operative for 30 days after the date of its filing. However, Rule 19b–4(f)(6)(iii)[12] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Exchange believes that waiver of the operative delay is consistent with the protection of investors and the public interest because it would reduce potential confusion, without delay, by eliminating the requirement for the Exchange to file a redundant proposed rule change that does not change a fee. The Commission believes the waiver of the operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.[13]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[14] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2017–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2017–67. 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–NYSE–2017–67 and should

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[11] 17 CFR 240.19b–4(f)(6).

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[14] 15 U.S.C. 78s(b)(2)(B).

be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27346 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82318; File No. SR–ISE–2017–104]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Primary Market Maker Obligations

December 14, 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 ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 701, entitled ''Openings,'' to specify the obligations of a Primary Market Maker (''PMM'') when entering Valid Width Quotes [3] during the Opening Process.

The text of the proposed rule change is available on the Exchange's website at *http://ise.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 701, Openings, to amend the obligations of a PMM when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a PMM and a Competitive Market Maker (''CMM'') once an options series has opened.

Currently, Rule 701(c)(1) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f)–(j) of ISE Rule 701 on or after 9:30 a.m. Eastern Time if: The ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) any of the following: (i) The PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMM or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.

Thereafter, Rule 701(c)(3) specifies that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

The Exchange proposes to make clear that a PMM has the obligations specified in ISE Rule 701(c)(3) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the PMM's assigned series was not already opened by a CMM as permitted by Rule 701(c)(1)(ii) and (iii) as noted herein. The PMM would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the PMM to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if an options series has opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3). Also, the PMM assigned in a particular U.S. dollar-settled foreign currency option would not be required to enter a Valid Width Quote for 10% of their assigned series, not later than one minute after the announced market opening during the Opening Process if an options series opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3).

Today ISE Rule 701 requires a PMM to open the market and provides an alternative mechanism to permit an alternative opening by a CMM.[4] The proposal seeks to make clear the obligations of the PMM with respect to options series that were open by a CMM as well as the quoting obligations of a CMM that opened the options series. The Exchange proposes to amend ISE Rule 701(c)(3) to state that once an option series has opened pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in

[15] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A ''Valid Width Quote'' is a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). *See* Rule 701(a)(8).

[4] *See* ISE Rule 701(c)(1)(i)–(iii).

such option series pursuant to Supplementary .01 to ISE Rule 804. The Exchange also proposes to amend Rule 701(c)(4) to state that a CMM that submits a quote during the opening in any option series pursuant to Rule 701(c)(1)(ii) or (iii) must submit continuous, two-sided quotes in such options series pursuant to ISE Rule 804(e)(2)(iii) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 701(c)(3) to provide that ''once an options series has opened f pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804.'' Further, the Exchange proposes to add rule text to Rule 701(c)(4) to states that ''A CMM that submits a quote pursuant to Rule 701 in any option series when the PMM's quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii).''

The Exchange proposes to make clear that a PMM has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 701(c)(3). In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), a PMM would be required to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, in this instance, a CMM would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii). The Exchange notes that a CMM would not have an obligation to quote in such option series pursuant to Rule 804(e)(2)(iii), unless the CMM submitted a quote pursuant to Rule 701 or otherwise submitted a quote intra-day.[5] The purpose of this new rule text is to make clear the quoting obligations for both PMMs and CMMs during the opening and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by amending ISE Rule 701(c)(3) to further specify a PMM's obligations during the Opening Process and once an options series as opened as well as the obligations of a CMM to the extent that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The Exchange believes that this proposal is consistent with the Act because a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), the CMM must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 804(e)(2)(iii). The Exchange believes that this proposed rule change will make clear the obligations of the PMM with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a CMM may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of a PMM and CMM during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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. Once an options series has opened, [sic] a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, if an options series opened pursuant to ISE Rule 701(c)(1)(ii) or (iii), a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened. pursuant to Rule 804(e)(2)(iii). This proposed rule text makes clear that CMMs are required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii), in the event an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange represents that the proposed rule change would clarify the quoting obligations for both PMMs and CMMs during the Opening Process and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other. According to the Exchange, these obligations should be immediately clarified to prevent confusion and uncertainty for Market Makers quoting on the Exchange. For the reasons articulated by the Exchange, the Commission believes that waiver of the 30-day operative delay is consistent

[5] *See* ISE Rule 804(e)(2)(i) which states, ''On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed.''

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–ISE–2017–104 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–ISE–2017–104. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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–ISE–2017–104 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27338 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82323; File No. SR–NYSEArca–2017–99]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Designation of a Longer Period for Commission Action on Proposed Rule Change, as Modified by Amendment No. 1, To List and Trade Shares of the Hartford Schroders Tax-Aware Bond ETF Under NYSE Arca Rule 8.600–E

December 14, 2017.

On October 11, 2017, NYSE Arca, Inc. (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Hartford Schroders Tax-Aware Bond ETF under NYSE Arca Rule 8.600–E. The proposed rule change was published for comment in the **Federal Register** on October 31, 2017.[3] On November 21, 2017, the Exchange filed Amendment No. 1 to the proposed rule change.[4] The Commission has received no comment letters on the proposed rule change.

Section 19(b)(2) of the Act [5] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this proposed rule change is December 15, 2017. The Commission is extending this 45-day time period.

The Commission finds that it is appropriate to designate a longer period within which to take action on the proposed rule change so that it has sufficient time to consider the proposed rule change. Accordingly, the Commission, pursuant to Section 19(b)(2) of the Act,[6] designates January 29, 2018, as the date by which the Commission shall either approve or disapprove or institute proceedings to determine whether to disapprove the proposed rule change (File Number SR–NYSEArca–2017–99).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27344 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81944 (October 25, 2017), 82 FR 50461.

[4] Amendment No. 1, which amended and replaced the proposed rule change in its entirety, is available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2017-99/nysearca201799-2711017-161518.pdf.*

[5] 15 U.S.C. 78s(b)(2).

[6] *Id.*

[7] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82320; File No. SR–ISE–2017–103]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Calculation of the Member Order Routing Program

December 14, 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 ISE, LLC (''ISE'' or ''Exchange'') filed with the Securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

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 its Schedule of Fees to amend the calculation of the Member Order Routing Program.

While these amendments are effective upon filing, the Exchange has designated the proposed amendments to be operative on December 1, 2017.

The text of the proposed rule change is available on the Exchange's website at *http://ise.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange operates the Member Order Routing Program (''MORP''),[3] which is a program that provides enhanced rebates to order routing firms that select the Exchange as the default routing destination for unsolicited Crossing Orders.[4] This proposal seeks to exclude options overlying NDX[5] from the calculation of MORP for purposes of rebates.

Eligible MORP Electronic Access Members (EAMS) that execute a monthly average daily volume (ADV) in unsolicited Crossing Orders of 30,000 originating contract sides or more on their MORP designated sessions are eligible for increased Facilitation and Solicitation break-up rebates in addition to enhanced rebates for Unsolicited Crossing Orders. Break-up rebates, which are shown in the table below, apply instead of rebates described in Sections I, II, and III of the Schedule of Fees, and will be provided for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order except when those contracts trade against pre-existing orders and quotes on the Exchange's order books. The applicable fee for Crossing Orders is applied to any contracts for which a rebate is provided.

Facilitation and Solicitation Break-Up Rebates are as follows:

Market participant	Regular orders in select symbols	Complex orders in select symbols	Regular orders in non-select symbols	Complex orders in non-select symbols	Regular orders in FX options	Complex orders in FX options
Market Maker	N/A	N/A	N/A	N/A	N/A	N/A
Non-Nasdaq ISE Market Maker (FarMM)	($0.35)	($0.35)	($0.15)	($0.80)	($0.15)	($0.15)
Firm Proprietary/Broker-Dealer	(0.35)	(0.35)	(0.15)	(0.80)	(0.15)	(0.15)
Professional Customer	(0.35)	(0.35)	(0.15)	(0.80)	(0.15)	(0.15)
Priority Customer	(0.35)	(0.35)	(0.15)	(0.80)	(0.15)	(0.15)

Currently, an EAM that is MORP eligible receives a rebate for all unsolicited Crossing Orders of $0.05 per originating contract side, provided that the member executes a minimum ADV in unsolicited Crossing Orders of 30,000 to 99,999 originating contract sides though their MORP designated sessions. If the member executed greater than 100,000 originating contract sides, the rebate for all unsolicited Crossing Orders is $0.07 per originating contract side.[6] No rebate is paid for volume below 30,000 originating contract sides.

With respect to the Facilitation and Solicitation Break-Up Rebate, any EAM that qualifies for the MORP rebate by executing an ADV of 30,000 originating contract sides or more on their MORP designated sessions is also eligible for increased Facilitation and Solicitation break-up rebates[7] for their Non-ISE Market Maker,[8] Firm Proprietary,[9] Broker-Dealer,[10] Professional Customer,[11] and Priority Customer orders.[12] Currently, MORP eligible members that execute a qualifying ADV in unsolicited Crossing Orders of at least 30,000 originating contract sides, receive a Facilitation and Solicitation break-up rebate that is $0.35 per contract for regular and complex orders

[3] *See* Securities Exchange Act Release No. 74706 (April 10, 2016), 80 FR 20522 (April 16, 2016) (SR–ISE–2015–11). A Member may designate one or more sessions to be eligible for MORP. A session is connection to the exchange over which a member submits orders. *See* Section V.C. of the Schedule of Fees. If a session is designated as eligible for MORP all requirements for the program must be met for that session.

[4] A ''Crossing Order'' is an order executed in the Exchange's Facilitation Mechanism, Solicited Order Mechanism, Price Improvement Mechanism (''PIM'') or submitted as a Qualified Contingent Cross (''QCC'') order. For purposes of the fee schedule, orders executed in the Block Order Mechanism are also considered Crossing Orders.

[5] NDX represents options on the Nasdaq 100 Index traded under the symbol NDX (''NDX'').

[6] The rebate for the highest tier achieved is applied retroactively to all eligible contracts traded in a given month. For purposes of determining whether the member meets the above ADV thresholds, any day that the Exchange is not open for the entire trading day or the Exchange instructs members in writing to route their orders to other markets may be excluded from such calculation; provided that the Exchange will only remove the day for members that would have a lower ADV with the day included.

[7] Break-up rebates are provided for contracts that are submitted to the Facilitation and Solicited Order Mechanisms that do not trade with their contra order except when those contracts trade against pre-existing orders and quotes on the Exchange's orderbooks. The applicable fee for Crossing Orders is applied to any contracts for which a rebate is provided.

[8] A ''Non-ISE Market Maker'' is a market maker as defined in Section 3(a)(38) of the Securities Exchange Act of 1934, as amended, registered in the same options class on another options exchange.

[9] A ''Firm Proprietary'' order is an order submitted by a member for its own proprietary account.

[10] A ''Broker-Dealer'' order is an order submitted by a member for a broker-dealer account that is not its own proprietary account.

[11] A ''Professional Customer'' is a person or entity that is not a broker/dealer and is not a Priority Customer.

in Select Symbols,[13] $0.15 per contract for regular orders in Non-Select Symbols,[14] $0.80 per contract for complex orders in Non-Select Symbols, and $0.15 per contract for regular and complex orders in foreign exchange option classes (''FX Options'').

Proposal

This proposal would exclude options overlying NDX from the monthly ADV when calculating the originating contract side for unsolicited Crossing Orders executed by an eligible EAM on their MORP designated sessions. NDX would not be subject to unsolicited Crossing Orders rebates and Facilitation and Solicitation break-up rebates. NDX will continue to be subject to Section I Index Options pricing for simple orders and Non-Select pricing for complex orders.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[15] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[16] 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's proposal to exclude options overlying NDX from the monthly ADV when calculating unsolicited Crossing Orders rebates and also from Facilitation and Solicitation break-up rebates is reasonable because the MORP will continue to be attractive to members that participate in the program.[17] Under MORP, which is a voluntary rebate program, the Exchange currently provides enhanced rebates to EAMs that connect directly to the Exchange and provide their clients with order routing functionality that includes all U.S. options exchanges, including ISE. Even with the exclusion of NDX from the MORP monthly ADV and rebates, the Exchange still believes that Members will continue to be incentivized to participate in the program. The Exchange today prices Index Options separately from other multiply-listed options.[18] This practice of pricing certain products separately is not novel.[19]

The Exchange's proposal to exclude options overlying NDX from the monthly ADV when calculating unsolicited Crossing Orders rebates and also from Facilitation and Solicitation break-up rebates is equitable and not unfairly discriminatory because no Member would be eligible to include NDX in monthly ADV and receive MORP rebates. The Exchange would uniformly calculate tiers and pay rebates associated with MORP.

Any EAM that participates in the program will be provided the rebates on an equal and non-discriminatory basis based on the order flow executed on the Exchange.

B. Self-Regulatory Organization's Statement on Burden on Competition

In accordance with Section 6(b)(8) of the Act,[20] the Exchange does not believe that the proposed rule change will impose any burden on intermarket or intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. Order routing firms that participate in MORP and select the Exchange as the default routing destination for unsolicited Crossing Orders will continue to receive enhanced rebates. The exclusion from NDX from the monthly ADV when calculating unsolicited Crossing Orders rebates and also from Facilitation and Solicitation break-up rebates will apply uniformly to all ISE Members. Other exchanges price certain symbols differently.[21]

The Exchange operates in a highly competitive market in which market participants can readily direct their order flow to competing venues. In such an environment, the Exchange must continually review, and consider adjusting, its fees and rebates to remain competitive with other exchanges. For the reasons described above, the Exchange believes that the proposed fee changes reflect this competitive environment.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were 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.[22] 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–ISE–2017–103 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–ISE–2017–103. 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,

[12] A ''Priority Customer'' is a person or entity that is not a broker/dealer in securities, and does not place more than 390 orders in listed options per day on average during a calendar month for its own beneficial account(s), as defined in ISE Rule 100(a)(37A).

[13] ''Select Symbols'' are options overlying all symbols listed on the ISE that are in the Penny Pilot Program.

[14] ''Non-Select Symbols'' are options overlying all symbols excluding Select Symbols.

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(4) and (5).

[17] *See* note 3 above.

[18] *See* Section I of the ISE Schedule of Fees.

[19] *See* Nasdaq Phlx's Pricing Schedule at Section I which offers separate pricing for options overlying SPY.

[20] 15 U.S.C. 78f(b)(8).

[21] *See* note 19 above.

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–ISE–2017–103 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27340 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82322; File No. SR–Phlx–2017–101]

Self-Regulatory Organizations; Nasdaq PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Specialist Obligations

December 14, 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 and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 1017, entitled ''Openings in Options,'' to specify the obligations of a Specialist when entering Valid Width Quotes [3] during the Opening Process.

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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 1017, Openings in Options, to amend the obligations of a Specialist when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a Specialist and a Phlx Electronic Market Maker once an options series has opened.

Currently, Rule 1017(d)(i) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f)–(k) of Phlx Rule 1017 below on or after 9:30 a.m. if: The ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options, within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website), or within two minutes of market opening for the underlying currency in the case of U.S. dollar-settled FCO (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) any of the following: (A) The Specialist's Valid Width Quote; (B) the Valid Width Quotes of at least two Phlx Electronic Market Makers other than the Specialist; or (C) if neither the Specialist's Valid Width Quote nor the Valid Width Quotes of two Phlx Electronic Market Makers have been submitted within such timeframe, one Phlx Electronic Market Maker has submitted a Valid Width Quote.

Thereafter, Rule 1017(d)(iii) specifies that the Specialist assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote, in 90% of their assigned series, not later than 30 seconds after the announced market opening. The Specialist must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to a U.S. dollar-settled FCO, following the announced market opening.

The Exchange proposes to make clear that a Specialist has the obligations specified in Phlx Rule 1017(d)(iii) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the Specialist's assigned series was not already opened by a Phlx Electronic Market Maker as permitted by Rule 1017(d)(i) as noted herein. The Specialist would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the Specialist to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if a Phlx Electronic Market Maker entered an order pursuant to Rule 1017(d)(i)(B) and (C) within the timeframe specified for the Specialist to enter a Valid Width Quote as noted in Rule 1017(d)(iii). Also, the Specialist assigned in a particular U.S. dollar-settled FCO must enter a Valid Width Quote for 10% of their assigned series, not later than 3 [sic] seconds after the announced market opening during the Opening Process if a Phlx Electronic Market Makers entered [sic] an order pursuant to Rule 1017(d)(i)(B) and (C)

[23] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] A Valid Width Quote is a two-sided electronic quotation submitted by a Phlx Electronic Market Maker that consists of a bid/ask differential that is compliant with Rule 1014(c)(i)(A)(1)(a). *See* Rule 1017(a)(ix).

within the timeframe specified for the Specialist to enter a Valid Width Quote as noted in Rule 1017(d)(iii).

Today Phlx Rule 1017 requires a Specialist to open the market and provides an alternative mechanism to permit an alternative opening by a Phlx Electronic Market Maker.[4] The proposal seeks to make clear the obligations of the Specialist with respect to options series that were open by a Phlx Electronic Market Maker as well as the quoting obligations of a Phlx Electronic Market Maker that opened the options series. The Exchange also proposes to amend Rule 1017(d)(iii) [sic] to state that a Phlx Electronic Market Maker that submits a quote during the opening in any option series pursuant to Rule 1017(d)(i)(B) and (C) must submit continuous, two-sided quotes in such options series pursuant to Rule 1014(b)(ii)(D)(1) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 1017(d)(iii) to provide that ''once an options series has opened pursuant to Rule 1017(d)(i)(A)–(C), a Specialist must submit continuous, two-sided quotes in such options series pursuant to Rule 1014(b)(ii)(D)(2).

Further, the Exchange proposes to add rule text to Rule 1017(d)(iv) to states that ''A Phlx Electronic Market Maker other than a Specialist that submits a quote pursuant to Rule 1017 in any option series when the Specialist's quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 1014(b)(ii)(D)(1).''

The Exchange proposes to make clear that a Specialist has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 1017(d)(iii). In the event that an options series opened pursuant to 1017(d)(i)(B) and (C), a Specialist would be required to submit continuous, two-sided quotes in such options series pursuant to Rule 1014(b)(ii)(D)(2). Also, in this instance, a Phlx Electronic Market would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 1014(b)(ii)(D)(1). The purpose of this new rule text is to make clear the quoting obligations for both Specialists and Phlx Electronic Markets during the opening and the manner in which Rule 1701, relating to the Opening Process, and Rule 1014, relating to market maker quoting obligations, interact with each other.

[4] *See* Phlx Rule 1017(d)(i)(A)–(C).

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[5] in general, and furthers the objectives of Section 6(b)(5) of the Act,[6] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by amending Phlx Rule 1017(d)(iii) to further specify that a Specialist's obligation during the Opening Process and once an option series has opened as well as the obligations of a Phlx Electronic Market to the extent that an option series opened pursuant to 1017(d)(i)(B) or (C). The Exchange believes that this proposal is consistent with the Act because a Specialist continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to 1014(b)(ii)(D)(2). In the event that an options series opened pursuant to Rule 1017(d)(i)(B) or (C), the Phlx Electronic Market Maker must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 1014(b)(ii)(D)(1). The Exchange believes that this proposed rule change will make clear the obligations of the Specialist with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a Phlx Electronic Market Maker may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of a Specialist and a Phlx Electronic Market Maker during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 1014.

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. Once an options series has opened, [sic] a Specialist continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to 1014(b)(ii)(D)(2). Also, if an options series opened pursuant to Rule 1017(d)(i)(B) or (C), a Phlx Electronic Market Maker shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened pursuant to 1014(b)(ii)(D)(1). This proposed rule text makes clear that Phlx Electronic Market Makers are required to submit continuous, two-sided quotes in such option series pursuant to 1014(b)(ii)(D)(1), in the event an options series opened pursuant to Rule 1017(d)(i)(B) or (C). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 1014.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[7] and subparagraph (f)(6) of Rule 19b–4 thereunder.[8]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[9] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange represents that the proposed rule change would clarify the quoting obligations for both Specialists and Phlx

[5] 15 U.S.C. 78f(b).

[6] 15 U.S.C. 78f(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A)(iii).

[8] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[9] 17 CFR 240.19b–4(f)(6)(iii).

Electronic Market Makers during the Opening Process and the manner in which Rule 1701, relating to the Opening Process, and Rule 1014, relating to market maker quoting obligations, interact with each other. According to the Exchange, these obligations should be immediately clarified to prevent confusion and uncertainty for market makers quoting on the Exchange. For the reasons articulated by the Exchange, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[10]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–Phlx–2017–101 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–2017–101. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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–2017–101 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27343 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[10] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82324; File No. SR–MRX–2017–27]

Self-Regulatory Organizations; Nasdaq MRX, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Primary Market Maker Obligations

December 14, 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 MRX, LLC (''MRX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 701, entitled ''Openings,'' to specify the obligations of a Primary Market Maker (''PMM'') when entering Valid Width Quotes [3] during the Opening Process.

The text of the proposed rule change is available on the Exchange's website at *http://nasdaqmrx.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.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend Rule 701, Openings, to amend the obligations of a PMM when entering Valid Width Quotes during the Opening Process. In addition, the Exchange proposes to make clear the obligations of a PMM and a Competitive Market Maker (''CMM'') once an options series has opened.

Currently, Rule 701(c)(1) provides, the Opening Process for an option series will be conducted pursuant to paragraphs (f)–(j) of MRX Rule 701 on or after 9:30 a.m. Eastern Time if: the ABBO, if any, is not crossed; and the system has received, within two minutes (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) of the opening trade or quote on the market for the underlying security in the case of equity options or, in the case of index options,

[3] A ''Valid Width Quote'' is a two-sided electronic quotation submitted by a Market Maker that consists of a bid/ask differential that is compliant with Rule 803(b)(4). *See* Rule 701(a)(8).

within two minutes of the receipt of the opening price in the underlying index (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website), or within two minutes of market opening for the underlying security in the case of U.S. dollar-settled foreign currency options (or such shorter time as determined by the Exchange and disseminated to membership on the Exchange's website) any of the following: (i) The PMM's Valid Width Quote; (ii) the Valid Width Quotes of at least two CMM or (iii) if neither the PMM's Valid Width Quote nor the Valid Width Quotes of two CMMs have been submitted within such timeframe, one CMM has submitted a Valid Width Quote.

Thereafter, Rule 701(c)(3) specifies that the PMM assigned in a particular equity or index option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index. The PMM assigned in a particular U.S. dollar-settled foreign currency option must enter a Valid Width Quote, in 90% of their assigned series, not later than one minute after the announced market opening. PMMs must promptly enter a Valid Width Quote in the remainder of their assigned series, which did not open within one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index or, with respect to U.S. dollar-settled foreign currency options, following the announced market opening.

The Exchange proposes to make clear that a PMM has the obligations specified in MRX Rule 701(c)(3) to promptly enter a Valid Width Quote in the remainder of their assigned series in cases where the PMM's assigned series was not already opened by a CMM as permitted by Rule 701(c)(1)(ii) and (iii) as noted herein. The PMM would continue to have the ultimate obligation to open each assigned series, however this rule change would not require the PMM to enter a Valid Width Quote for the 10% of their assigned series, not later than one minute following the dissemination of a quote or trade by the market for the underlying security or, in the case of index options, following the receipt of the opening price in the underlying index during the Opening Process if an options series has opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3). Also, the PMM assigned in a particular U.S. dollar-settled foreign currency option would not be required to enter a Valid Width Quote for 10% of their assigned series, not later than one minute after the announced market opening during the Opening Process if an options series opened pursuant to Rule 701(c)(1)(ii) and (iii) within the timeframe specified for the PMM to enter a Valid Width Quote as noted in Rule 701(c)(3).

Today MRX Rule 701 requires a PMM to open the market and provides an alternative mechanism to permit an alternative opening by a CMM.[4] The proposal seeks to make clear the obligations of the PMM with respect to options series that were open by a CMM as well as the quoting obligations of a CMM that opened the options series. The Exchange proposes to amend MRX Rule 701(c)(3) to state that once an option series has opened pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in such option series pursuant to Supplementary .01 to MRX Rule 804. The Exchange also proposes to amend Rule 701(c)(4) to state that a CMM that submits a quote during the opening in any option series pursuant to Rule 701(c)(1)(ii) or (iii) must submit continuous, two-sided quotes in such options series pursuant to MRX Rule 804(e)(2)(iii) once an option series has opened. Specifically, the Exchange proposes to add rule text to Rule 701(c)(3) to provide that ''once an options series has opened f pursuant to Rule 701(c)(1)(i)–(iii), a PMM must submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804.'' Further, the Exchange proposes to add rule text to Rule 701(c)(4) to states that ''A CMM that submits a quote pursuant to Rule 701 in any option series when the PMM's quote has not been submitted shall be required, once an options series has opened, to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii).''

The Exchange proposes to make clear that a PMM has an obligation to enter Valid Width Quotes during the Opening Process within the timeframes specified in Rule 701(c)(3). In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), a PMM would be required to submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, in this instance, a CMM would be required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii). The Exchange notes that a CMM would not have an obligation to quote in such option series pursuant to Rule 804(e)(2)(iii), unless the CMM submitted a quote pursuant to Rule 701 or otherwise submitted a quote intra-day.[5] The purpose of this new rule text is to make clear the quoting obligations for both PMMs and CMMs during the opening and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[6] in general, and furthers the objectives of Section 6(b)(5) of the Act,[7] in particular, in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general to protect investors and the public interest by amending MRX Rule 701(c)(3) to further specify a PMM's obligations during the Opening Process and once an options series as opened as well as the obligations of a CMM to the extent that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The Exchange believes that this proposal is consistent with the Act because a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. In the event that an options series opened pursuant to Rule 701(c)(1)(ii) and (iii), the CMM must submit continuous, two-sided quotes in such option series, once the options series has opened, pursuant to Rule 804(e)(2)(iii). The Exchange believes that this proposed rule change will make clear the obligations of the PMM with respect to submitting Valid Width Quotes and thereafter, once an options series has opened, submitting continuous two-sided quotes, when a CMM may have already entered a quote to open an options series. The Exchange's proposal to add rule text to clearly specify the quoting obligations of

[4] *See* MRX Rule 701(c)(1)(i)–(iii).

[5] *See* MRX Rule 804(e)(2)(i) which states, ''On any given day, a Competitive Market Maker is not required to enter quotations in the options classes to which it is appointed.''

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

a PMM and CMM during the Opening Process and once an option series has opened will provide greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

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. Once an options series has opened, [sic] a PMM continues to be responsible to enter Valid Width Quotes during the Opening Process and thereafter submit continuous, two-sided quotes in such options series pursuant to Supplementary Material .01 to Rule 804. Also, if an options series opened pursuant to MRX Rule 701(c)(1)(ii) or (iii), a CMM shall be required to submit continuous, two-sided quotes in such option series, once an option series has opened pursuant to Rule 804(e)(2)(iii). This proposed rule text makes clear that CMMs are required to submit continuous, two-sided quotes in such option series pursuant to Rule 804(e)(2)(iii), in the event an options series opened pursuant to Rule 701(c)(1)(ii) and (iii). The proposal provides greater clarity to the Opening Process and also to the interplay between quoting obligations during the Opening Process and intra-day quoting obligations noted within Rule 804.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, it has become effective pursuant to Section 19(b)(3)(A)(iii) of the Act[8] and subparagraph (f)(6) of Rule 19b–4 thereunder.[9]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii)[10] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. In its filing with the Commission, the Exchange requests that the Commission waive the 30-day operative delay. The Exchange represents that the proposed rule change would clarify the quoting obligations for both PMMs and CMMs during the Opening Process and the manner in which Rule 701, relating to the Opening Process, and Rule 804, relating to Market Maker quoting obligations, interact with each other. According to the Exchange, these obligations should be immediately clarified to prevent confusion and uncertainty for Market Makers quoting on the Exchange. For the reasons articulated by the Exchange, the Commission believes that waiver of the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission designates the proposed rule change to be operative upon filing.[11]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[10] 17 CFR 240.19b–4(f)(6)(iii).

[11] For purposes only of waiving the 30-day operative delay, the Commission also has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MRX–2017–27 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–MRX–2017–27. 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–MRX–2017–27 and should be submitted on or before January 10, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27345 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32940; File No. 812–14779]

Consulting Group Capital Markets Funds and Consulting Group Advisory Services LLC

December 15, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application for an order under section 12(d)(1)(J) of the Investment Company Act of 1940 (the ''Act'') for an exemption from sections 12(d)(1)(A), (B), and (C) of the Act and under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (2) of the Act. The requested order would permit certain registered open-end investment companies to acquire shares of certain registered open-end investment companies, registered closed-end investment companies, and business development companies, as defined in section 2(a)(48) of the Act (''BDCs''), and registered unit investment trusts (collectively, ''Underlying Funds'') that are within and outside the same group of investment companies as the acquiring investment companies, in excess of the limits in section 12(d)(1) of the Act.

APPLICANTS: Consulting Group Capital Markets Funds, a Massachusetts business trust that is registered under the Act as an open-end management investment company with multiple series (the ''Trust'') and Consulting Group Advisory Services LLC (the ''Initial Adviser''), a Delaware limited liability company, registered as an investment adviser under the Investment Advisers Act of 1940.

FILING DATES: The application was filed on June 1, 2017 and amended on September 22, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 8, 2018, and should be accompanied by proof of service on the applicants, in the form of an affidavit, or, for lawyers, a certificate of service. Pursuant to Rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549–1090. Applicants: c/o John J. O'Brien, Esq., Morgan, Lewis & Bockius LLP, 1701 Market Street, Philadelphia, PA 19103.

FOR FURTHER INFORMATION CONTACT: Laura J. Riegel, Senior Counsel, at (202) 551–3038, or Robert H. Shapiro, Branch Chief, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm,* or by calling (202) 551–8090.

Summary of the Application

1. Applicants request an order to permit (a) a Fund [1] (each a ''Fund of Funds'') to acquire shares of Underlying Funds [2] in excess of the limits in sections 12(d)(1)(A) and (C) of the Act and (b) the Underlying Funds that are registered open-end investment companies or series thereof, their principal underwriters, and any broker or dealer registered under the Securities Exchange Act of 1934 to sell shares of the Underlying Funds to the Fund of Funds in excess of the limits in section 12(d)(1)(B) of the Act.[3] Applicants also request an order of exemption under sections 6(c) and 17(b) of the Act from the prohibition on certain affiliated transactions in section 17(a) of the Act to the extent necessary to permit the Underlying Funds to sell their shares to, and redeem their shares from, the Funds of Funds.[4] Applicants state that such transactions will be consistent with the policies of each Fund of Funds and each Underlying Fund and with the general purposes of the Act and will be based on the net asset values of the Underlying Funds.

2. Certain Underlying Funds may invest up to 25% of their assets in a wholly-owned and controlled subsidiary of the Underlying Fund organized under the laws of the Cayman Islands as an exempted company or under the laws of another non-U.S. jurisdiction (each, a ''Cayman Sub''), in order to invest in commodity-related instruments and certain other instruments. Applicants state that these Cayman Subs are created for tax purposes in order to ensure that the Underlying Fund would remain qualified as a regulated investment company for U.S. federal income tax purposes.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions are designed to, among other things, help prevent any potential (i) undue influence over an Underlying Fund that is not in the same ''group of investment companies'' as the Fund of Funds through control or voting power, or in connection with certain services, transactions, and underwritings, (ii) excessive layering of fees, and (iii) overly complex fund structures, which are the concerns underlying the limits in sections 12(d)(1)(A), (B), and (C) of the Act.

[1] Applicants request that the order apply to each existing and future series of the Trust and to each existing and future registered open-end investment company or series thereof that is advised by the Initial Adviser or its successors or by any other investment adviser controlling, controlled by, or under common control with the Initial Adviser or its successors and is part of the same ''group of investment companies'' as the Trust (each, a ''Fund''). For purposes of the requested order, ''successor'' is limited to an entity that results from a reorganization into another jurisdiction or a change in the type of business organization. For purposes of the request for relief, the term ''group of investment companies'' means any two or more registered investment companies, including closed-end investment companies or BDCs, that hold themselves out to investors as related companies for purposes of investment and investor services.

[2] Certain of the Underlying Funds have obtained exemptions from the Commission necessary to permit their shares to be listed and traded on a national securities exchange at negotiated prices and, accordingly, to operate as an exchange-traded fund (''ETF'').

[3] Applicants do not request relief for the Funds of Funds to invest in reliance on the order in BDCs and registered closed-end investment companies that are not listed and traded on a national securities exchange.

[4] A Fund of Funds generally would purchase and sell shares of an Underlying Fund that operates as an ETF through secondary market transactions rather than through principal transactions with the Underlying Fund. Applicants nevertheless request relief from sections 17(a)(1) and (2) to permit each Fund of Funds that is an affiliated person, or an affiliated person of an affiliated person, as defined in section 2(a)(3) of the Act, of an ETF, to sell shares to or redeem shares from the ETF. Applicants are not seeking relief from section 17(a) for, and the requested relief will not apply to, transactions where an ETF could be deemed an affiliated person, or an affiliated person of an affiliated person, of a Fund of Funds because an investment adviser to the ETF or an entity controlling, controlled by or under common control with the investment adviser to the ETF is also an investment adviser to the Fund of Funds. A Fund of Funds will purchase and sell shares of an Underlying Fund that is a closed-end fund through secondary market transactions at market prices rather than through principal transactions with the closed-end fund. Accordingly, applicants are not requesting section 17(a) relief with respect to principal transactions with closed-end funds.

4. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities, or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors. Section 17(b) of the Act authorizes the Commission to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that (a) the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned; (b) the proposed transaction is consistent with the policies of each registered investment company involved; and (c) the proposed transaction is consistent with the general purposes of the Act. Section 6(c) of the Act permits the Commission to exempt any persons or transactions from any provision of the Act if such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Robert W. Errett,

Deputy Secretary.

[FR Doc. 2017–27430 Filed 12–19–17; 8:45 am]

BILLING CODE 8011–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15406; MONTANA Disaster Number MT–00115 Declaration of Economic Injury]

Administrative Declaration of an Economic Injury Disaster for the State of MONTANA

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a notice of an Economic Injury Disaster Loan (EIDL) declaration for the State of Montana, dated 12/11/2017.

Incident: Rice Ridge Fire.

Incident Period: 07/24/2017 through 10/20/2017.

DATES: Issued on 12/11/2017.

Economic Injury (EIDL) Loan Application Deadline Date: 09/11/2018.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street SW, Suite 6050, Washington, DC 20416, (202) 205–6734.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the Administrator's EIDL declaration, applications for economic injury disaster loans may be filed at the address listed above or other locally announced locations. The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Missoula

Contiguous Counties:

Montana: Flathead, Granite, Lake, Mineral, Powell, Ravalli, Sanders

Idaho: Clearwater, Idaho

The Interest Rates are:

Businesses and Small Agricultural Cooperatives without Credit Available Elsewhere.

Non-Profit Organizations without Credit Available Elsewhere.

The number assigned to this disaster for economic injury is 154060.

The States which received an EIDL Declaration # are Montana, Idaho.

(Catalog of Federal Domestic Assistance Number 59008)

Dated: December 11, 2017.

Linda E. McMahon,

Administrator.

[FR Doc. 2017–27365 Filed 12–19–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice: 10201]

Notice of Issuance of a Presidential Permit to the State of North Dakota

AGENCY: Department of State.

ACTION: Notice.

SUMMARY: The Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, acting pursuant to delegated authorities, issued a Presidential permit to the State of North Dakota on October 24, 2017, authorizing the State of North Dakota to construct, connect, operate, and maintain the existing POE border-crossing facilities at the U.S.-Canada border in Pembina County, North Dakota. In accordance with Executive Order 11432 (August 16, 1968) as amended, the Acting Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs determined that issuance of this permit would serve the national interest.

FOR FURTHER INFORMATION CONTACT: Bryan Koontz, 202–647–3030, *koontzbk@state.gov.*

SUPPLEMENTARY INFORMATION: Additional information concerning the Pembina-Emerson POE border crossing facilities and documents related to the Department of State's review of the application for a Presidential permit can be found at *https://www.state.gov/documents/organization/259783.pdf.* Following is the text of the permit, as issued:

PRESIDENTIAL PERMIT AUTHORIZING THE STATE OF NORTH DAKOTA TO CONSTRUCT, CONNECT, OPERATE, AND MAINTAIN THE PEMBINA-EMERSON PORT OF ENTRY AT THE INTERNATIONAL BOUNDARY BETWEEN THE UNITED STATES AND CANADA

By virtue of the authority vested in me as Acting Assistant Secretary of State for the Bureau of Oceans and International Environmental and Scientific Affairs, including those authorities under Executive Order 11423, 33 Fed. Reg. 11741 (1968); as amended by Executive Order 12847 of May 17, 1993, 58 Fed. Reg. 29511 (1993), Executive Order 13284 of January 23, 2003, 68 Fed. Reg. 4075 (2003), and Executive Order 13337 of April 30, 2004, 69 Fed. Reg. 25299 (2004); 25299 (2004); and Department of State Delegation of Authority 118–2 of January 26, 2006 and Delegation 415 of January 18, 2017; having considered the environmental effects of the proposed action consistent with the National Environmental Policy Act of 1969, as amended (83 Stat. 852, 42 U.S.C. 4321 et seq.), and other statutes relating to environmental concerns; having considered the proposed action consistent with the National Historic Preservation Act of 1966, as amended (80 Stat. 917, 16 U.S.C. 470f et seq.); and having requested and received the views of various of the federal departments and other interested persons; I hereby grant permission, subject to the conditions herein set forth, to the State of North Dakota (hereinafter referred to as ''permittee''), to construct, connect, operate, and maintain the Pembina-Emerson Port of Entry (hereinafter referred to as the ''POE'').

The term ''facilities'' as used in this permit means the port of entry, its approaches and any land, structures, or installations appurtenant thereto, including all structures as described in the May 2, 2016 for a Presidential permit (the ''Application'') submitted by the permitee to the Department of State.

The term ''U.S. facilities'' as used in this permit means those parts of the facilities in the United States, as described in the Application.

This permit is subject to the following conditions:

Article 1. (1) The U.S. facilities herein described, and all aspects of their operation, shall be subject to all the conditions, provisions, and requirements of this permit, and any amendment thereof. This permit may be terminated at the will of the Secretary of State or the Secretary's delegate or may be amended by the Secretary of State or the Secretary's delegate at will or upon proper application therefore. The permittee shall make no substantial change in the U.S. facilities, the location of the U.S. facilities, or in the operation authorized by this permit until such changes have been approved by the Secretary of State or the Secretary's delegate.

(2) The construction, connection, operation, and maintenance of the facilities shall be in all material respects as described in the Application.

Article 2. The standards for, and the manner of, the construction, connection, operation, and maintenance of the U.S. facilities shall be subject to inspection and approval by the representatives of appropriate federal, state, and local agencies. The permittee shall allow duly authorized officers and employees of such agencies free and unrestricted access to said facilities in the performance of their official duties.

Article 3. The permittee shall comply with all applicable federal, state, local, and tribal laws and regulations regarding the connection, construction, operation, and maintenance of the U.S. facilities and with all applicable industrial codes. The permittee shall obtain all requisite permits from the relevant Canadian authorities as well as from the relevant state and local government entities and relevant federal agencies.

Article 4. Upon the termination, revocation, or surrender of this permit, and unless otherwise agreed by the Secretary of State or the Secretary's delegate, the U.S. facilities in the immediate vicinity of the international boundary shall be removed by and at the expense of the permittee within such time as the Secretary of State or the Secretary's delegate may specify, and upon failure of the permittee to remove, or to take such other appropriate action with respect to this portion of the U.S. facilities as ordered, the Secretary of State or the Secretary's delegate may direct that possession of such facilities be taken and that they be removed or other action taken, at the expense of the permittee; and the permittee shall have no claim for damages by reason of such possession or removal or other action.

Article 5. All construction, connection, operation and maintenance of the U.S. facilities under this permit shall be subject to the limitations, terms, and conditions issued by any competent agency of the U.S. Government, including but not limited to the Department of Homeland Security and the General Services Administration. This permit shall continue in force and effect only so long as the permittee shall continue the operations hereby authorized in accordance with such limitations, terms, and conditions.

Article 6. When, in the opinion of the President of the United States, the national security of the United States demands it, due notice being given by the Secretary of State or the Secretary's delegate, the United States shall have the right to enter upon and take possession of any of the U.S. facilities or parts thereof; to retain possession, management, or control thereof for such length of time as may appear to the President to be necessary; and thereafter to restore possession and control to the permittee. In the event that the United States shall exercise such right, it shall pay to the permittee just and fair compensation for the use of such U.S. facilities upon the basis of a reasonable profit in normal conditions and the cost of restoring said facilities to as good condition as existed at the time of entering and taking over the same, less the reasonable value of any improvements that may have been made by the United States.

Article 7. Any transfer of ownership or control of the U.S. facilities or any part thereof shall be immediately notified in writing to the Department of State for approval, including identification of the transferee. In the event of such transfer of ownership or control, this permit shall remain in force and the U.S. facilities shall be subject to all the conditions, permissions, and requirements of this permit and any amendments thereof unless subsequently terminated or amended by the Secretary of State or the Secretary's delegate.

Article 8. (1) The permittee shall acquire such right-of-way grants or easements, permits and other authorizations as may be necessary and appropriate.

(2) The permittee shall hold harmless and indemnify the United States from any claimed or adjudged liability arising out of the construction, connection, operation or maintenance of the facilities.

(3) The permittee shall maintain the U.S. facilities and every part thereof in a condition of good repair for their safe operation, and in compliance with prevailing environmental standards and regulations.

Article 9. The North Dakota Department of Transportation shall provide the General Services Administration an adequate Federal inspection facility at the United States terminal of the port of entry.

Article 10. The permittee shall take all appropriate measures to prevent or mitigate adverse impacts on or disruption of the human environment in connection with the construction, operation and maintenance of the U.S. facilities, including those mitigation measures set forth in the Final Environmental Assessment dated February 17, 2016 and any additional measures that may be required as result of any reevaluation of the foregoing consistent with 23 C.F. R. Sec. 771.129(b).

Article 11. The permittee shall not begin construction until it has been informed that the Government of the United States and the Government of Canada have exchanged diplomatic notes confirming that both governments authorized the commencement of a proposed expansion of the port of entry.

Article 12. The permittee shall provide information upon request to the Department of State with regard to the U.S. facilities. Such requests could include, for example, information concerning current conditions or anticipated changes in ownership or control, construction, connection, operation or maintenance of the U.S. facilities.

Article 13. The permittee shall provide written notice to the Department of State at such time as the construction authorized by this permit is begun and again at such time as construction is completed, interrupted, or discontinued.

Article 14. The permittee shall file with the appropriate agencies of the U.S. government such statements or reports under oath with respect to the U.S. facilities, and/or the permittee's actions and operations in connection therewith, as are now, or may hereafter be, required under any laws or regulations of the U.S. government or its agencies.

Article 15. This permit shall expire ten years from the date of issuance of this permit in the event that the permittee has not commenced construction of the expansion of the port of entry as described in the Application by that deadline. The

remaining provisions of this permit shall remain in full force and effect.

IN WITNESS WHEREOF, I, Judith G. Garber, Acting Assistant Secretary for the Bureau of Oceans and International Environmental and Scientific Affairs, have hereunto set my hand this 24th day of October, 2017 in the City of Washington, District of Columbia.

Judith G. Garber,

Acting Assistant Secretary for Oceans and International Environmental and Scientific Affairs.

End of permit text.

Mark Cullinane,

Acting Director, Office of Canadian Affairs, Bureau of Western Hemisphere Affairs, Department of State.

[FR Doc. 2017–27341 Filed 12–19–17; 8:45 am]

BILLING CODE 4710–29–P

DEPARTMENT OF STATE

[Public Notice 10235]

30-Day Notice of Proposed Information Collection: Training/Internship Placement Plan

ACTION: Notice of request for public comment and submission to OMB of proposed collection of information.

SUMMARY: The Department of State has submitted the information collection described below to the Office of Management and Budget (OMB) for approval. In accordance with the Paperwork Reduction Act of 1995 we are requesting comments on this collection from all interested individuals and organizations. The purpose of this Notice is to allow 30 days for public comment.

DATES: Submit comments directly to the Office of Management and Budget (OMB) up to January 19, 2018.

ADDRESSES: Direct comments to the Department of State Desk Officer in the Office of Information and Regulatory Affairs at the Office of Management and Budget (OMB). You may submit comments by the following methods:

- *Email: oira_submission@omb.eop.gov.* You must include the DS form number, information collection title, and the OMB control number in the subject line of your message.
- *Fax:* 202–395–5806. Attention: Desk Officer for Department of State.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to G. Kevin Saba, Director, Office of Policy and Program Support, Office of Private Sector Exchange, ECA/EC, SA–5, Floor 5, Department of State, 2200 C Street NW, Washington, DC 20522–0505, who may be reached on 202–632–3206 or at *JExchanges@state.gov.*

SUPPLEMENTARY INFORMATION:

- *Title of Information Collection:* Training/Internship Placement Plan.
- *OMB Control Number:* 1405–0170.
- *Type of Request:* Revision of a Currently Approved Collection.
- *Originating Office:* Bureau of Educational and Cultural Affairs, ECA/EC.
- *Form Number:* DS–7002.
- *Respondents:* Entities designated by the Department of State as sponsors of exchange visitor programs in the trainee or intern categories and U.S. businesses that provide the training or internship opportunity.
- *Estimated Number of Respondents:* 120.
- *Estimated Number of Responses:* 30,000.
- *Average Time per Response:* 2 hours.
- *Total Estimated Burden Time:* 60,000 hours.
- *Frequency:* On occasion depending on the number of exchange participants annually.
- *Obligation to Respond:* Required to Obtain or Retain Benefits.

We are soliciting public comments to permit the Department to:

- Evaluate whether the proposed information collection is necessary for the proper functions of the Department.
- Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of proposed collection: The collection is the continuation of information collected and needed by the Bureau of Educational and Cultural Affairs in administering the Exchange Visitor Program (J-NONIMMIGRANT) under the provisions of the Mutual Educational and Cultural Exchange Act of 1961, as amended. Trainee/Internship Placement Plans are to be completed by designated program sponsors. A Training/Internship Placement Plan is required for each trainee or intern participant. It will set forth the training or internship program to be followed, methods of supervision, the skills the trainee or intern will obtain, and trainee or intern remuneration. The plan must be signed by the trainee or intern, sponsor, and the third party placement organization, if a third party organization is used in the conduct of the training or internship. Upon request, trainees or interns must present a fully executed Trainee/Internship Placement Plan on Form DS–7002 to any Consular Official interviewing them in connection with the issuance of J–1 visas.

G. Kevin Saba,

Director, Office of Policy and Program Support, Office of Private Sector Exchange, Bureau of Educational and Cultural Affairs, U.S. Department of State.

[FR Doc. 2017–27384 Filed 12–19–17; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. AB 55 (Sub-No. 776X)]

CSX Transportation, Inc.—Abandonment Exemption—in Greenbrier County, W. Va.

CSX Transportation, Inc. (CSXT) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon an approximately 0.42-mile rail line on its Florence Division, Sewell Valley Subdivision, between milepost CAF 20.58 to the end of track at milepost CAF 21.0, near Rainelle, Greenbrier County, W. Va. (the Line). The Line traverses United States Postal Zip Code 25962, and includes no stations.

CSXT has certified that: (1) No local freight traffic has moved over the Line for at least two years; (2) because the Line is not a through line, no overhead traffic has operated, and, thus, none needs to be rerouted over other lines; (3) no formal complaint filed by a user of a rail service on the Line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the Line is either pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of a complainant within the two-year period; and (4) the requirements at 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR

1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on January 19, 2018, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and interim trail use/rail banking requests under 49 CFR 1152.29 must be filed by December 29, 2017. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by January 9, 2018, with the Surface Transportation Board, 395 E Street SW, Washington, DC 20423–0001.[3]

A copy of any petition filed with the Board should be sent to Louis E. Gitomer, Law Offices of Louis E. Gitomer, LLC, 600 Baltimore Avenue, Suite 301, Towson, MD 21204.

If the verified notice contains false or misleading information, the exemption is void ab initio.

CSXT has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by December 26, 2017. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), CSXT shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the Line.

If consummation has not been effected by CSXT's filing of a notice of consummation by December 20, 2018, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at *WWW.STB.GOV.*

Decided: December 15, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–27419 Filed 12–19–17; 8:45 am]

BILLING CODE 4915–01–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,800. *See Regulations Governing Fees for Servs. Performed in Connection with Licensing & Related Servs.—2017 Update,* EP 542 (Sub-No. 25), slip op. App. C at 20 (STB served July 28, 2017).

[3] CSXT states that the Line may be suitable for other public purposes but may be subject to reversionary interests that may affect transfer of title for purposes other than rail.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Opportunity for Public Comment on the Release of Deed Restrictions at the Yellowstone Airport, West Yellowstone, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Request to Release Deed Restrictions.

SUMMARY: The FAA is considering a request from the State of Montana to release certain deed restrictions at the Yellowstone Airport, MT.

DATES: Comments must be received on or before January 19, 2018.

ADDRESSES: Comments on this application may be mailed or delivered to the FAA at the following address: Mr. William C. Garrison, Manager, Federal Aviation Administration, Northwest Mountain Region, Airports Division, Helena Airports District Office, 2725 Skyway Drive, Suite 2, Helena, Montana 59602.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Debbie Alke, Administrator, Montana Department of Transportation Aeronautics Division, at the following address: Ms. Debbie Alke, Administrator, Aeronautics Division, Montana Department of Transportation, P.O. Box 200507, Helena, MT 59620–0507.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Engebrecht, Civil Engineer/Compliance Specialist, Federal Aviation Administration, Northwest Mountain Region, Helena Airports District Office, 2725 Skyway Drive, Suite 2, Helena, Montana 59602.

The request to release deed restrictions may be reviewed, by appointment, in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA invites public comment on the request to release deed restrictions at the Yellowstone Airport under the provisions of the Title 49, U.S.C. Section 47125.

The FAA Modernization and Reform Act of 2012, HR 658, Section 817, gave the Secretary of Transportation the authorization to grant an airport, city, or county release from any of the terms, conditions, reservations, or restrictions contained in a deed under which the United States conveyed to the airport, city, or county an interest in real property for airport purposes pursuant to Section 16 of the Federal Airport Act (60 Stat. 179) or Section 23 of the Airport and Airway Development Act of 1970 (84 Stat. 232).

Release of the deed restrictions at the Yellowstone Airport will allow the State of Montana the opportunity to consider additional revenue sources for maintaining and operating the airport.

On October 25, 2017, the FAA determined that the request to release deed restrictions at the Yellowstone Airport submitted by the Montana Department of Transportation meets the procedural requirements of the Federal Aviation Administration. The FAA may approve the request, in whole or in part, after January 19, 2018.

The following is a brief overview of the request:

The Montana Department of Transportation is proposing the release of deed restrictions at the Yellowstone Airport from a Correction Deed issued on August 12, 1968. On October 7, 1963, a deed containing restrictions transferred the airport property from the United States to the State of Montana. The airport was built in 1963 as a cooperative effort between the United States Departments of the Interior and Agriculture, the Federal Aviation Administration (FAA), and the State of Montana. A subsequent Correction Deed (correcting the legal description) issued

on August 12, 1968 contains those same restrictions, under which the airport has operated for 50 years. In an effort to make the airport more economically viable, the State of Montana and the Montana Department of Transportation (MDT) request the following deed restrictions be removed:

• Deed Restriction 1. ''The State of Montana will use the lands herein conveyed for airport development.'': Requesting release of approximately 175 acres from this deed restriction in order to maintain financial viability by permitting possible development of these areas for non-airport development related purposes to generate new sources of income to operate and maintain the airport.

• Deed Restriction 6. ''That all facilities of the airport developed with Federal aid and all those useable for landing and take-off of aircraft will be available at all times without charge for use by the Department of Agriculture and Interior in the conduct of its official business in common with other aircraft.'': Requesting release of all airport property from this deed restriction in order to maintain financial viability by being permitted to charge for substantial use by the Department of Agriculture and Department of Interior aircraft, in compliance with Grant Assurance 27.

• Deed Restriction 7. ''That no commercial overnight facilities, such a motels, hotels, or private residences will be constructed on the property herein conveyed.'': Requesting release of approximately 65 acres from this deed restriction in order to maintain financial viability by permitting possible development of commercial overnight facilities and generate new sources of income to operate and maintain the airport. MDT understands that residential development is non-compliant with its federal grant assurances and has no intention of allowing private residences to be constructed on airport property.

• Deed Restriction 8. ''That commercial advertising signs will be prohibited within the airport access road area.'': Requesting release of approximately 65 acres from this deed restriction in order to maintain financial viability by permitting possible development of commercial advertising signs within the airport access road area and generate new sources of income to operate and maintain the airport.

If the deed restrictions are released, prior to moving forward with any associated non-aeronautical development, MDT understands it will still be required to: Obtain a release from federal obligation to change the designated use of the property from aeronautical to non-aeronautical use, comply with National Environmental Policy Act (NEPA), and undergo an aeronautical study through the 7460–1 process.

Any person may inspect, by appointment, the request in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon appointment and request, inspect the request to release deed restrictions and other documents germane to the request in person at the Yellowstone Airport.

Issued in Helena, Montana, on December 7, 2017.

William C. Garrison,

Manager, Helena Airports District Office.

[FR Doc. 2017–27420 Filed 12–19–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Agency Information Collection Requirements: Information Collection Renewal; Submission for OMB Review; Debt Cancellation Contracts and Debt Suspension Agreements

AGENCY: Office of the Comptroller of the Currency (OCC), Treasury.

ACTION: Notice and request for comment.

SUMMARY: The OCC, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other federal agencies to take this opportunity to comment on a continuing information collection as required by the Paperwork Reduction Act of 1995 (PRA).

In accordance with the requirements of the PRA, the OCC may not conduct or sponsor, and the respondent is not required to respond to, an information collection unless it displays a currently valid Office of Management and Budget (OMB) control number.

Currently, the OCC is soliciting comment concerning the renewal of an information collection titled ''Debt Cancellation Contracts and Debt Suspension Agreements.'' The OCC also is giving notice that it has sent the collection to OMB for review.

DATES: You should submit written comments by: January 19, 2018.

ADDRESSES: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by email, if possible. Comments may be sent to: Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, Attention: 1557–0224, 400 7th Street SW, Suite 3E–218, Washington, DC 20219. In addition, comments may be sent by fax to (571) 465–4326 or by electronic mail to *prainfo@occ.treas.gov.* You may personally inspect and photocopy comments at the OCC, 400 7th Street SW, Washington, DC 20219. For security reasons, the OCC requires that visitors make an appointment to inspect comments. You may do so by calling (202) 649–6700 or, for persons who are deaf or hearing impaired, TTY, (202) 649–5597. Upon arrival, visitors will be required to present valid government-issued photo identification and submit to security screening in order to inspect and photocopy comments.

All comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure. Do not include any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Additionally, please send a copy of your comments by mail to: OCC Desk Officer, 1557–0224, U.S. Office of Management and Budget, 725 17th Street NW, #10235, Washington, DC 20503 or by email to: *oira submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Shaquita Merritt, OCC Clearance Officer, (202) 649–5490 or, for persons who are deaf hearing impaired, TTY, (202) 649–5597, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 400 7th Street SW, Washington, DC 20219.

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), federal agencies must obtain approval from 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) to include agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. The OCC is requesting that OMB extend its approval of the following collection.

Title: Debt Cancellation Contracts and Debt Suspension Agreements.

OMB Control No.: 1557–0224.

Description: Twelve U.S.C. 24(Seventh) authorizes a national bank (bank) to enter into Debt Cancellation Contracts (DCCs) and Debt Suspension Agreements (DSAs). Part 37 requires banks to disclose information about a DCC or a DSA using either a short or long form disclosure. The short form disclosure usually is made orally and

issued at the time a bank first solicits the purchase of a contract. The long form disclosure usually is made in writing and issued before the customer completes the purchase of the contract. There are special rules for transactions by telephone, solicitations using written mail inserts or ''take one'' applications, and electronic transactions. Part 37 provides two forms of disclosure that serve as models for satisfying the requirements of the rule. Use of the forms is not mandatory, and the regulation permits a bank to adjust the form and wording of its disclosures so long as it meets the applicable requirements. The requirements of part 37 enhance consumer protections for customers who purchase DCCs and DSAs from banks and ensure that banks offer these products in a safe and sound manner by requiring them to effectively manage their risk exposure.

Section 37.6

Section 37.6 requires the form of the disclosures to be readily understandable and meaningful. The content of the short and long form may vary, depending on whether a bank elects to provide a summary of the conditions and exclusions in the long form disclosures or refer the customer to the pertinent paragraphs in the contract. For example, the short form disclosure requires a bank to instruct the customer to read carefully both the long form disclosures and the contract for a full explanation of the contract terms, while the long form gives a bank the option of either: (i) Summarizing the limitations; or (ii) advising the customer that a complete explanation of the eligibility requirements, conditions, and exclusions is available in the contract and identifying the paragraphs where the customer may find that information.

Section 37.6 and appendices A and B to part 37 require a bank to provide the following disclosures (summarized below), as appropriate:

- Anti-tying (short and long form)—A bank must inform the customer that purchase of the product is optional and that neither the bank's decision whether to approve the loan nor the terms and conditions of the loan are conditioned on the purchase of a DCC or DSA.
- Explanation of debt suspension agreement (long form)—A bank must disclose that if a customer activates the agreement, the customer's duty to pay the loan principal and interest is only suspended and the customer must fully repay the loan after the period of suspension has expired.
- Amount of the fee (long form)—A bank must make disclosures regarding the amount of the fee. The content of the disclosure depends on whether the credit is open-end or closed-end. In the case of closed-end credit, the bank must disclose the total fee. In the case of open-end credit, the bank must either: (i) Disclose that the periodic fee is based on the account balance multiplied by a unit cost and provide the unit cost; or (ii) disclose the formula used to compute the fee.
- Lump sum payment of fee (short and long form)—A bank must disclose, where appropriate, that a customer has the option to pay the fee in a single payment or in periodic payments and adding the fee to the amount borrowed will increase the cost of the contract. This disclosure is not appropriate in the case of a DCC or DSA provided in connection with a home mortgage loan because the option to pay the fee in a single payment is not available in that case.
- Lump sum payment of fee with no refund (short and long form)—A bank must disclose that the customer has the option to choose a contract with or without a refund provision. This disclosure must also state that the prices of refund and no-refund products are likely to differ.
- Refund of fee paid in lump sum (short and long form)—If a bank permits a customer to pay the fee in a single payment and add the fee to the amount borrowed, the bank must disclose its cancellation policy. The disclosure informs the customer of the bank's refund policy, as applicable, *i.e.,* that the DCC or DSA may be: (i) Canceled at any time for a refund; (ii) cancelled within a specified number of days for a full refund; or (iii) cancelled at any time with no refund.
- Whether use of a credit line is restricted (long form)—A bank must inform a customer if the customer's activation of the contract would prohibit the customer from incurring additional charges or using the credit line.
- Termination of a DCC or DSA (long form)—If termination is permitted during the life of the loan, a bank must include an explanation of the circumstances under which a customer or the bank may terminate the contract.
- Additional disclosures (short form)—A bank must inform consumers that it will provide additional information before the customer is required to pay for the product.
- Eligibility requirements, conditions, and exclusions (short and long form)—A bank must describe any material limitations relating to the DCC or DSA.

Section 37.7

Section 37.7 requires a bank to obtain a customer's written affirmative election to purchase a contract and written acknowledgment of receipt of the disclosures required by § 37.6. The section further provides that the election and acknowledgment must be conspicuous, simple, direct, readily understandable, and designed to call attention to their significance. Pursuant to § 37.7(b), if the sale of the contract occurs by telephone, the customer's affirmative election to purchase and acknowledgment of receipt of the required short form may be made orally, provided the bank: (i) Maintains sufficient documentation to show that the customer received the short form disclosures and then affirmatively elected to purchase the contract; (ii) mails the affirmative written election and written acknowledgment, together with the long form disclosures required by § 37.6, to the customer within 3 business days after the telephone solicitation and maintains sufficient documentation to show it made reasonable efforts to obtain the documents from the customer; and (iii) permits the customer to cancel the purchase of the contract without penalty within 30 days after the bank has mailed the long form disclosures to the customer.

Pursuant to § 37.7(c), if the DCC or DSA is solicited through written materials such as mail inserts or ''take one'' applications and the bank provides only the short form disclosures in the written materials, then the bank shall mail the acknowledgment, together with the long form disclosures, to the customer. The bank may not obligate the customer to pay for the contract until after the bank has received the customer's written acknowledgment of receipt of disclosures, unless the bank takes certain steps, maintains certain documentation, and permits the customer to cancel the purchase within 30 days after mailing the long form disclosures to the customer. Section 37.6(d) permits the customer's affirmative election and acknowledgment to be made electronically.

Type of Review: Regular.

Affected Public: Businesses or other for-profit.

Number of Respondents: 1,300.

Total Annual Burden Hours: 31,200 hours.

The OCC issued a notice for 60 days of comment regarding this collection, 82 FR 44875. No comments were received. Comments continue to be invited on:

(a) Whether the collection of information is necessary for the proper performance of the functions of the OCC, including whether the information shall have practical utility;

(b) The accuracy of the OCC'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 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.

Dated: December 14, 2017.

Karen Solomon,

Acting Senior Deputy Comptroller and Chief Counsel, Office of the Comptroller of the Currency.

[FR Doc. 2017–27328 Filed 12–19–17; 8:45 am]

BILLING CODE 4810–33–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on the Readjustment of Veterans, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under the Federal Advisory Committee Act that a meeting of the Advisory Committee on the Readjustment of Veterans will be held February 6, 7, and 8, 2018. All meeting sessions will be conducted at the Department of Veterans Affairs National Headquarters, located at 810 Vermont Avenue NW, Conference Room 530, Washington, DC, 20420. The meetings will begin at 8:00 a.m. and adjourn at 4:30 p.m. The meetings are open to the public.

The purpose of the Committee is to review the post-war readjustment needs of combat-theater Veterans and to evaluate the availability, effectiveness and coordination of VA programs available to meet Veterans' readjustment service needs.

The agenda for Tuesday February 6 will feature meetings with VA and the Veterans Health Administration (VHA) senior leadership to review the general values, strategic priorities and current perspectives on Veterans' physical health and psychosocial welfare. The day's agenda will also include briefings from the Readjustment Counseling Service (RCS) Chief Officer regarding the current activities of the RCS Vet Centers to include the full scope of outreach and readjustment counseling being provided to combat-theater Veterans, Service members and their families. The briefing will also provide a status report regarding the RCS organizational transition to a single point of service within the general organizational transformation of VHA.

On Wednesday February 7, the Committee will focus on VA mental health services and best practices for coordinating VA mental health services with RCS readjustment counseling services to better serve the combat-theater Veteran population. To this end Committee members will receive briefings from VA's mental health leadership on the types and distribution of psychiatric disorders currently being presented by Operation Iraqi Freedom/Operation Enduring Freedoms Veterans and the various treatment regimens provided for their care inclusive of psychotherapy and psychopharmacology. VA Mental Health and RCS leadership will additionally present on the collaborative activities currently underway between RCS and the Office of Mental Health and Suicide Prevention to achieve life-saving outcomes for at risk combat-theater Veterans and Service members.

On Thursday February 8, the Committee will engage in strategic round table discussions with various other VHA program officials to review the objectives and anticipated outcomes for developing a ''Veterans Engagement Subcommittee''. This project is being initiated through collaborative partnership between RCS and the National Center for Post-Traumatic Stress Disorder (NC/PTSD) to strengthen the collaborative ties between the RCS and the NC/PTSD, to improve VA services and products through Veteran consumer feedback and to provide greater public awareness of VA and its achievements through quality services to Veterans and families.

In addition, the agenda will include time for Committee strategic planning focused on its annual operations priorities for 2018 and the strategic perspectives for developing its 19th annual report to Congress.

No time will be allocated at this meeting for receiving oral presentations from the public. However, members of the public may direct written questions or submit prepared statements for review by the Committee before the meeting to Mr. Charles M. Flora, M.S.W., Designated Federal Officer, Readjustment Counseling Service, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420. Because the meeting will be in a Government building, please provide valid photo identification for check-in. Please allow 15 minutes before the meeting for the check-in process. If you plan to attend or have questions concerning the meeting, contact Mr. Flora at (202) 461–6525 or via email at *charles.flora@va.gov.*

Dated: December 15, 2017.

Jelessa M. Burney,

Federal Advisory Committee Management Office.

[FR Doc. 2017–27378 Filed 12–19–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF VETERANS AFFAIRS

Publication of the Date on Which All Amounts Deposited in the Veterans Choice Fund Will Be Exhausted

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Access, Choice, and Accountability Act of 2014, Public Law 113–146, as amended, directs the Department of Veterans Affairs (VA) to publish in the **Federal Register** the date on which the Secretary will have exhausted all amounts deposited in the Veterans Choice Fund. This **Federal Register** Notice is VA's publication of this date.

FOR FURTHER INFORMATION CONTACT: Joseph Duran, Director, Policy and Planning (10D1A1), Veterans Health Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (303) 372–4629. This is not a toll free number.

SUPPLEMENTARY INFORMATION: The Veterans Access, Choice, and Accountability Act of 2014, Public Law 113–146, as amended, (the Act), section 802, established the Veterans Choice Fund to be used by the Secretary of Veterans Affairs to carry out the Veterans Choice Program established by section 101 of the Act. Pursuant to sections 101(p)(1) and (2) of the Act, the Secretary may not furnish care and services under the Veterans Choice Program after the date on which the Secretary has exhausted all amounts deposited in the Veterans Choice Fund. Section 101(p)(3) of the Act directs, not later than 30 days prior, VA to publish this date in the **Federal Register** and on an internet website of the Department available to the public. Based on current data, VA believes it will have exhausted the amount that was deposited in the Veterans Choice Fund no earlier than January 2, 2018; however, due to the unique nature of health care and the variability in health care costs, the amounts in the Fund could last as long as January 16, 2018. This information can be found on the internet at *http://www.va.gov/opa/choiceact/index.asp.* VA will update the website if it determines based on the most current

information that the amounts in the Fund will be exhausted later than anticipated.

Signing Authority

The Secretary of Veterans Affairs, or designee, approved this document and authorized the undersigned to sign and submit the document to the Office of the Federal Register for publication electronically as an official document of the Department of Veterans Affairs. Gina S. Farrisee, Deputy Chief of Staff, Department of Veterans Affairs, approved this document on December 14, 2017, for publication.

Dated: December 14, 2017.

Michael Shores,

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

[FR Doc. 2017–27376 Filed 12–19–17; 8:45 am]

BILLING CODE 8320–01–P

FEDERAL REGISTER

Vol. 82 Wednesday,
No. 243 December 20, 2017

Part II

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 310

Safety and Effectiveness of Health Care Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 310

[Docket No. FDA–2015–N–0101]

RIN 0910–AH40

Safety and Effectiveness of Health Care Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is issuing this final rule establishing that certain active ingredients used in nonprescription (also known as over-the-counter or OTC) antiseptic products intended for use by health care professionals in a hospital setting or other health care situations outside the hospital are not generally recognized as safe and effective (GRAS/GRAE). FDA is issuing this final rule after considering the recommendations of the Nonprescription Drugs Advisory Committee (NDAC); public comments on the Agency's notices of proposed rulemaking; and all data and information on OTC health care antiseptic products that have come to the Agency's attention. This final rule finalizes the 1994 tentative final monograph (TFM) for OTC health care antiseptic drug products that published in the **Federal Register** of June 17, 1994 (the 1994 TFM) as amended by the proposed rule published in the **Federal Register** (FR) of May 1, 2015 (2015 Health Care Antiseptic Proposed Rule (PR)).

DATES: This rule is effective December 20, 2018.

ADDRESSES: 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 final rule, 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: Michelle M. Jackson, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5420, Silver Spring, MD 20993–0002, 301–796–0923.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Executive Summary
A. Purpose of the Final Rule
B. Summary of the Major Provisions of the Final Rule
C. Costs and Benefits
II. Table of Abbreviations and Acronyms Commonly Used in This Document
III. Introduction
A. Terminology Used in the OTC Drug Review Regulations
B. Topical Antiseptics
C. This Final Rule Covers Only Health Care Antiseptics
IV. Background
A. Significant Rulemakings Relevant to This Final Rule
B. Public Meetings Relevant to This Final Rule
C. Scope of This Final Rule
D. Eligibility for the OTC Drug Review
V. Comments on the Proposed Rule and FDA Response
A. Introduction
B. General Comments on the Proposed Rule and FDA Response
C. Comments on Eligibility of Active Ingredients and FDA Response
D. Comments on Effectiveness and FDA Response
E. Comments on Safety and FDA Response
F. Comments on the Preliminary Regulatory Impact Analysis and FDA Response
VI. Ingredients Not Generally Recognized as Safe and Effective
VII. Compliance Date
VIII. Summary of Regulatory Impact Analysis
A. Introduction
B. Summary of Costs and Benefits
IX. Paperwork Reduction Act of 1995
X. Analysis of Environmental Impact
XI. Federalism
XII. References

I. Executive Summary

A. Purpose of the Final Rule

This final rule finalizes the 2015 Health Care Antiseptic PR. This final rule applies to health care antiseptic products that are intended for use by health care professionals in a hospital setting or other health care situations outside the hospital. Health care antiseptic products include health care personnel hand washes, health care personnel hand rubs, surgical hand scrubs, surgical hand rubs, and patient antiseptic skin preparations (*i.e.,* patient preoperative and preinjection skin preparations).

In response to several requests submitted to the 2015 Health Care Antiseptic PR, FDA has deferred further rulemaking on six active ingredients used in OTC health care antiseptic products to allow for the development and submission to the record of new safety and effectiveness data for these ingredients. The deferred active ingredients are benzalkonium chloride, benzethonium chloride, chloroxylenol, alcohol (also referred to as ethanol or ethyl alcohol), isopropyl alcohol, and povidone-iodine. Accordingly, FDA does not make a GRAS/GRAE determination in this final rule for these six active ingredients for use as OTC health care antiseptics. The monograph or nonmonograph status of these six ingredients will be addressed, either after completion and analysis of ongoing studies to address the safety and effectiveness data gaps of these ingredients or at a later date, if these studies are not completed.

This rulemaking finalizes the nonmonograph status of the remaining 24 active ingredients intended for use in health care antiseptics identified in the 2015 Health Care Antiseptic PR. No additional data were submitted to support monograph conditions for these 24 health care antiseptic active ingredients. Therefore, this rule finalizes the 2015 Health Care Antiseptic PR and finds that 24 health care antiseptic active ingredients are not GRAS/GRAE for use as OTC health care antiseptics. Accordingly, OTC health care antiseptic drugs containing any of these 24 active ingredients are new drugs under section 201(p) of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 321(p)) for which approved applications under section 505 of the FD&C Act (21 U.S.C. 355) and part 314 (21 CFR 314) of the regulations are required for marketing and may be misbranded under section 502 of the FD&C Act (21 U.S.C. 352).

This final rule covers only OTC health care antiseptics that are intended for use by health care professionals in a hospital setting or other health care situations outside the hospital. This final rule does not cover consumer antiseptic washes (78 FR 76444, 81 FR 61106); consumer antiseptic rubs (81 FR 42912); antiseptics identified as ''first aid antiseptics'' in the 1991 First Aid tentative final monograph (TFM) (56 FR 33644); or antiseptics used by the food industry.

B. Summary of the Major Provisions of the Final Rule

1. Safety

Several important scientific developments that affect the safety evaluation of OTC health care antiseptic active ingredients have occurred since FDA's 1994 safety evaluation. Improved analytical methods now exist that can detect and more accurately measure these active ingredients at lower levels in the bloodstream and tissue. Consequently, new data suggest that the

systemic exposure to these active ingredients is higher than previously thought, and new information about the potential risks from systemic absorption and long-term exposure is now available. New safety information also suggests that widespread antiseptic use could have an impact on the development of bacterial resistance. To support a classification of generally recognized as safe (GRAS) for health care antiseptic active ingredients, we proposed that additional data were needed to demonstrate that those ingredients meet current safety standards (80 FR 25166 at 25179 to 25195).

The minimum data needed to demonstrate safety for all health care antiseptic active ingredients fall into four broad categories: (1) Human safety studies described in current FDA guidance (*e.g.,* maximal usage trial or ''MUsT''); (2) nonclinical safety studies described in current FDA guidance (*e.g.,* developmental and reproductive toxicity studies and carcinogenicity studies); (3) data to characterize potential hormonal effects; and (4) data to evaluate the development of antimicrobial resistance.

We have considered the recommendations from the public meetings held by the Agency on antiseptics (see section IV.B, table 2) and evaluated the available literature, as well as the data, the comments, and other information that were submitted to the rulemaking on the safety of the 24 non-deferred health care antiseptic active ingredients addressed in this final rule. The available information and published data for these 24 active ingredients considered in this final rule are insufficient to establish the safety of these active ingredients for use in health care antiseptic products. No additional data were provided for these 24 ingredients. Consequently, the available data do not support a GRAS determination for the OTC non-deferred health care antiseptic active ingredients addressed in this final rule.

2. Effectiveness

A determination that an active ingredient is GRAS/GRAE for a particular intended use requires a benefit-to-risk assessment for the drug for that use. New information on potential risks posed by the increased use of certain health care antiseptics in clinical practice, as well as input from the 2005 NDAC, prompted us to reevaluate the data needed to determine whether health care antiseptic active ingredients are generally recognized as effective (GRAE). We continued to propose the use of surrogate endpoints (bacterial log reductions) as a demonstration of effectiveness for health care antiseptics combined with in vitro testing to characterize the antimicrobial activity of the active ingredient (80 FR 25166).

We have considered the recommendations from the public meetings held by the Agency on antiseptics (see section IV.B, table 2) and evaluated the available literature, as well as the data, the comments, and other information that were submitted to the rulemaking on the effectiveness of the 24 non-deferred health care antiseptic active ingredients addressed in this final rule. Since the publication of the 2015 Health Care Antiseptic PR, no new data or information was submitted on the effectiveness of these 24 non-deferred health care antiseptic active ingredients. Consequently, there is insufficient data to support a GRAE determination for these ingredients.

C. Costs and Benefits

This rule establishes that 24 eligible active ingredients are not generally recognized as safe and effective for use in nonprescription (also referred to as over-the-counter or OTC) health care antiseptics. However, data from the FDA drug product registration database suggest that only one of these 24 ingredients is found in OTC health care antiseptic products currently marketed pursuant to the TFM: Triclosan. Regulatory action is being deferred on six active ingredients that were included in the health care antiseptic proposed rule: Benzalkonium chloride, benzethonium chloride, chloroxylenol, ethyl alcohol, isopropyl alcohol, and povidone-iodine. This final rule also addresses comments on the eligibility of three active ingredients—alcohol (ethyl alcohol), benzethonium chloride, and chlorhexidine gluconate—and finds that these three active ingredients are ineligible for evaluation under the OTC Drug Review for certain health care antiseptic uses because these active ingredients were not included in health care antiseptic products marketed for the specified indications prior to May 1972. To our knowledge, there is only one ineligible product currently on the market, an alcohol-containing surgical hand scrub, which is affected by this rule.

Benefits are quantified as the volume reduction in exposure to triclosan found in health care antiseptic products affected by the rule, but these benefits are not monetized. Annual benefits are estimated to be a reduction in exposure of 88,000 kilograms (kg) of triclosan per year.

Costs are calculated as the one-time costs associated with reformulating health care antiseptic products containing the active ingredient triclosan and relabeling reformulated products. We believe that the alcohol-containing surgical hand scrub that is affected by this rule is likely to be removed from the market. We categorize the associated loss of sales revenue as a transfer from one manufacturer to another and not a cost, because we assume that the supply of other, highly substitutable, products is highly elastic.

Annualizing the one-time costs over a 10-year period, we estimate total annualized costs to range from $1.1 to $4.1 million at a 3 percent discount rate, and from $1.2 to $4.7 million at a 7 percent discount rate. The present value of total costs ranges from $9.0 to $34.6 million at a 3 percent discount rate, and from $8.7 to $29.6 million at a 7 percent discount rate.

In this final rule, small entities will bear costs to the extent that they must reformulate and re-label any health care antiseptic containing triclosan that they produce. The average cost to small firms of implementing the requirements of this final rule is estimated to be $213,176 per firm. The costs of the changes, along with the small number of firms affected, implies that this burden would not be significant, so we certify that this final rule will not have a significant economic impact on a substantial number of small entities. This analysis, together with other relevant sections of this document, serves as the Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

The full discussion of economic impacts is available in docket FDA–2015–N–0101 and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

Economic Data: Costs and Benefits Statement

Category		Low Estimate	Primary Estimate	High Estimate	Units			Notes
					Year Dollars	Discount Rate	Period Covered	
Benefits	Annualized Monetized $millions/year					7%	10 years	
	Annualized Monetized $millions/year					3%	10 years	
	Annualized Quantified kilograms/year		88,000			7%	10 years	Reduced antiseptic active ingredient exposure (in kilograms).
	Annualized Quantified kilograms/year		88,000			3%	10 years	
	Qualitative	Potential reduction in antibiotic resistance due to exposure to triclosan and potential adverse effects of triclosan in health care antiseptics.						
Costs	Annualized Monetized $millions/year	$1.2	$2.45	$4.74	2016	7%	10 years	Annualized costs of reformulating and testing antiseptic products. Range of estimates captures uncertainty.
	Annualized Monetized $millions/year	$1.05	$2.10	$4.06	2016	3%	10 years	
	Annualized Quantified billion/year					7%		
	Annualized Quantified billion/year					3%		
	Qualitative							
Transfers	Federal Annualized					7%		
	Monetized $millions/year					3%		
	From/To							
	Other	$3.6	$2.1	$6.6	2016	7%	10 years	Annualized transfers from the removal of one product from the market.
	Annualized Monetized $millions/year	$3.6	$2.1	$6.6	2016	3%	10 years	
	From/To							
Effects	State, Local, or Tribal Government: Not applicable Small Business: The costs associated with potentially affected small entities range between 0.1 and 22 percent of their average annual revenues. Wages: No estimated effect Growth: No estimated effect							

EXECUTIVE ORDER 13771 SUMMARY TABLE

[In $ millions 2016 dollars, over an infinite time horizon]

	Primary (7%)	Lower bound (7%)	Upper bound (7%)
Present Value of Costs	$17.19	$8.68	$29.47
Present Value of Cost Savings	.....	.....	.....
Present Value of Net Costs	17.19	8.68	29.47
Annualized Costs	1.20	0.61	2.06
Annualized Cost Savings	.....	.....	.....
Annualized Net Costs	1.20	0.61	2.06

II. Table of Abbreviations and Acronyms Commonly Used in This Document

Abbreviation	What it means
ADME	Absorption, distribution, metabolism, and excretion.
ANPR	Advance notice of proposed rulemaking.
APA	Administrative Procedure Act.
ASTM	American Society for Testing and Materials International.
ATCC	American Type Culture Collection.
ATE	Average Treatment Effect.
CDC	Centers for Disease Control and Prevention.
CFR	Code of Federal Regulations.

Abbreviation	What it means
DART	Developmental and reproductive toxicity.
FDA	Food and Drug Administration.
FD&C Act	Federal Food, Drug, and Cosmetic Act.
FR	Federal Register.
GRAE	Generally recognized as effective.
GRAS	Generally recognized as safe.
ICH	International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use.
MBC	Minimum bactericidal concentration.
MIC	Minimum inhibitory concentration.
MusT	Maximal usage trial.
NCE	New chemical entity.
NDA	New drug application.
NDAC	Nonprescription Drugs Advisory Committee.
NHS	Nurses' Health Study.
NIH	National Institutes of Health.
NOAEL	No observed adverse effect level.
OMB	Office of Management and Budget.
OTC	Over-the-counter.
PBPK	Physiologically-based pharmacokinetic.
PK	Pharmacokinetic.
PR	Proposed rule.
TFM	Tentative final monograph.
U.S.C.	United States Code.
USP	United States Pharmacopeia.

III. Introduction

In the following sections, we provide a brief description of terminology used in the OTC Drug Review regulations, an overview of OTC topical antiseptic drug products, and a more detailed description of the OTC health care antiseptic active ingredients that are the subject of this final rule.

A. Terminology Used in the OTC Drug Review Regulations

1. Proposed, Tentative Final, and Final Monographs

To conform to terminology used in the OTC Drug Review regulations (§ 330.10 (21 CFR 330.10)), the advance notice of proposed rulemaking (ANPR) that was published in the **Federal Register** of September 13, 1974 (39 FR 33103) (the 1974 ANPR), was designated as a ''proposed monograph.'' Similarly, the notices of proposed rulemaking, which were published in the **Federal Register** of January 6, 1978 (43 FR 1210) (the 1978 TFM); the **Federal Register** of June 17, 1994 (59 FR 31402) (the 1994 TFM); and the **Federal Register** of May 1, 2015 (80 FR 25166) (the 2015 Health Care Antiseptic PR), were each designated as a TFM (see table 1 in section IV.A).

2. Category I, II, and III Classifications

The OTC drug regulations in § 330.10 use the terms ''Category I'' (generally recognized as safe and effective and not misbranded), ''Category II'' (not generally recognized as safe and effective or misbranded), and ''Category III'' (available data are insufficient to classify as safe and effective, and further testing is required). Section 330.10 provides that any testing necessary to resolve the safety or effectiveness issues that resulted in an initial Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process before the establishment of a final monograph (*i.e.,* a final rule or regulation). Therefore, the proposed rules (at the tentative final monograph stage) used the concepts of Categories I, II, and III.

At this final monograph stage, FDA does not use the terms ''Category I,'' ''Category II,'' and ''Category III.'' Instead, the term ''monograph conditions'' is used in place of Category I, and ''nonmonograph conditions'' is used in place of Categories II and III.

B. Topical Antiseptics

The OTC topical antimicrobial rulemaking has had a broad scope, encompassing drug products that may contain the same active ingredients, but that are labeled and marketed for different intended uses. The 1974 ANPR for topical antimicrobial products encompassed products for both health care and consumer use (39 FR 33103). The 1974 ANPR covered seven different intended uses for these products: (1) Antimicrobial soap; (2) health care personnel hand wash; (3) patient preoperative skin preparation; (4) skin antiseptic; (5) skin wound cleanser; (6) skin wound protectant; and (7) surgical hand scrub (39 FR 33103 at 33140). FDA subsequently identified skin antiseptics, skin wound cleansers, and skin wound protectants as antiseptics used primarily by consumers for first aid use and referred to them collectively as ''first aid antiseptics.'' We published a separate TFM covering first aid antiseptics in the **Federal Register** of July 22, 1991 (56 FR 33644). We do not discuss first aid antiseptics further in this document, and this final rule does not have an impact on the status of first aid antiseptics.

The four remaining categories of topical antimicrobials were addressed in the 1994 TFM (59 FR 31402). The 1994 TFM covered: (1) Antiseptic hand wash (*i.e.,* consumer hand wash); (2) health care personnel hand wash; (3) patient preoperative skin preparation; and (4) surgical hand scrub (59 FR 31402 at 31442). In the 1994 TFM, FDA also identified a new category of antiseptics for use by the food industry and requested relevant data and information (59 FR 31402 at 31440). In section V.B.5, we address comments filed in this rulemaking on antiseptics for use by the food industry, but we do not otherwise discuss these antiseptics in this document. This final rule does not have an impact on the status of antiseptics for food industry use.

The 1994 TFM did not distinguish between consumer antiseptic washes and rubs and health care antiseptic washes and rubs. In the 2013 Consumer Wash PR, we proposed that our evaluation of OTC antiseptic drug products be further subdivided into health care antiseptics and consumer antiseptics (78 FR 76444 at 76446). These categories are distinct based on the proposed use setting, target population, and the fact that each

setting presents a different level of risk for infection. In the 2013 Consumer Wash PR (78 FR 76444 at 76446 to 76447) and the 2016 Consumer Rub PR (81 FR 42912 at 42915 to 42916), we proposed that our evaluation of OTC consumer antiseptic drug products be further subdivided into consumer washes (products that are rinsed off with water, including hand washes and body washes) and consumer rubs (products that are not rinsed off after use, including hand rubs and antibacterial wipes). This final rule does not have an impact on the status of consumer antiseptic wash or consumer antiseptic rub products.

C. This Final Rule Covers Only Health Care Antiseptics

We refer to the group of products covered by this final rule as ''health care antiseptics.'' Health care antiseptics are drug products that are generally intended for use by health care professionals in a hospital setting or other health care situations outside the hospital. Patient antiseptic skin preparations, which are products that are used for preparation of the skin prior to surgery (*i.e.,* preoperative) and preparation of skin prior to an injection (*i.e.,* preinjection), may be used by patients outside the traditional health care setting. Some patients (*e.g.,* diabetics who manage their disease with insulin injections) self-inject medications that have been prescribed by a health care professional for use at home or at other locations and use patient preoperative skin preparations prior to injection.

In this final rule, we use the term ''health care antiseptics'' to include the following products:

- Health care personnel hand washes
- Health care personnel hand rubs
- Surgical hand scrubs
- Surgical hand rubs
- Patient antiseptic skin preparations (*i.e.,* patient preoperative and preinjection skin preparations) [1]

This final rule covers health care antiseptic products that are rubs and others that are washes. The 1994 TFM did not distinguish between products that we are now calling health care ''antiseptic washes'' and products we are now calling health care ''antiseptic rubs.'' Washes are rinsed off with water, and include health care personnel hand washes and surgical hand scrubs. Rubs are sometimes referred to as ''leave-on products'' and are not rinsed off after use. Rubs include health care personnel hand rubs, surgical hand rubs, and patient antiseptic skin preparations.

Completion of the monograph for health care antiseptic products and certain other monographs for the active ingredient triclosan is subject to a Consent Decree entered by the U.S. District Court for the Southern District of New York on November 21, 2013, in *Natural Resources Defense Council, Inc.* v. *United States Food and Drug Administration, et al.,* 10 Civ. 5690 (S.D.N.Y.).

IV. Background

In this section, we describe the significant rulemakings and public meetings relevant to this rulemaking and discuss our response to comments received on the 2015 Health Care Antiseptic PR.

A. Significant Rulemakings Relevant to This Final Rule

A summary of the significant **Federal Register** publications relevant to this final rule is provided in table 1. Other publications relevant to this final rule are available at *https://www.regulations.gov* in FDA Docket No. 1975–N–0012 (formerly Docket No. 1975–N–0183H).

TABLE 1—SIGNIFICANT RULEMAKING PUBLICATIONS RELATED TO HEALTH CARE ANTISEPTIC DRUG PRODUCTS [1]

Federal Register notice	Information in notice
1974 ANPR (September 13, 1974, 39 FR 33103).	We published an ANPR to establish a monograph for OTC topical antimicrobial drug products, together with the recommendations of the advisory review panel (the Panel) responsible for evaluating data on the active ingredients in this drug class.
1978 Antimicrobial TFM (January 6, 1978, 43 FR 1210).	We published our tentative conclusions and proposed effectiveness testing for the drug product categories evaluated by the Panel, reflecting our evaluation of the Panel's recommendations and comments and data submitted in response to the Panel's recommendations.
1991 First Aid TFM (July 22, 1991, 56 FR 33644).	We amended the 1978 TFM to establish a separate monograph for OTC first aid antiseptic products. In the 1991 TFM, we proposed that first aid antiseptic drug products be indicated for the prevention of skin infections in minor cuts, scrapes, and burns.
1994 Healthcare Antiseptic TFM (June 17, 1994, 59 FR 31402).	We amended the 1978 TFM to establish a separate monograph for the group of products referred to as OTC topical health care antiseptic drug products. These antiseptics are generally intended for use by health care professionals. In the 1994 TFM, we also recognized the need for antibacterial personal cleansing products for consumers to help prevent cross-contamination from one person to another and proposed a new antiseptic category for consumer use: Antiseptic hand wash.
2013 Consumer Antiseptic Wash TFM (December 17, 2013, 78 FR 76444).	We issued a proposed rule to amend the 1994 TFM and to establish data standards for determining whether OTC consumer antiseptic washes are GRAS/GRAE. In the 2013 Consumer Antiseptic Wash TFM, we proposed that additional safety and effectiveness data are necessary to support the safety and effectiveness of consumer antiseptic wash active ingredients.
2015 Health Care Antiseptic TFM (May 1, 2015, 80 FR 25166).	We issued a proposed rule to amend the 1994 TFM and to establish data standards for determining whether OTC health care antiseptics are GRAS/GRAE. In the 2015 Health Care Antiseptic TFM, we proposed that additional data are necessary to support the safety and effectiveness of health care antiseptic active ingredients.
2016 Consumer Antiseptic Rub TFM (June 30, 2016, 81 FR 42912).	We issued a proposed rule to amend the 1994 TFM and to establish data standards for determining whether OTC consumer antiseptic rubs are GRAS/GRAE. In the 2016 Consumer Antiseptic Rub TFM, we proposed that additional safety and effectiveness data are necessary to support the safety and effectiveness of consumer antiseptic rub active ingredients.

[1] Because the category of products referred to as ''patient preoperative skin preparations'' in the 1994 TFM and the 2015 Health Care Antiseptic PR encompasses products that are used for preinjection skin preparation in health care settings outside the hospital (so not preoperative), in this final rule we refer to such products as ''patient antiseptic skin preparations.''

TABLE 1—SIGNIFICANT RULEMAKING PUBLICATIONS RELATED TO HEALTH CARE ANTISEPTIC DRUG PRODUCTS [1]—Continued

Federal Register notice	Information in notice
2016 Consumer Antiseptic Wash Final Monograph (September 6, 2016, 81 FR 61106).	We issued a final rule finding that certain active ingredients used in OTC consumer antiseptic wash products are not GRAS/GRAE. We deferred further rulemaking on three specific active ingredients (benzalkonium chloride, benzethonium chloride, and chloroxylenol) used in OTC consumer antiseptic wash products to allow for the development and submission of new safety and effectiveness data to the record for those ingredients.

[1] The publications listed in table 1 can be found at FDA's ''Status of OTC Rulemakings'' website available at *http://www.fda.gov/Drugs/DevelopmentApprovalProcess/DevelopmentResources/Over-the-CounterOTCDrugs/StatusofOTCRulemakings/ucm070821.htm.* The publications dated after 1993 can also be found in the FEDERAL REGISTER at *https://www.federalregister.gov.*

B. Public Meetings Relevant to This Final Rule

In addition to the **Federal Register** publications listed in table 1, there have been three meetings of the NDAC that are relevant to the discussion of health care antiseptic safety and effectiveness. These meetings are summarized in table 2.

TABLE 2—PUBLIC MEETINGS RELEVANT TO HEALTH CARE ANTISEPTICS

Date and type of meeting	Topic of discussion
January 1997, NDAC Meeting (Joint meeting with the Anti-Infective Drugs Advisory Committee) (January 6, 1997, 62 FR 764).	Antiseptic and antibiotic resistance in relation to an industry proposal for consumer and health care antiseptic effectiveness testing (Health Care Continuum Model) (Refs. 1 and 2).
March 2005, NDAC Meeting (February 18, 2005, 70 FR 8376)	The use of surrogate endpoints and study design issues for the in vivo testing of health care antiseptics (Ref. 3).
September 2014, NDAC Meeting (July 29, 2014, 79 FR 44042)	Safety testing framework for health care antiseptic active ingredients (Ref. 4).

C. Scope of This Final Rule

This rulemaking finalizes the nonmonograph status of the 24 listed health care antiseptic active ingredients (see section IV.D.1). Requests were made that benzalkonium chloride, benzethonium chloride, chloroxylenol, alcohol, isopropyl alcohol, and povidone-iodine be deferred from consideration in this health care antiseptic final rule to allow more time for interested parties to complete the studies necessary to fill the safety and effectiveness data gaps identified in the 2015 Health Care Antiseptic PR for these ingredients. In January 2017, we agreed to defer rulemaking on these six ingredients (see Docket No. 2015–N–0101 at *https://www.regulations.gov*).

For the 24 active ingredients included in this final rule, no additional data were submitted to the record to fill the safety and effectiveness data gaps identified in the 2015 Health Care Antiseptic PR for these 24 active ingredients. Therefore, we find that these 24 active ingredients are not GRAS/GRAE for use in health care antiseptic drug products and these ingredients are not included in the OTC topical antiseptic monograph at this time. Products containing these ingredients are new drugs for which approved new drug applications (NDAs) or abbreviated new drug applications (ANDAs) are required prior to marketing. Accordingly, FDA is amending part 310 (21 CFR part 310) to add the active ingredients covered by this final rule to the list of active ingredients in § 310.545 (21 CFR 310.545) that are not GRAS/GRAE for use in the specified OTC drug products.

D. Eligibility for the OTC Drug Review

An OTC drug is covered by the OTC Drug Review if its conditions of use existed in the OTC drug marketplace on or before May 11, 1972 (37 FR 9464) (Ref. 5).[2] Conditions of use include, among other things, active ingredient, dosage form and strength, route of administration, and specific OTC use or indication of the product (see § 330.14(a)). To determine eligibility for the OTC Drug Review, FDA typically must have actual product labeling or a facsimile of labeling that documents the conditions of marketing of a product before May 1972 (see § 330.10(a)(2)). FDA considers a drug that is ineligible for inclusion in the OTC monograph system to be a new drug that requires FDA approval of an NDA or ANDA. Ineligibility for use as a health care antiseptic does not affect eligibility under any other OTC drug monograph.

[2] Also, note that drugs initially marketed in the United States after the OTC Drug Review began in 1972 and drugs without any U.S. marketing experience can be considered in the OTC monograph system based on submission of a time and extent application. (See § 330.14.)

1. Eligible Active Ingredients

Table 3 lists the health care antiseptic active ingredients that have been considered under this rulemaking and shows whether each ingredient is eligible or ineligible for evaluation under the OTC Drug Review for use in health care antiseptics for each of the five specified uses: Patient antiseptic skin preparation, health care personnel hand wash, health care personnel hand rub, surgical hand scrub, and surgical hand rub.

TABLE 3—ELIGIBILITY OF ANTISEPTIC ACTIVE INGREDIENTS FOR HEALTH CARE ANTISEPTIC USES [1]

Active ingredient	Patient antiseptic skin preparation	Health care personnel hand wash	Health care personnel hand rub	Surgical hand scrub	Surgical hand rub
Alcohol 60 to 95 percent	[2] Y	[3] N	Y	N	Y
Benzalkonium chloride	Y	Y	Y	Y	N
Benzethonium chloride	Y	Y	N	Y	N
Chlorhexidine gluconate	N	N	N	N	N
Chloroxylenol	Y	Y	N	Y	N
Cloflucarban	Y	Y	N	Y	N
Fluorosalan	Y	Y	N	Y	N
Hexylresorcinol	Y	Y	N	Y	N
Iodine complex (ammonium ether sulfate and polyoxyethylene sorbitan monolaurate)	N	Y	N	Y	N
Iodine complex (phosphate ester of alkylaryloxy polyethylene glycol)	Y	Y	N	Y	N
Iodine tincture United States Pharmacopeia (USP)	Y	N	N	N	N
Iodine topical solution USP	Y	N	N	N	N
Nonylphenoxypoly (ethyleneoxy) ethanoliodine	Y	Y	N	Y	N
Poloxamer-iodine complex	Y	Y	N	Y	N
Povidone-iodine 5 to 10 percent	Y	Y	N	Y	N
Undecoylium chloride iodine complex	Y	Y	N	Y	N
Isopropyl alcohol 70–91.3 percent	Y	N	Y	N	Y
Mercufenol chloride	Y	N	N	N	N
Methylbenzethonium chloride	Y	Y	N	Y	N
Phenol (equal to or less than 1.5 percent)	Y	Y	N	Y	N
Phenol (greater than 1.5 percent)	Y	Y	N	Y	N
Secondary amyltricresols	Y	Y	N	Y	N
Sodium oxychlorosene	Y	Y	N	Y	N
Triclocarban	Y	Y	N	Y	N
Triclosan	Y	Y	N	Y	N
Combinations:					
Calomel, oxyquinoline benzoate, triethanolamine, and phenol derivative	Y	N	N	N	N
Mercufenol chloride and secondary amyltricresols in 50 percent alcohol	Y	N	N	N	N
Triple dye	Y	N	N	N	N

[1] Hexachlorophene and tribromsalan are not included in this table because they are the subject of final regulatory action (see section IV.D.3).
[2] Y = Eligible for specified use.
[3] N = Ineligible for specified use.

2. Ineligible Active Ingredients

In the 2015 Health Care Antiseptic PR (and as outlined in table 3), we identified certain active ingredients that were considered ineligible for evaluation under the OTC Drug Review as a health care antiseptic for specific indications. We noted, however, that if the requested documentation for eligibility was submitted, these active ingredients could be determined to be eligible for evaluation (80 FR 25166 at 25171).

We received a comment requesting that benzethonium chloride be deemed eligible for evaluation under the OTC Drug Review for use as a health care personnel hand rub and surgical hand rub. For the reasons explained in section V.C.1, we find that benzethonium chloride continues to be ineligible for evaluation under the OTC Drug Review for use as a health care personnel hand rub and surgical hand rub. Consequently, drug products containing benzethonium chloride for use in health care personnel hand rubs and surgical hand rubs will require approval under an NDA or ANDA prior to marketing.

We also received comments arguing that chlorhexidine gluconate is eligible for evaluation under the OTC Drug Review for use as a health care antiseptic. For the reasons explained in section V.C.2, we find that chlorhexidine gluconate continues to be ineligible for evaluation under the OTC Drug Review for use as a health care antiseptic. Consequently, drug products containing chlorhexidine gluconate for use in health care antiseptics will require approval under an NDA or ANDA prior to marketing.

In addition, we received a comment requesting that alcohol be deemed eligible for evaluation under the OTC Drug Review for use as a surgical hand scrub. For the reasons explained in section V.C.3, we find that alcohol continues to be ineligible for evaluation under the OTC Drug Review for use as a surgical hand scrub. Consequently, drug products containing alcohol for use in surgical hand scrubs will require approval under an NDA or ANDA prior to marketing.

Moreover, for the remaining health care antiseptic active ingredients that we proposed were ineligible for evaluation under the OTC Drug Review, we have not received any new information since the publication of the 2015 Health Care Antiseptic PR demonstrating that these ineligible active ingredients are eligible for

evaluation under the OTC Drug Review for use as a health care antiseptic for the specified indications (see table 3). Consequently, we find that these active ingredients continue to be ineligible for evaluation under the OTC Drug Review for use as a health care antiseptic for the specified indications and drug products containing these ineligible active ingredients will require approval under an NDA or ANDA prior to marketing.

3. Ingredients Previously Proposed as Not Generally Recognized as Safe and Effective

FDA may determine that an active ingredient is not GRAS/GRAE for a given OTC use (*i.e.,* nonmonograph) because of lack of evidence of effectiveness, lack of evidence of safety, or both. In the 1994 TFM (59 FR 31402 at 31435 to 31436) and the 2015 Health Care Antiseptic PR (80 FR 25166 at 25173 to 25174), FDA proposed that the active ingredients fluorosalan, hexachlorophene, phenol (greater than 1.5 percent), and tribromsalan be found not GRAS/GRAE for the uses set forth in the 1994 TFM: Antiseptic hand wash, health care personnel hand wash, patient antiseptic skin preparation, and surgical hand scrub. FDA did not classify hexachlorophene or tribromsalan in the 1978 TFM (43 FR 1210 at 1227) because it had already taken final regulatory action against hexachlorophene (21 CFR 250.250) and certain halogenated salicylamides, notably tribromsalan (21 CFR 310.502). No substantive comments or new data were submitted to the record of the 1994 TFM or the 2015 Health Care Antiseptic PR to support reclassification of any of these ingredients as GRAS/GRAE. Therefore, FDA has determined that these active ingredients are not GRAS/GRAE for use in OTC health care antiseptic products as defined in this final rule, and drug products containing these ineligible active ingredients will require approval under an NDA or ANDA prior to marketing.

V. Comments on the Proposed Rule and FDA Response

A. Introduction

In response to the 2015 Health Care Antiseptic PR, we received approximately 29 comments from drug manufacturers, trade associations, academia, testing laboratories, health professionals, and individuals. We also received additional data and information for certain deferred health care antiseptic active ingredients.

We describe and respond to the comments in section V.B through V.F. We have numbered each comment to help distinguish among the different comments. We have grouped similar comments together under the same number, and in some cases, we have separated different issues discussed in the same comment and designated them as distinct comments for purposes of our responses. The number assigned to each comment or comment topic is purely for organizational purposes and does not signify the comment's value, importance, or the order in which comments were received.

B. General Comments on the Proposed Rule and FDA Response

1. Effective Date

(Comment 1) Several comments requested that FDA extend its timeline under the 2015 Health Care Antiseptic PR to allow more time for the submission of new data and information. They asserted that the one year compliance date was too short and that it could take several years to design, execute, analyze, and report on the necessary safety and effectiveness studies.

(Response 1) In the 2015 Health Care Antiseptic PR, we provided a process for seeking an extension of time to submit the required safety and effectiveness data if such an extension is necessary (80 FR 25166 at 25169). As explained in the proposed rule, we stated that we would consider all the data and information submitted to the record in conjunction with all timely and completed requests to extend the timeline to finalize the monograph status for a given ingredient. We received requests to defer six health care antiseptic active ingredients from this rulemaking. Consideration for deferral for an ingredient was given to requests with clear statements of intent to conduct the necessary studies required to fill all the data gaps identified in the proposed rule for that ingredient. After analyzing the data and information submitted related to the requests for extensions, we determined that a deferral is warranted for the six health care antiseptic active ingredients—benzalkonium chloride, benzethonium chloride, chloroxylenol, alcohol, isopropyl alcohol, and povidone-iodine—to allow more time for interested parties to complete the studies necessary to fill the safety and effectiveness data gaps identified for these ingredients in the 2015 Health Care Antiseptic PR. The monograph status of these six ingredients will be addressed either after completion and analysis of ongoing studies to address the safety and effectiveness data gaps of these ingredients or at a later date if these studies are not completed. We did not receive any deferral requests for the 24 remaining health care antiseptic active ingredients, and so we decline to defer final action on the proposed rule for these ingredients.

2. Use in Health Care Settings Outside the Hospital

(Comment 2) One comment requested that FDA ''better clarify and define the scope'' of this rulemaking on the use of health care antiseptics in health care settings outside of the hospital ''in order that the proper antiseptic products are provided for patients in the spectrum of health care settings while also being covered by health care insurers.'' The comment stated that patients and health care workers in these other settings deserve the same level of safety and efficacy standards as those in the hospital setting. The comment expressed concern that certain entities may determine that they need to supply products intended for ''consumer use,'' which, the comment stated, may have different and lesser standards.

(Response 2) We agree that health care antiseptic products are used in a variety of health care settings, not just hospitals. Over the past several decades, there has been a significant shift in health care delivery from the acute, inpatient hospital setting to a variety of outpatient and community-based settings. There are many examples of health care settings outside the hospital that involve the use of antiseptic products. These settings include, but are not limited to, the care of patients in outpatient medical and surgical facilities, dental clinics, skilled nursing facilities or nursing homes, adult medical day care centers, public health clinics, imaging centers, oncology clinics, infusion centers, dialysis centers, behavioral health clinics, physical therapy and rehabilitation centers, and in private homes. The term ''health care'' as used in this rulemaking includes all these settings.

We note, however, that this rule does not address the use of a specific health care antiseptic drug product in a particular health care situation. In addition, the coverage of antiseptic drug products by health care insurers is outside FDA's purview.

3. GRAS/GRAE Classification of Certain Ingredients

(Comment 3) Several comments requested that FDA reconsider its proposal in the 2015 Health Care Antiseptic PR to classify alcohol, isopropyl alcohol, and povidone-iodine as Category III active ingredients. In the 1994 TFM, alcohol, isopropyl alcohol,

and povidone-iodine were proposed to be classified as Category I topical antiseptic ingredients for certain indications. The comments contended that FDA's proposal to change these ingredients' proposed classification from Category I to Category III is not based on a safety or effectiveness concern or issue. One comment noted that during the September 3, 2014, NDAC meeting, several NDAC members expressed concerns about changing the proposed classification of alcohol, isopropyl alcohol, and povidone-iodine from Category I to Category III, indicating that the change in the proposed classification could lead health care personnel to stop using products with these active ingredients. The comment also pointed out that, in the 2015 Health Care Antiseptic PR and in related public announcements, FDA emphasized that we did not believe that health care antiseptic products containing these ingredients were ineffective or unsafe, or that their use should be discontinued. In fact, that comment noted that FDA recommended that health care personnel continue to use these antiseptic products consistent with infection control guidelines while additional data about the products were gathered.

(Response 3) As we explained in the 2015 Heath Care Antiseptic PR, the OTC drug procedural regulations in § 330.10 use the terms ''Category I'' (generally recognized as safe and effective and not misbranded), ''Category II'' (not generally recognized as safe and effective or misbranded), and ''Category III'' (available data are insufficient to classify as safe and effective, and further testing is required) (80 FR 25166 at 25168). We classify ingredients as Category I, II, or III until the final monograph stage, at which point we use the term ''monograph conditions'' in place of Category I, and the term ''nonmonograph conditions'' in place of Categories II and III. In the 1994 TFM, alcohol and povidone-iodine were both proposed to be classified as Category I topical antiseptic ingredients for use in surgical hand scrubs, patient antiseptic skin preparations, and antiseptic hand washes or health care personnel hand wash products (59 FR 31402 at 31420 and 31433). Isopropyl alcohol was proposed to be classified as Category I for patient antiseptic skin preparation ''for the preparation of the skin prior to an injection'' (59 FR 31402 at 31433).

In the 2015 Health Care Antiseptic PR, we changed the proposed classification of alcohol, isopropyl alcohol, and povidone-iodine from Category I to III for these indications, because we found that there was not enough data on these three ingredients to meet our proposed safety and effectiveness data requirements. We explained that we were proposing changes to the safety and effectiveness data requirements identified in the 1994 TFM in light of comments we received, input from subsequent public meetings, and our independent evaluation of other relevant scientific information (80 FR 25166 at 25166).

Among other things, our proposed revisions to the data requirements identified in the 1994 TFM were based on several important scientific developments that affected the safety evaluation of health care antiseptic active ingredients, including improved analytical methods that can detect and more accurately measure these ingredients at lower levels in the bloodstream and tissue (80 FR 25166 at 25166 to 25167). As a result of these improved methods, we have learned that some systemic exposures can be detected, where previously they were undetected, and that some systemic exposures are higher than previously thought. We also have new information about the potential risks from systemic absorption and long-term exposure (80 FR 25166 at 25167). In addition, the standard battery of tests that were used to determine the safety of drugs had changed over time to incorporate improvements in safety testing. As we explained in the 2015 Health Care Antiseptic PR, it is critical that the safety and effectiveness of these ingredients be supported by data that meet the most current standards, considering the prevalent use of health care antiseptic products (80 FR 25166 at 25167).

Our decision to propose revising the safety and effectiveness data requirements identified in the 1994 TFM was also based in part on meetings of the NDAC that were held in March 2005 and September 2014. As we noted in the preamble to the 2015 Health Care Antiseptic PR, input from participants at the March 2005 NDAC meeting prompted us to reevaluate the data needed for classifying health care antiseptic active ingredients as GRAE (80 FR 25166 at 25166). Moreover, at the meeting held in September 2014, the NDAC discussed FDA's proposed revisions to the safety data requirements and unanimously voted that the revised safety data requirements were appropriate to demonstrate that a health care antiseptic active ingredient is GRAS.

As one comment noted, at the September 2014 meeting, several NDAC members expressed concerns about changing the proposed classification of alcohol, isopropyl alcohol, and povidone-iodine from Category I to Category III, indicating that this change in the proposed classification could lead health care personnel to stop using products with these active ingredients. At the same meeting, FDA emphasized both that health care antiseptics are a critically important part of the infection control paradigm in place in every hospital across the country and that our goal is not to remove such products from the market (Ref. 4). That remains our goal, and we note that these ingredients have each been deferred, so they are not addressed in this final rule.

4. Patient Preoperative Skin Preparation

(Comment 4) One comment asked FDA to clarify the term ''patient preoperative skin preparation,'' noting that, in the 2015 Health Care Antiseptic PR, the term ''patient preoperative skin preparation'' includes skin preparation prior to an injection (preinjection) and that this may cause confusion because it could be misinterpreted to mean that all products listed can be used for either patient preoperative skin preparation or preinjection.

Several comments also asserted that the effectiveness testing for preinjection should have different clinically relevant time points because preinjection use serves a different purpose and has a different use pattern than patient preoperative skin preparations. They argued that surgical incision demands persistent activity due to the invasive nature of cutting through the skin's natural barrier over a larger area, the procedure duration (which can be hours), and the time the incision point will be open and will subsequently need to heal. As such, the comments argued, persistence may be an important attribute of patient preoperative skin preparations. They explained that in contrast, an injection is a procedure lasting only seconds and poses a relatively low risk of infection. They also explained that the injection site heals quickly, so there is no need for persistent antimicrobial activity. They stated that if patient preinjection skin preparation products are required to meet the same effectiveness requirements as patient preoperative skin preparation products, this would effectively clear the market of available cost effective solutions for those who need these products. Therefore, the comments asserted that the effectiveness requirements for patient preoperative skin preparation should be different from the effectiveness requirements for patient preinjection skin preparations.

(Response 4) We agree that the circumstances under which health care

antiseptics can be used for preinjection should be clarified because patient preoperative skin preparations and preinjection skin preparations can serve different purposes and have different uses. Accordingly, we clarify that patient preoperative skin preparation and patient preinjection skin preparation may involve separate uses within the category of patient antiseptic skin preparations. As noted in the comments, surgical incisions require persistent activity from patient preoperative skin preparations due to the invasive nature of cutting through the skin's natural barrier over a larger area, the procedure duration (which can be hours), and the time the incision point will be open and will subsequently need to heal. As such, persistence is an important attribute of patient preoperative skin preparations. In comparison, injection refers to a brief interruption of skin integrity by a sterile needle that is typically removed within seconds or a few minutes. Due to the brevity of the procedure, the risk of bacterial infection from an injection is low, and so persistent antimicrobial activity is not essential for a preinjection skin preparation product.

Examples of procedures that are covered by a preinjection claim include the following:

- Intramuscular injection for vaccination
- Intramuscular injection for delivery of medication, such as an antibiotic or an anesthetic (for trigger point injection)
- Intradermal injection for tuberculin testing
- Subcutaneous injection of insulin
- Subcutaneous placement of needles for acupuncture
- Venipuncture for blood drawing for laboratory testing
- Intradermal injection for allergy skin testing

Examples of procedures that are not covered by the preinjection claim include the following:

- Venous catheterization for blood donation
- Venous catheterization for an extended delivery of medication, such as slow infusion of an antibiotic
- Venous catheterization for delivery of intravenous fluid
- Placement of a central venous catheter for any purpose
- Placement of a heparin lock
- Placement of an arterial catheter
- Surgical procedure

As stated in the 2015 Health Care Antiseptic PR (80 FR 25166 at 25176), the effectiveness criteria for health care antiseptics are based on the premise that bacterial reductions achieved using tests that simulate conditions of actual use for each OTC health care antiseptic product reflect the bacterial reductions that would be achieved under conditions of such use. Thus, the effectiveness requirements for determining whether an active ingredient is GRAE for use in patient preinjection skin preparations should be consistent with the actual use of that product. We agree that patient antiseptic skin preparations used for preinjection involve a process lasting a much shorter period of time, sometime seconds, compared to surgery, which can last several hours, and that such preinjection use has a lower risk of infection. For these reasons, we also agree that the effectiveness requirements for preinjection should be different than the effectiveness requirements for patient preoperative skin preparations. We discuss these effectiveness requirements in more detail in section V.D.2.

We also note that, although we do not address labeling in this final rule because at this time we have not found any active ingredients to be GRAS/GRAE for use in patient antiseptic skin preparations, we anticipate that labeling for these products will include directions for use that will help providers determine the proper use of preoperative and preinjection antiseptic products.

5. Food Handler Antiseptics

(Comment 5) Several comments requested that FDA formally recognize antiseptic hand washes and rubs used in the food industry as a distinct food handler category subject to its own monograph. The comments also requested that FDA confirm that food handler antiseptics can continue to be marketed until FDA issues a food handler monograph.

(Response 5) As stated in the 2016 Consumer Wash Final Rule (81 FR 61106 at 61109) and the 2015 Health Care Antiseptic PR (80 FR 25166 at 25168), we continue to classify the food handler antiseptic washes as a separate and distinct monograph category. As explained in those rulemakings, food handler antiseptic products are not part of these rulemakings on the health care and consumer antiseptic monographs. We continue to believe a separate category is warranted because of additional issues raised by the public health consequences of foodborne illness, differences in frequency and type of use, and contamination of the hands by grease and other oils.

C. Comments on Eligibility of Active Ingredients and FDA Response

1. Benzethonium Chloride

(Comment 6) In response to the 2015 Health Care Antiseptic PR, we received a comment asserting that benzethonium chloride is eligible for review under the monograph for use in health care personnel hand rubs and surgical hand rubs and that benzethonium chloride be categorized as a Category I ingredient for both indications. Information submitted in the comment showed that methylbenzethonium chloride was present in Bactine, a topical antiseptic for first aid and wound care before May 1972. The comment also asserted that:

- Methylbenzethonium chloride was the active ingredient in the antiseptic, Bactine.
- Bactine with methylbenzethonium chloride was in use before 1972 as a leave-on antiseptic (not rinsed off).
- Methylbenzethonium chloride and benzethonium chloride are equivalent.
- The conditions of use for benzethonium chloride in the 2015 Health Care Antiseptic PR are the same as for Bactine.

(Response 6) In the 2015 Health Care Antiseptic PR (80 FR 25166 at 25171), we explained that an OTC drug is covered by the OTC Drug Review if its conditions of use existed in the OTC drug marketplace on or before May 11, 1972. Conditions of use include active ingredient, dosage form and dosage strength, route of administration, and the specific OTC use or indication of the product. If the eligibility of a product for OTC Drug Review is in question, FDA must have actual product labeling or a facsimile of labeling that documents the conditions of marketing the product before May 1972 (see § 330.10(a)(2)). If benzethonium chloride was the active ingredient in a drug before May 1972 for use as a health care personnel hand rub and/or surgical hand rub, then it would be eligible for the OTC Drug Review for those indications.

We disagree with the comment's statement asserting that methylbenzethonium chloride (the active ingredient in Bactine) is essentially equivalent to benzethonium chloride based on their similar structure and chemical function (both are quaternary ammonium chloride antiseptic ingredients). Although these two ingredients are chemically similar such that they could be grouped as quaternary ammonium compounds, they are not equivalent molecules. Furthermore, although not suggested by the comment, there is no evidence that methylbenzethonium is a prodrug for benzethonium chloride, or requires

conversion or metabolism to benzethonium chloride for antiseptic activity when applied to the skin.

Moreover, although the comment provided data to demonstrate that methylbenzethonium chloride was used in Bactine before May 1972, the submitted label for Bactine contained indications that are not equivalent to the indications for health care personnel hand rubs or surgical hand rubs. The indications and directions on the Bactine label (*i.e.,* minor cuts, scratches, and abrasions; minor burns, sunburn; itching skin irritations; shaving antiseptic; sickroom, nursery (hands, thermometers, surgical instruments, sickroom articles); athlete's foot—sore tired feet) do not support the use of benzethonium chloride as an active ingredient used in a health care antiseptic hand rub by a health care professional in the care of patients or by a surgeon before surgery. The Directions for Use (indications) from the Bactine bottle do not support the eligibility of methylbenzethonium chloride as an OTC health care antiseptic hand rub or surgical hand rub. Lastly, although the use of methylbenzethonium chloride to disinfect the hands is suggested by the word ''hands'' in the directions for ''sickroom, nursery (hands, thermometers, surgical instruments, sickroom articles) use full strength Bactine,'' this reference to hands is imprecise and no specific Directions for Use are provided.

We also performed a literature search to investigate whether benzethonium chloride was used as an active ingredient in an OTC health care antiseptic leave-on product for the indication of a health care personnel hand rub or surgical hand rub before May 1972. Our search did not find evidence for the use of benzethonium chloride as a health care personnel hand rub or surgical hand rub.

In sum, we find that the data submitted in support of the eligibility of benzethonium chloride as a monograph active ingredient for use as a health care personnel hand rub and/or a surgical hand rub do not demonstrate that benzethonium chloride is eligible for use for these health care antiseptic indications. For these reasons, we find that benzethonium chloride continues to be ineligible for evaluation under the OTC Drug Review for use as a health care personnel hand rub and surgical hand rub. Consequently, drug products containing benzethonium chloride for use in health care personnel hand rubs and surgical hand rubs will require approval under an NDA or ANDA prior to marketing.

2. Chlorhexidine Gluconate

(Comment 7) FDA received two comments asserting that chlorhexidine gluconate should be eligible for inclusion in the OTC health care antiseptic monograph. The comments also stated that more data are needed to find chlorhexidine gluconate GRAS/GRAE for use as an OTC health care antiseptic.

(Response 7) Chlorhexidine gluconate was not included in the 1994 TFM because we had previously found chlorhexidine gluconate to be ineligible for inclusion in the monograph for any health care antiseptic use (80 FR 25166 at 25172, citing 59 FR 31402 at 31413). In the 2015 Health Care Antiseptic PR, we explained that we had not received any new information since the 1994 TFM that supported the eligibility of chlorhexidine gluconate for inclusion in the monograph. Consequently, we proposed not to change the categorization of chlorhexidine gluconate based on the lack of documentation demonstrating its eligibility under the OTC Drug Review for use as a health care antiseptic (80 FR 25166 at 25172).

The comments on chlorhexidine gluconate submitted in response to the 2015 Health Care Antiseptic PR did not include any data or any new information to support chlorhexidine gluconate's eligibility for inclusion in the health care antiseptic monograph. Specifically, no evidence was submitted for chlorhexidine gluconate to demonstrate that chlorhexidine gluconate was an active ingredient in OTC health care antiseptics in the United States before May 1972. Consequently, we find that chlorhexidine gluconate continues to be ineligible for evaluation under the OTC Drug Review for use as a health care antiseptic. Drug products containing chlorhexidine gluconate for use in health care antiseptics will require approval under an NDA or ANDA prior to marketing. Because chlorhexidine gluconate continues to be ineligible for consideration under the health care antiseptic monograph, it is unnecessary to address the comments' statement that more safety and effectiveness data are needed to find chlorhexidine gluconate GRAS/GRAE for OTC health care antiseptic use.

(Comment 8) In response to the 2015 Health Care Antiseptic PR, we also received a comment expressing concerns regarding the bacterial resistance of chlorhexidine gluconate. In addition, we received a comment that suggested that chlorhexidine gluconate is superior to povidone-iodine as a patient preoperative skin preparation.

(Response 8) Because we find that chlorhexidine gluconate is ineligible for consideration under the health care antiseptic monograph and these comments do not have an impact on this finding, we do not address these comments in this final rule.

3. Alcohol

(Comment 9) In response to the 2015 Health Care Antiseptic PR, a comment was submitted that argued that alcohol should be deemed eligible for evaluation under the OTC Drug Review for use as a surgical hand scrub. The comment asserted that FDA first made its distinction between ''rubs'' and ''scrubs'' in the 2015 Health Care Antiseptic PR, in which FDA proposed that alcohol was ineligible for inclusion in the health care antiseptic monograph as a surgical hand scrub. The comment stated that FDA based this conclusion on the fact that information for rinse-off products was not submitted to the OTC Drug Review. But, the comment claimed, manufacturers had no reason to submit such information because FDA had found alcohol to be GRAS/GRAE for use in surgical hand scrub products in the 1994 TFM, and manufacturers had no notice that FDA was expecting such submissions. The comment argued that the Agency's exclusion of alcohol from the 2015 Health Care Antiseptic PR for use as a surgical hand scrub was arbitrary and capricious and in violation of the Administrative Procedure Act (APA), 5 U.S.C.A. sections 501 *et seq.*

(Response 9) In the 2015 Health Care Antiseptic PR, we explained that the 1994 TFM did not distinguish between products that we are now calling ''antiseptic washes'' and products we are now calling ''antiseptic rubs.'' However, based on comments submitted in response to the 1994 TFM, we tentatively determined that there should be a distinction between antiseptic washes and antiseptic rubs, as well as a distinction between consumer antiseptic and health care antiseptic products. As evidenced by the comments received in response to the 1994 TFM, formulation practices and marketing intent of these products has changed over time and products may not be eligible for conditions under which they are currently marketed. We explained that washes are rinsed off with water, and include health care personnel hand washes and surgical hand scrubs, while rubs are sometimes referred to as ''leave-on products'' and are not rinsed off after use, and include health care personnel hand rubs,

surgical hand rubs, and patient preoperative skin preparations (80 FR 25166 at 25169). As a result of these distinctions, we proposed that alcohol was ineligible for use as a health care personnel hand wash and surgical hand scrub because the only health care antiseptic products that contained alcohol for which evidence was submitted to the OTC Drug Review for evaluation were products that were intended to be used without water (*i.e.,* rubs and skin preparations) (Id. at 25172).

We disagree with the comment's assertions that manufacturers did not have notice or an opportunity to submit information to the OTC Drug Review on alcohol's eligibility for use as a surgical hand scrub. First, we note that the 1994 TFM was a proposed rule, not a final rule; we proposed, but had not yet found, alcohol to be GRAS/GRAE for use in surgical hand scrub products. Moreover, in the 2015 Health Care Antiseptic PR, our proposal that alcohol was ineligible for use as a surgical hand scrub also was a preliminary determination based on the lack of adequate evidence of eligibility for evaluation under the OTC Drug Review. In the proposed rule, we invited parties to submit such evidence of eligibility. We explained that if the documentation demonstrated that an active ingredient met the OTC Drug Review requirements, the active ingredient could be determined to be eligible for evaluation for the specified use. Parties had 180 days to submit comments on the proposed rule and 12 months to submit any new data or information on the proposed rule, including evidence and documentation on eligibility (80 FR 25166 at 25169). The comment submitted in response to the 2015 Health Care Antiseptic PR on this issue did not include any documentation or evidence to demonstrate that alcohol is eligible for use as a surgical hand scrub under the OTC antiseptic monograph, despite the opportunity to include such information. Also, there was no additional data or information submitted to the record thereafter to demonstrate alcohol's eligibility for evaluation under the OTC Drug Review for use as a surgical hand scrub.

For these reasons, we find that alcohol continues to be ineligible for evaluation under the OTC Drug Review for use as a surgical hand scrub. Consequently, drug products containing alcohol for use in surgical hand scrubs will require approval under an NDA or ANDA prior to marketing.

We also note that where these active ingredients are ineligible for evaluation under the OTC Drug Review, interested parties may have the option to submit a time and extent application under § 330.14 (21 CFR 330.14) of FDA's regulations to request that the Agency amend the health care antiseptic monograph to include these active ingredients for use in health care antiseptics for the specified indications.

D. Comments on Effectiveness and FDA Response

1. Clinical Simulation Studies

(Comment 10) One comment stated that FDA should require the same clinical studies that were required to show a benefit of OTC consumer antiseptic washes over and above washing with non-antibacterial soap for OTC antiseptics used in the health care setting. The comment asserted that there are numerous safety concerns with the use of these active ingredients and given these concerns and health care workers' extensive exposure to these ingredients in their workplaces on a daily basis, the Agency should find that there is a benefit over and above washing with plain soap and water in order to make a GRAE determination for these active ingredients. The comment stated that if FDA relies on bacterial reduction as a proxy for effectiveness in the health care setting, it must require that that reduction be compared against plain soap and water, especially given that workers in the health care setting likely wash their hands more frequently than the general public, and thus, are exposed to higher levels of these ingredients.

(Response 10) As we explained in the 2015 Health Care Antiseptic PR (80 FR 25166 at 25175 to 25176), study design limitations and ethical concerns prevent the use of clinical outcome studies to demonstrate the effectiveness of active ingredients used in health care antiseptic products. Participants at the March 2005 NDAC meeting acknowledged the difficulty in designing clinical trials to demonstrate the impact of health care antiseptics on rates of infection where numerous factors contribute to hospital-acquired infections, and therefore, would need to be controlled for in the design of these types of studies. Participants at the March 2005 NDAC meeting recommended that manufacturers perform an array of trials to look simultaneously at the effect on the surrogate endpoint and the clinical endpoint to try to establish a link between the surrogate and clinical endpoints, but provided no guidance on possible study designs. At the time, participants at the March 2005 NDAC meeting agreed that there were currently no clinical trials presented that showed a definitive clinical benefit for a health care antiseptic. However, recently, using an active comparator, Tuuli et al. demonstrated fewer infections following caesarean section with use of an approved patient preoperative health care antiseptic (Ref. 6). Otherwise, we have seen very few examples of well-controlled studies of this type to date.

Participants at the March 2005 NDAC meeting also believed it would be unethical to perform a hospital trial using a vehicle control instead of an antiseptic given the concerns with performing placebo-controlled studies on patients (Ref. 3). The inclusion of such control arms in a clinical outcome study conducted in a hospital setting could pose an unacceptable health risk to study subjects (hospitalized patients and health care providers). In such studies, a vehicle or negative control would be a product with no antimicrobial activity. The use of vehicle or saline (a negative control) in a hospital setting (a setting with an already elevated risk of infections) could increase the risk of infection for both health care providers and their patients. For these reasons, we continue to find that the use of clinical simulation studies relying on surrogate endpoints to evaluate the effectiveness of health care antiseptics is the best means available of assessing the effectiveness of health care antiseptic products.

(Comment 11) Given the ethical concerns with performing clinical trials in a health care setting, one comment urged FDA to evaluate natural experiments that have already occurred (*e.g.,* hospital systems that switched away from chemical antiseptics in hand washes) when making a final monograph decision. The comment also stated that, while the clinical simulation studies provide useful information about one possible route through which bacterial illnesses are passed in a health care setting, as currently designed these studies do not study the complex microflora of the hospital environment, which is home to a wide range of bacterial populations. The comment said that the bactericidal effectiveness of the active ingredients is only partially achieved with the in vitro testing. The comment explained that, in addition to the MIC and time-kill testing, the in vitro tests for health care antiseptics could mirror the ''worst-case'' real-world assumptions. Clinical isolates that closely represent worst-case hospital or health care microbial populations (*e.g.,* large numbers of multi-drug resistant bacterial strains) could be highly useful in determining

the effectiveness of an active ingredient under real-world conditions. The comment stated that worst-case assumptions could include patient-derived isolates from cases involving isolation due to multi-drug resistance or isolates from frequently contaminated surfaces within a hospital or health care setting (*e.g.,* door knobs, soap dispensers); and that this type of testing could be expanded into ''clinical simulation'' studies by measuring log reduction of bacterial counts on hands contaminated under actual health care conditions.

(Response 11) We believe that applying health care-associated high risk microbial pathogens (*e.g.,* methicillin-resistant *Staphylococcus aureus*) during clinical simulation studies raises the ethical and study design issues we have discussed in this rulemaking. Currently, no historical data have been submitted to the docket that address or evaluate the effectiveness of health care antiseptic active ingredients in health care settings. Also, we are not aware of any health care personnel hand wash antiseptic that has been replaced with the use of plain soap and water in the hospital setting, and no such data have been submitted to the docket. Moreover, as explained in this rulemaking, participants at the March 2005 NDAC meeting believed that it would be unethical to perform hospital trial studies using a vehicle control, such as plain soap and water, instead of an antiseptic.

In addition, the standard infection control guidance broadly implemented by CDC (Refs. 7 and 8), which involves measures such as gloving, hand hygiene, patient-to-patient contact, and waste disposal, makes it difficult to design an adequate clinical study (Ref. 9).

Moreover, the in vitro testing required for proof of effectiveness against microorganisms (80 FR 25166 at 25177 to 25178), is already intended to characterize the activity (broad spectrum) of the antimicrobial ingredient. The American Type Culture Collection (ATCC) strains we reference in the 2015 Health Care Antiseptic PR for the in vitro testing are chosen to represent a broad spectrum of bacteria that present a challenge to antisepsis and are the principal bacterial pathogens encountered in hospital settings. The clinical simulation studies described in the 2015 Health Care Antiseptic PR are based on the premise that bacterial reductions achieved using tests that simulate conditions of actual use for each OTC health care antiseptic product category reflect the bacterial reductions that would be achieved under such conditions of use.

2. Log Reduction Testing Criteria

(Comment 12) Multiple comments were submitted to the 2015 Health Care Antiseptic docket on the in vivo testing criteria that use bacterial log reductions for determining the effectiveness of active ingredients used in health care antiseptic products. One comment stated that single application testing and increased log reduction for health care personnel hand rubs is not supported by scientific evidence and that current gaps exist within the peer-reviewed literature. The comment recommended that the Agency not change the testing requirements for the health care personnel hand rub products because alcohol-based hand rubs are used millions of times a day across the United States in all health care facilities. The comment also asserted that the recommended changes to the testing requirements by FDA could result in the unavailability of hand hygiene products to the clinicians who utilize them daily to prevent the transmission of health care associated infections to patients. One comment also asserted that FDA should retain the effectiveness criteria proposed for surgical hand scrubs identified in the 1994 TFM for single applications only.

Several comments also asserted that FDA should retain the effectiveness criteria proposed in the 1994 TFM for health care personnel hand wash and rub products as 2 $\log_{10}$ after a single application. The comments argued that the proposed 2.5 $\log_{10}$ reduction with a 70 percent success criterion for health care personnel hand wash products would be unattainable even by current FDA-approved products. In addition, several comments suggested that FDA adopt effectiveness criteria for in vivo effectiveness testing of active ingredients in surgical hand rubs and scrubs of a 1 $\log_{10}$ reduction within one minute after the first application procedure with no return to baseline within 6 hours.

Several comments also asserted that it is inappropriate to propose a 30-second contact time for patient preoperative skin preparations. The comments argued that most active ingredients for use in patient preoperative skin preparations would be unable to make the log reduction effectiveness criteria at 30 seconds. The comments asserted that, although it may be possible for some patient preoperative skin preparation products to make the log reduction effectiveness criterion and that it may be possible for some patient preoperative skin preparation products to make the 70 percent success rate for abdomen, no products can make the 70 percent success rate for the groin area at 30 seconds. One comment agreed with the 30-second time point, but argued that sampling should include a time point after the drying time is completed according to the directions. The comment stated that, in the proposed amendment to the 1994 TFM, it is unclear whether the antiseptic would be tested 30 seconds after application and while still wet, potentially resulting in efficacy compromise. The comment asserted that FDA should allow the product to fully dry before collecting 30-second time point efficacy testing, especially with topical skin antiseptics, because it is important that the skin be fully dry to achieve maximum efficacy and also to minimize potential skin irritation associated with use. Similarly, another comment asserted that, when referring to time points after product application for patient preoperative skin preparation, it should be explicitly stated that ''after product application'' means ''product application plus required dry time.'' Several comments also stated that the proposed 10-minute application period identified in the 1994 TFM is more representative of current clinical application practices.

(Response 12) As described in the 2015 Health Care Antiseptic PR, we proposed revisions to the log reduction criteria for health care personnel hand washes and rubs, and for surgical hand scrubs and rubs based on the recommendations of the March 2005 NDAC meeting and comments to the 1994 TFM that argued that the demonstration of a cumulative antiseptic effect for these products is unnecessary (80 FR 25166 at 25178). We agreed that the critical element of effectiveness is that a product must be effective after the first application because that represents the way in which health care personnel hand washes and rubs and surgical hand scrubs and rubs are used. Given that we were no longer requiring a cumulative antiseptic effect, the log reduction criteria were revised to reflect this single product application and fall between the log reductions previously proposed for the first and last application. Accordingly, we continue to find that the log reduction criteria for these products should be applied to a single application of the product rather than to multiple applications of the product.

Moreover, in the 2015 Health Care Antiseptic PR, we also proposed that patient antiseptic skin preparations (*i.e.,* patient preoperative and preinjection skin preparations) be able to

demonstrate effectiveness at 30 seconds because we believed that injections and some incisions are made as soon as 30 seconds after skin preparation (80 FR 25166 at 25178). In vivo studies are based on the premise that bacterial reductions achieved using tests that simulate conditions of actual use for each health care antiseptic category reflect the bacterial reductions that would be achieved under conditions of such use. Accordingly, we find that the effectiveness criteria for patient antiseptic skin preparations (*i.e.,* patient preoperative and preinjection skin preparations) should continue to include the 30-second sampling time point. Also, we find that the 10-minute sampling time point proposed in the 1994 TFM should also be included in the effectiveness criteria as a time point option for patient preoperative skin preparations. These products should be tested at the 30-second or 10-minute sampling time point after drying, according to the labeled directions for use. For patient preinjection skin preparations, however, the 10-minute sampling time point should not be a time point option. Patient preinjection skin preparations should be tested at the 30-second time point only.

Based on comments submitted on the 2015 Health Care Antiseptic PR and the Agency's further evaluation of additional data, we have updated the underlying statistical analysis related to the log reduction criteria for classifying health care antiseptic active ingredients as GRAE (Refs. 10, 11, 12, 13, 14, and 15).

In the 1994 TFM, FDA recommended that the general effectiveness of antiseptics be assessed in a number of ways, including conducting clinical simulation studies with the surrogate endpoint of the number of bacteria removed from the skin. In the 2015 Health Care Antiseptic PR, FDA made revisions to the effectiveness criteria set forth in the 1994 TFM, while continuing to recommend that bacterial log reduction studies be used to demonstrate that an active ingredient is GRAE for use in a health care antiseptic product. FDA recommended that these bacterial log reduction studies: (1) Include both a negative control (test product vehicle or saline solution) and an active control; (2) have an adequate sample size to show that the test product is superior to its negative control; (3) incorporate the use of an appropriate neutralizer and a demonstration of neutralizer validation; and (4) include an analysis of the proportion of subjects who meet the recommended log reduction criteria based on a two-sided statistical test for superiority to negative control and a 95 percent confidence interval approach (80 FR 25166 at 25178 to 25179). FDA also recommended that the success rate or responder rate of the test product be significantly higher than 70 percent. This meant that the lower bound of the 95 percent confidence interval for the proportion of subjects who met the log reduction criteria was expected to be at least 70 percent.

Consistent with the 1994 TFM and 2015 Health Care Antiseptic PR, we find that bacterial log reduction studies should continue to be used to demonstrate that an active ingredient is effective for use in a health care antiseptic product. Also consistent with the 2015 Health Care Antiseptic PR, subjects should be randomized to a three-arm study: Test, active control, and negative control. However, based on comments submitted on the 2015 Health Care Antiseptic PR and the Agency's further evaluation of additional data, we are updating the statistical analysis related to the log reduction criteria for classifying health care antiseptic active ingredients as GRAE. Also, as we explain in section V.B.4, we include separate effectiveness criteria for patient preinjection skin preparations to more accurately reflect the actual use of these products. We also clarify, for patient preoperative skin preparations and patient preinjection skin preparations, that the sampling time point commences after the applied product dries.

The updated analysis is designed to assess whether the average treatment effects (ATE) across subjects meet indication-specific conditions of superiority and non-inferiority, rather than whether the percentage of subjects who meet an indication-specific threshold significantly exceeds 70 percent. More specifically, the updated analysis estimates the ATE from a linear regression of post-treatment bacterial count ($\log_{10}$ scale) on the additive effect of a treatment indicator and the baseline or pre-treatment measurement ($\log_{10}$ scale). In the conditions below, the ATE of the test product compared to the negative control is defined as the contrast of treatment effect of negative control minus the treatment effect of the test drug in the linear regression. Likewise, the ATE of the active control compared to the test product is defined as the contrast of treatment effect of test product minus the treatment effect of the active control in the linear regression.

Superiority to negative control by a specific margin is needed because our evaluation suggests that application of a negative control, whether test product's vehicle or saline, may exhibit some minimal antimicrobial properties. Thus, using superiority to negative control by those margins will help ensure that we can appropriately assess the effectiveness of the deferred antimicrobial products. The margins we identify in this section were derived from review and analysis of existing data, and may be revised as data gaps on deferred antimicrobial products are filled. Because of existing data gaps, we also require the deferred ingredient to show non-inferiority to active controls by a 0.5 margin ($\log_{10}$ scale).

Accordingly, based on the updated analysis, the bacterial log reduction studies used to assess whether an active ingredient is effective for use in health care antiseptics should include the following:

- The test product should be non-inferior to an FDA-approved active control with a 0.5 margin ($\log_{10}$ scale). That is, we expect the upper bound of the 95 percent confidence interval of the ATE of the active control compared to the test product to be less than 0.5 ($\log_{10}$ scale). An active control is not intended to validate the study conduct or to show superiority of the test drug product but to show that the test drug product is not inferior. Non-inferiority to active control should be met at the following area and times for the respective health care antiseptic indications:
  - Patient preoperative skin preparation:
    - Per square centimeter on abdominal site within 30 seconds after drying, or within 10 minutes after drying
    - Per square centimeter on groin site within 30 seconds after drying, or within 10 minutes after drying
  - Patient preinjection skin preparation: Per square centimeter on a dry site (*i.e.,* forearm, abdomen, or back) within 30 seconds after drying
  - Health care personnel hand wash: On each hand within 5 minutes after a single wash
  - Health care personnel hand rub: On each hand within 5 minutes after a single rub.
  - Surgical hand scrub: On each hand within 5 minutes after a single scrub
  - Surgical hand rub: On each hand within 5 minutes after a single rub
- The test product should be superior to the vehicle control by an indication-specific margin. That is, we expect the lower bound of the 95 percent confidence interval of the ATE of the test product compared to the vehicle control to be greater than the indication-specific margin. In cases where the vehicle cannot be used as a negative

control, nonantimicrobial soap or saline solution can be used. Based on our evaluation of the existing data, the following indication-specific superiority margin should be met by the deferred ingredients for the respective health care antiseptic indications:

- Superiority margin of 1.2 $\log_{10}$ for patient preoperative skin preparation
  - per square centimeter on abdominal site within 30 seconds after drying, or within 10 minutes after drying
  - per square centimeter on groin site within 30 seconds after drying, or within 10 minutes after drying
- Superiority margin of 1.2 $\log_{10}$ for patient preinjection skin preparation per square centimeter on a dry site (*i.e.,* forearm, abdomen, or back) within 30 seconds after drying
- Superiority margin of 1.2 $\log_{10}$ for health care personnel hand wash on each hand within 5 minutes after a single wash
- Superiority margin of 1.5 $\log_{10}$ for health care personnel hand rub on each hand within 5 minutes after a single rub
- Superiority margin of 0.5 $\log_{10}$ for surgical hand scrub on each hand within 5 minutes after a single scrub
- Superiority margin of 1.5 $\log_{10}$ for surgical hand rub on each hand within 5 minutes after a single rub

As discussed in more detail in section V.D.4, we believe that persistence of antimicrobial effect is an important attribute for health care antiseptic products, and in particular for patient preoperative skin preparations, surgical hand scrubs, and surgical hand rubs. To show persistence of effect for these health care antiseptic indications, the 6 hours post-treatment measurement should be lower than or equal to the baseline measurement for 100 percent of the subjects in each indication and body area tested.

Moreover, for the deferred ingredients, a minimum sample size of 100 subjects per treatment arm should be included for each indication. This sample size will ensure that ATE will be estimated precisely for the deferred ingredients and can be used for future reference in final product monographs. Exact sample size can be based on the margins for non-inferiority and superiority as well as an assessment of variability. In addition, two adequate and well-controlled clinical simulation pivotal studies should be conducted for each indication at two separate independent laboratory facilities by independent principal investigators.

3. Baseline Bacterial Count

(Comment 13) Several comments asserted that the Agency does not specify a minimum baseline bacterial count for subject eligibility in the clinical simulation studies and that the 1994 TFM is vague with regard to baseline values. The 1994 TFM states only that sites are to possess bacterial populations large enough to allow demonstrations of bacterial reduction of up to 2 $\log_{10}$ per square centimeter on dry skin sites and 3 $\log_{10}$ per square centimeter on moist sites (59 FR 31402 at 31450). One comment urged FDA to use baseline values for patient preoperative skin preparations that follow the American Society for Testing and Materials (ASTM) [3] method E1173, which is more specific and states that the bacterial baseline population should be at least 3 $\log_{10}$ per square centimeter on moist skin sites and at least 2 $\log_{10}$ greater than the detection limit on dry skin sites. Several comments also stated that it was challenging to find subjects who have resident bacterial counts high enough to be eligible for these studies.

(Response 13) We do not specify a minimum baseline bacterial count for subject eligibility in the clinical simulation studies; however, the test sites should possess bacterial populations large enough to meet the updated statistical criteria as explained in section III.D.2. We do not specify a minimum baseline bacterial count because, as explained in section III.D.2, the ATE is used to demonstrate effectiveness. Rather than using only a change from baseline, each criterion (groin site and abdomen site) uses the ATE, an estimated difference of the effect of two treatments correcting for baseline count. Manufacturers are encouraged to select subjects with baseline counts significantly higher than the expected log reductions achieved during the testing (*i.e.,* high enough to allow for a positive residual of bacterial burden after the use of the active control and the test product). This selection will ensure that there is a high enough bacterial count at baseline to assess the full effectiveness of both the active control and the product under evaluation. Likewise, a bacterial burden so low that it is depleted readily both by the vehicle (or negative control) and by the test product, will not allow for an assessment of the effectiveness of that test product because the outcome would equally be zero and it will not be possible to measure the difference in log reduction between the test product and negative control. The number of viable microorganisms recovered from the skin of each subject at baseline should be provided in the final study report. In addition, given the updated statistical analysis criteria outlined in section V.D.2, it is unnecessary to apply the baseline values for patient preoperative skin preparations that follow the ASTM E1173 method.

Moreover, if manufacturers find it challenging to recruit subjects who have resident bacterial counts high enough to be eligible for these studies, we recommend the use of the back as an alternate dry test site, rather than using the arm. We do not recommend the use of an occlusive dressing (sterile gauze). Covering the test sites has the potential to change the make-up of the microbial population. Therefore, the use of occlusion may not provide an accurate assessment of how effective the product will be under actual use conditions.

4. Persistence

(Comment 14) One comment stated that current infection control procedures make persistence of antimicrobial activity for surgical hand scrub and patient preoperative skin preparations irrelevant. The comment asserted that persistence of effect may, in fact, be a negative attribute for these products because it may cause irritation. The comment suggested that the Agency place more emphasis on the mildness of these products rather than the persistence of these products. Another comment agreed with the Agency's requirement that patient preoperative skin preparations and surgical scrubs have a persistent antimicrobial effect. Another comment contended that the Agency's statement about the need for persistence of effect for patient preoperative hand scrubs lacks substantiating data. Another comment stated that the concept of persistence of antimicrobial activity is not consistent for surgical scrub and patient preoperative skin preparations, nor is it consistent with clinical practice. The comment asserted that the testing requirements for a patient preoperative skin preparation limit the definition of *persistence* to 6 hours of sustained activity after each product use. The comment recommended that persistence for surgical hand scrub products be defined as sustained activity of the antimicrobial formulation for a period of 6 hours after product use. Another comment asserted that persistence should not be required for any of the health care indications.

(Response 14) In the 1994 TFM, we described the importance of persistence as a characteristic of antiseptic drug

[3] General information about ASTM International can be found at *https://www.astm.org/*.

products. We agreed with the Advisory Review Panel on OTC Miscellaneous External Drug Products' finding that persistence, defined as prolonged activity, is a valuable attribute that assures antimicrobial activity during the interval between washings and is important for a safe and effective health care personnel hand wash. We agreed that a property such as persistence, which acts to prevent the growth or establishment of transient microorganisms as part of the normal baseline or resident flora, would be an added benefit (59 FR 31402 at 31407). Accordingly, we proposed to include the persistence requirement in the definitions of patient preoperative skin preparations and surgical hand scrubs because we believe that persistence of antimicrobial effect would suppress the growth of residual skin flora not removed by preoperative prepping as well as transient microorganisms inadvertently added to the operative field during the course of surgery and reduce the risk of surgical wound infection. Specifically, we proposed to define patient preoperative skin preparation to be a fast acting, broad spectrum, and persistent antiseptic containing preparations that significantly reduce the number of micro-organisms on intact skin, and we proposed to define surgical hand scrub drug products to be an antiseptic containing preparation that significantly reduces the number of microorganisms on intact skin; it is broad spectrum, fast acting, and persistent (59 FR 31402 at 31442). In addition, although we do not require persistence for health care personnel hand washes, we did propose to retain the words ''if possible, persistent'' in the definition of health care personnel hand wash (59 FR 31402 at 31442).

FDA continues to believe that persistence of antimicrobial effect is an important attribute because it can suppress the growth of residual skin flora, as well as transient microorganisms not removed by preoperative prepping or hand scrubbing. FDA is also aware that the donning of surgical gloves may produce a rapid increase in microbial count on the hands (Refs. 16, 17, and 18), even after use of a surgical hand antiseptic product, which is another reason why persistence of effect is a critical characteristic for antiseptic products. Accordingly, we find that persistence is a requirement for surgical hand scrubs, surgical hand rubs, and patient preoperative skin preparations. We find that these antimicrobial products must be fast-acting and consist of broad spectrum, persistent antiseptic-containing preparations that significantly reduce the number of microorganisms on intact skin. As discussed in section V.D.2 of this final rule, to show the persistence of effect for these health care antiseptic indications, the 6 hours post-treatment measurement should be lower than or equal to the baseline measurement for 100 percent of subjects for each indication and body area tested.

5. Controls

(Comment 15) Several comments objected to the use of controls because we do not specify what positive control material to use in the effectiveness studies. One comment contended that, because the Agency does not specify the control product, the test results will differ depending on the effectiveness of the positive control. Another comment recommended that we convene an expert panel to develop standard positive controls. They cite the trend, on a worldwide basis, to identify and adopt standardized testing procedures. They believe it would be far better for the international harmonization effort if a standard chemical, rather than a specific product or commercial formulation, was used as the control. For these reasons, the comment recommended that the positive control should be a standard chemical that can be produced on a global basis and will perform consistently and reproducibly.

Other comments requested that we clarify how to interpret the results of the positive control. One comment asked if our standard is meeting the required log reduction, superiority to the positive control, or both. Another comment pointed out that the Agency does not define the criterion for an acceptable outcome for the positive control. For instance, the comment states that it is unclear if an 80 percent success rate in the positive control for a surgical hand scrub would be acceptable and if so, whether the new treatment could be 20 percent less successful than the positive control and still be equivalent. For health care personnel hand washes, they assert that it is not clear if the control must meet the requirements of 2 and 3 $\log_{10}$ reduction at the lower 95 percent confidence interval limit or an average. The comment requested that FDA specify criteria for validity of the study in terms of the positive control and criteria for concluding that a test material is effective in terms of equivalence to the positive control. One comment noted that the Agency's proposed patient preoperative skin preparation treatment application procedure does not include any reference to the active control sites.

Several comments agreed that the Agency's proposed changes to the in vivo efficacy testing will reflect more accurately the real world use of topical antiseptic drug products. The comments requested that the Agency provide a validated ''gold standard'' for use as an active control. One comment stated that it is appropriate that GRAS/GRAE active ingredients would serve as the active control for any effectiveness studies required for final formulations. For example, the comment explained that alcohol at the concentration and application instructions evaluated in the pivotal studies to help establish GRAS/GRAE status would become the active control for effectiveness studies involving alcohol-based final formulations. This would be more appropriate than using an FDA-approved product for the active control, particularly for alcohol-based hand sanitizer products where the only FDA-approved drug is a dual-active product.

(Response 15) We do not define a specific positive control material to use in the effectiveness studies in this final rule, but we do recommend the use of an appropriate FDA-approved NDA antiseptic as the positive control (*i.e.,* active control) when conducting the effectiveness testing of health care antiseptic active ingredients. We recognize that many countries have adopted standard chemicals for their active controls. However, we still believe that we cannot define a specific active control product for the following reasons:

- We do not have sufficient data to choose a specific universal active control product that will be appropriate for all test formulations or active ingredients.
- Changes to the formulation or manufacturing of the chosen active control product might affect its activity in future studies. Consequently, products tested against the modified active control might not be held to the same standards as products tested previously.

Although we do not identify a specific control product, we do identify test criteria for the active control. As described in section V.D.2, we recommend the use of non-inferiority of the test product to an FDA-approved active control by a margin of 0.5 ($\log_{10}$ scale). That is, we expect the upper bound of the 95 percent confidence interval of the ATE of the active control compared to the test product to be less than 0.5 ($\log_{10}$ scale). An active control is not intended to validate the study conduct or show superiority of the test

drug product, but to show that the test drug product is not inferior.

In addition, we recommend the use of an active control product of the same type as the test product. For example, if the test product is a leave-on surgical hand antiseptic, then an FDA-approved leave-on surgical hand antiseptic should be used as the active control rather than a rinse-off surgical hand antiseptic. We believe it is more appropriate to compare similar types of products.

(Comment 16) One comment stated that a vehicle typically refers to the product formulated without the active ingredient. The comment recommended that the term ''vehicle'' be replaced with the term ''negative control.'' Another comment requested that FDA clarify whether testing of the vehicle is required.

(Response 16) We recognize that the term ''negative control'' may be broader than the term ''vehicle,'' and we agree that the term ''vehicle'' should be replaced with the term ''negative control'' where applicable. As discussed in section V.D.2, we recommend that the effectiveness testing study design for health care antiseptic active ingredients include a negative control arm, which is used as a comparator for the test product. The appropriate negative control to be used in the studies is the test product's vehicle, which we interpret to be the same product being tested, without the active ingredient included, and therefore, best represents the independent contribution of the antiseptic active ingredient. Because the same directions for use will apply to the negative control and the test product, this should account for any potential mechanical removal of microorganisms, which occurs during the rubbing, scrubbing, wiping, or rinsing process, independent of the active ingredient effect. If there is a scientific reason why testing a product using its vehicle as a negative control is not feasible, discussions can be had with FDA to determine whether the use of an alternative negative control, such as a saline solution or nonantimicrobial soap (for health care personnel and surgical hand antiseptics), may be acceptable.

We note that the testing described in this document pertains to single active ingredients. Manufacturers should contact us if, in the future, they would like to develop a fixed-combination health care antiseptic drug product.

6. In Vitro Testing

(Comment 17) One comment outlined the Agency's proposed requirements listed in the 2015 Health Care Antiseptic PR (80 FR 25166 at 25177 to 25178) for an evaluation of the spectrum and kinetics of antimicrobial activity of a health care antiseptic as including the following:

- A determination of the in vitro spectrum of antimicrobial activity against recently isolated normal flora and cutaneous pathogens;
- Minimum inhibitory concentration (MIC) or minimum bactericidal concentration (MBC) testing of 25 representative clinical isolates and 25 reference strains of each of the microorganisms listed in the 1994 TFM; and
- Time-kill testing of each of the microorganisms listed in the 1994 TFM to assess how rapidly the antiseptic active ingredient produces its effect. The dilutions and time points tested should be relevant to the actual use pattern of the final product.

The comment requested that we confirm that the first bullet is meant to describe what will be learned from the studies outlined in the last two bullets because they do not recognize the first bullet as an actual study. The comment also asked for confirmation that the emergence of resistance testing is no longer a requirement.

Another comment stated that the Agency has proposed in vitro testing of 1,150 microorganisms (25 clinical isolates and 25 reference isolates for 23 microorganisms). The comment argued that the Agency's suggestion that previous tests of the same or similar strains are no longer valid is arbitrary and that the requirement for new repeated tests is unduly burdensome. The comment asserted that the proposed number of clinical and reference isolates far exceeds the number required for FDA-approved hand hygiene products, which have successfully completed the review process. The comment recommended that organisms of current clinical value as well as recent clinical isolates be utilized to better assess the in vitro efficacy of these active ingredients. Another comment similarly asserted that the microorganisms identified by FDA for antimicrobial activity testing do not include pathogens that are relevant to current health care settings; the comment argued that the list should include Methicillin-resistant *Staphylococcus aureus,* Methicillin-resistant *Staphylococcus epidermidis,* Vancomycin-resistant *Enterococcus; Enterococcus faecalis* and *Enterococcus faecium*). Another comment proposed that FDA should consider adequate justifications for testing fewer than the identified strains for organisms where 25 clinical isolates and/or 25 standard strains are not available for screening active ingredients.

(Response 17) We agree that the determination of the in vitro spectrum of antimicrobial activity against recently isolated normal flora and cutaneous pathogens is meant to describe what will be learned from the MIC and/or MBC and time-kill studies and is not intended to be a separate study. With regards to testing for the emergence of resistance, we are requiring resistance testing for three of the six deferred active ingredients—benzalkonium chloride, benzethonium chloride, and chloroxylenol (Refs. 10, 11, 12, 13, 14, and 15). However, we are not requiring resistance testing for the other three deferred active ingredients—ethyl alcohol, isopropyl alcohol, and povidone-iodine (see section V.D.2).

In addition, we disagree that we are suggesting that previous tests of the same or similar strains are no longer valid. In the 2015 Health Care Antiseptic PR, we proposed the option of assessing the MBC as an alternative to testing the MIC. We also reiterated our proposal that the evaluation of the spectrum and kinetics of antimicrobial activity of health care antiseptic active ingredients should include MIC (or MBC) testing of 25 representative clinical isolates and 25 reference (*e.g.,* ATCC) strains of each of the microorganisms listed in the 1994 TFM, in addition to the other proposed requirements. In the 2015 Health Care Antiseptic PR, we noted that, despite the fact that the in vitro data submitted to support the effectiveness of antiseptic active ingredients were far less extensive than proposed in the 1994 TFM, manufacturers may have data from their own product development programs which they have not submitted to the docket and/or that published data may have become available that would satisfy some or all of the data requirements (80 FR 25166 at 25178).

As we explained in the 2015 Health Care Antiseptic PR, we agree that the in vitro testing proposed in the 1994 TFM is not necessary for testing every final formulation of an antiseptic product that contains a GRAE ingredient (80 FR 25166 at 25177). However, we continue to believe that a GRAE determination for health care antiseptic active ingredients should be supported by adequate in vitro characterization of the antimicrobial activity of the ingredient. We note that, for the six deferred active ingredients, the Agency is reviewing proposed protocols for the safety and effectiveness studies, including the list of organisms for the time-kill testing and MIC/MBC testing, which may include additional resistant organisms that are relevant to current health care settings.

7. American Society for Testing and Materials Standards

(Comment 18) Several comments proposed that the Agency recognize specific ASTM protocols as standardized test methods for demonstrating that an active ingredient is GRAE for use in health care antiseptics and demonstrating effectiveness for final product formulations. These ASTM test methods include the ASTM E1174 ''Standard Test Method for the Evaluation of the Effectiveness of Health Care Personnel Handwash Formulations''; the ASTM E2755–10 ''Standard Test Method for Determining the Bacteria-Eliminating Effectiveness of Hand Sanitizer Formulations Using Hands of Adults''; the ASTM E1115–11 ''Standard Test Method for Evaluation of Surgical Hand Scrub Formulations''; the ASTM E1173–15 ''Standard Test Method for Evaluation of Preoperative, Precatheterization, or Preinjection Skin Preparations''; the ASTM E1054 ''Standard Test Methods for Evaluation of Inactivators of Antimicrobial Agents''; the ASTM E2783 ''Standard Test Method for Assessment of Antimicrobial Activity for Water Miscible Compounds Using a Time-Kill Procedure''; and the Clinical and Laboratory Standards Institute M07–A10 ''Methods for Dilution Antimicrobial Susceptibility Tests for Bacteria That Grow Aerobically.''

(Response 18) For purposes of the six deferred active ingredients, we have reviewed these test methods and believe they may be useful to help establish GRAE status for the health care antiseptic products for their respective indications. We are currently discussing with manufacturers and trade organizations that requested the deferrals how these test methods may be used to meet the current effectiveness criteria.

Testing requirements for final formulation, however, are not addressed in this final rule because none of the active ingredients subject to this final rule have been found to be GRAE for use in health care antiseptic products. The testing requirements for final formulation of these products containing the six deferred active ingredients will be addressed after a decision is made regarding the monograph status of those ingredients.

E. Comments on Safety and FDA Response

1. Need for Additional Safety Data

(Comment 19) One comment supported FDA's proposal to require additional safety data for the health care antiseptic active ingredients. The comment agreed that more testing is needed to support a GRAS determination for these active ingredients. Other comments, however, asserted that the safety testing proposed in the 2015 Health Care Antiseptic PR for active ingredients used in health care antiseptics is unnecessary and burdensome. The comments asserted that FDA has not provided data to justify that additional safety data are needed for these ingredients to make a GRAS determination and stated that the extensive historical use of these products should serve as proof of the products' safety and effectiveness.

Another comment stated that FDA must document how the systemic absorption levels of active ingredients from the use of health care antiseptics differ from FDA's previous assessment of the safety of these ingredients. The comment asserted that, given the lack of information on FDA's current position on the specific details regarding risk assessment, FDA should consider in vitro data and dose-extrapolation data.

Another comment suggested that long-term systemic exposure to active ingredients used in health care antiseptics could be reduced if the efficacy standards for these products were decreased because lower dose products could be formulated.

(Response 19) We continue to believe that the additional safety data outlined in the 2015 Health Care Antiseptic PR are necessary to support a GRAS classification for the health care antiseptic active ingredients. As was explained in the 2015 Health Care Antiseptic PR, several important scientific developments that affect the safety evaluation of the health care antiseptic active ingredients have occurred since FDA's 1994 evaluation. New data and information on the health care antiseptic active ingredients raise concerns regarding potential risks from systemic absorption and long-term exposure, as well as development of bacterial resistance related to widespread antiseptic use (80 FR 25166 at 25167). Data that meet current safety standards are needed for FDA to conduct an adequate safety evaluation to ensure that health care antiseptic active ingredients are GRAS. Moreover, as previously explained in this document, the September 2014 NDAC meeting participants discussed FDA's proposed revisions to the safety data requirements and agreed that these requirements were appropriate to demonstrate that a health care antiseptic active ingredient is GRAS. Participants at the September 2014 NDAC meeting further concluded that these safety standards are reasonable and considered them to be minimal safety standards for currently available, as well as future healthcare antiseptic products (Ref. 19).

Moreover, the long history of use of a drug product is not sufficient to demonstrate the safety of the product. In the case of antiseptic products, the Agency has requested safety data in both the 1994 TFM and the 2015 Health Care Antiseptic PR in order to finalize the antiseptic rules. Relying solely on adverse event reporting cannot fill data gaps regarding risks such as reproductive toxicity or carcinogenicity. As an example, phenolphthalein was an OTC product with a long history of use as a laxative, but when animal studies were conducted, evidence of carcinogenicity was detected. The April 30, 1997, FDA Center for Drug Evaluation and Research (CDER) Carcinogenicity Assessment Committee (CAC) meeting concluded that there was supportive evidence indicating that phenolphthalein may be carcinogenic through a genotoxic mechanism. FDA concluded ''phenolphthalein caused chromosome aberrations, cell transformation, and mutagenicity in mammalian cells. Because benign and malignant tumor formation occurs at multiple tissue sites in multiple species of experimental animals, phenolphthalein is reasonably anticipated to have human carcinogenic potential.'' This conclusion led to the removal of phenolphthalein from the market (64 FR 4535, 4538) (Ref. 20).

Finally, in this context, the safety data required to make a final GRAS determination on active ingredients used in health care antiseptic products would remain the same even if FDA determined that the data requirements necessary to make a GRAE determination should be changed.

(Comment 20) Several comments also stated that the additional testing requirements could cause disruptions of the availability of health care antiseptics for clinical use. One comment urged the Agency to fully consider the consequences of the additional testing requirements, especially at a time when hand hygiene is considered to be the cornerstone for preventing the spread of pathogenic organisms in health care settings.

(Response 20) We agree that health care antiseptic products are an important component of infection control strategies in health care settings and remain the standard of care to prevent illness and the spread of infections (Refs. 7 and 8). As we emphasized in the 2015 Health Care Antiseptic PR, our proposal for more safety and effectiveness data for health

care antiseptic active ingredients does not mean that we believe that health care antiseptic products containing these ingredients are ineffective or unsafe. However, data that meet current safety requirements are still needed to support a GRAS determination for these active ingredients used in health care antiseptic products.

We do not believe that these additional testing requirements will disrupt the availability of health care antiseptics for clinical use. As explained in the 2015 Health Care Antiseptic PR, we provided a process for seeking an extension of time to submit the required safety and/or effectiveness data if needed (80 FR 25166 at 25169). As discussed in this document, we have deferred further rulemaking on six active ingredients used in OTC health care antiseptic products to allow for the development and submission of new safety and efficacy data. Although in this final rule we find that the 24 non-deferred active ingredients are not GRAS/GRAE for use in OTC health care antiseptic products, health care antiseptic drug products that have been approved under an NDA or that contain one or more of the six deferred active ingredients still continue to be available.

Accordingly, we do not believe that the additional testing requirements will cause a disruption in the availability of OTC health care antiseptic products.

(Comment 21) Another comment asserted that FDA's reasons for requesting additional safety data are flawed. The comment stated that FDA should analyze all existing hazard data and consider the extent of human or environmental exposure as part of the process for deciding the nature and extent of hazard data required to understand potential safety concerns. The comment asserted that data generation based on an understanding of human exposure prevents the irresponsible use of laboratory animals and waste of resources necessary to generate toxicology data that will not further inform potential safety decisions.

The comment also contended that the safety data gaps cited by FDA for the ingredients in the 2015 Health Care Antiseptic PR (human pharmacokinetics, animal pharmacokinetics, carcinogenicity, reproductive toxicity, potential hormonal effects, and potential antimicrobial resistance) do not all have to be filled in order for FDA to make a GRAS determination. In support of its position, the comment cited FDA's presentation to the September 2014 NDAC meeting, and listed FDA's stated criteria associated with the GRAS standard, including: (1) A low incidence of adverse events when used as directed and in the context of warnings; (2) low potential for harm if abused under conditions of widespread availability; (3) significant human marketing experience; (4) and, adequate tests to show proof of safety, among other criteria. The comment stated that FDA is not taking into account the low incidence of adverse events associated with the use of antiseptic active ingredients and the overall acceptance of these products globally. The comment also mentioned that numerous scientific and regulatory bodies have performed exposure-driven risk assessments and have not required the types of human or animal data mentioned in the 2015 Health Care Antiseptic PR.

(Response 21) FDA presented the safety paradigm for OTC health care antiseptics at the September 2014 NDAC meeting (Ref. 21) where the Agency sought NDAC's advice about the type and scope of safety data needed for OTC health care antiseptic products. In FDA's presentation to NDAC, we explained that when evaluating a proposed monograph active ingredient, FDA applies the following regulatory standards, which are cited in 21 CFR 330.10(a)(4)(i):

- Safety means a low incidence of adverse reactions or significant side effects under adequate directions for use and warnings against unsafe use, as well as low potential for harm which may result from abuse under conditions of widespread availability.
- Proof of safety shall consist of adequate tests by methods reasonably applicable to show the drug is safe under the prescribed, recommended, or suggested conditions of use. This proof shall include, but not be limited to, results of significant human experience during marketing.
- General recognition of safety shall ordinarily be based upon published studies, which may be corroborated by unpublished studies and other data.

As FDA explained in its presentation, the proposed safety studies are necessary to provide data that are needed to support a GRAS determination for the health care antiseptic active ingredients. The NDAC unanimously agreed that the safety standards proposed by FDA are appropriate to support a GRAS determination for a health care antiseptic active ingredient. The NDAC also noted that the safety standards presented by FDA are reasonable minimal safety standards for the currently available antiseptics, as well as for products to be formulated in the future (Ref. 19) and are required to support a GRAS determination for these ingredients.

In terms of animal testing, the September 2014 NDAC meeting addressed the issue of the appropriateness of conducting animal studies to obtain safety data for health care antiseptic products (Ref. 4). We understand that animal use in tests for the efficacy and safety of human and animal products has been and continues to be a concern, and FDA continues to support efforts to reduce animal testing, particularly where new alternative methods for safety evaluation have been validated and accepted by International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use (ICH) regulatory authorities. To address this issue, we encourage manufacturers to consult with the Agency on the use of non-animal testing methods that may be suitable, adequate, validated, and feasible to fill important data gaps that cannot be filled with marketing experience alone. However, there are still many areas where non-animal testing has not been sufficiently developed as an alternative option and animal studies are still considered necessary to fill important safety gaps (Refs. 4 and 19).

2. MUsT Requirements

(Comment 22) One comment asserted that FDA should reconsider the need to conduct MUsTs to assess systemic exposures associated with extreme use applications. The comment stated that the clinical utility of this testing has not been firmly established and the methodology necessary to conduct this type of testing has yet to be clearly validated to establish its utility. The comment argued that these types of studies need significant further development and validation before considering them a reliable method for systemic absorption studies and further guidance from FDA is needed. The comment said that FDA should also consider the use of existing modeling methods as a means to assess potential systemic exposure to avoid unnecessary clinical testing of active ingredients where modeling is available in conjunction with animal data.

(Response 22) The MUsT paradigm has been used in the evaluation of topical dermatological agents approved in the United States since the early 1990s. It represents over 20 years of interactions with multi-national drug companies, during which time the study design has been refined into its current state. Moreover, the MUsT is a published methodology that has been

presented at both national and international meetings. In addition, with respect to the six deferred active ingredients, FDA has been reviewing the MUsT protocol designs submitted by the manufacturers and trade organizations that have requested deferrals.

FDA also understands and recognizes the potential of pharmacokinetic (PK) and physiologically-based pharmacokinetic (PBPK) modeling. FDA has considered these options and concluded that the currently proposed alternatives, including in silico, in vitro, and PBPK modeling, are not adequately validated to be a substitute for the MUsT described in the 2015 Health Care Antiseptic PR. We also note that, going forward, in order to validate the PBPK or any other alternative modeling-based approach, one would need, as part of their validation, a direct performance comparison to a series of in vivo MUsTs as part of the process to demonstrate the comparability and reproducibility of the results between the tests. For these reasons, we find that results from a human PK MUsT are needed to support a GRAS determination for active ingredients used in health care antiseptic products.

(Comment 23) Another comment disagreed with FDA's position that the lack of pharmacokinetic data prevents FDA from calculating a margin of exposure for the risk assessment. The comment asserted that, although the safety evaluation of drugs may rely on correlating findings from animal toxicity studies to humans based on kinetic information in both species, safety evaluations for antiseptic ingredients in health care products are not based on kinetic information under standard international practice. Instead, the comment argued, safety evaluations are based on conservative assumptions of exposure and potential differences between species, and kinetic information is only required when use of these conservative assumptions fails to provide a sufficient margin of exposure. The comment stated that using these conservative and internationally accepted approaches, other scientific bodies and regulatory authorities have been able to complete the risk assessment for these types of ingredients in formulations with much greater levels of human exposure than these health care antiseptic uses. The European Commission Scientific Committee on Consumer Safety Guidance for the Testing of Cosmetic Substances and Their Safety Evaluation (8th Revision) was cited as a justification for this concept. Based on this reasoning, the comment asserted that FDA should not require additional animal testing unless the following conditions are met:

- Use of conservative approaches to calculate the margin of exposure is inadequate.
- The margin of exposure justifies the need for more data, but it is not possible to generate the data by non-animal approaches, such as using physiologically-based pharmacokinetic modeling, or through animal alternative test methods.
- There is perceived need for all active ingredients to have the same type of information.

(Response 23) Calculating the margin of exposure was one of the topics discussed at the September 2014 NDAC meeting (Refs. 4 and 19). At that time, the consensus reached was that these types of calculations are more informed when taking the results of the MUsT-acquired data and using that information along with the pharmacology/toxicology results in the calculation of the safety margin. We also note that the references the comments provided for the risk assessment strategies that are followed by other international agencies are for cosmetic ingredients rather than for drug products. Accordingly, the referenced guidance may be designed to address different concerns than those at issue here.

(Comment 24) Another comment stated that FDA should reconsider the concept of the MUsT and its value in determining the safety of health care antiseptic products. The comment said that the 2015 Health Care Antiseptic PR would require a MUsT to characterize maximum systemic exposure following health care antiseptic product use during the course of a work day or shift in health care settings. The comment stated that measured levels determined by the MUsT would establish the maximum systemic dose for the active ingredient in the particular antimicrobial product type, and the representativeness of the measured systemic active concentration would be dependent upon a number of variables associated with this trial, including the number of applications made per day or shift, the appropriate usage of the product, the concentration of active ingredient in the tested product, the sensitivity of the analytical method applied, and the extent to which the experimental protocol matches or approximates the actual usage of the product in the health care setting. The comment asserted that the use of the same product in different health care settings (*e.g.,* out-patient clinics or offices vs. emergency rooms or operating rooms) can be expected to have different patterns of use.

The comment also argued that limitations exist in the practical conduct of a MUsT that influence and dictate what may be achieved by a specific protocol. The comment stated that practical requirements, for instance, the time needed to collect biological samples, or even to perform washing or application of the product, will dictate how many washes or applications are possible in a given time period regardless of what may be deemed desirable or required to evaluate perceived or empirical usage. As a result, the comment argued, the MUsT conditions described in the 2015 Health Care Antiseptic PR will result in assays that are very large and complex, and there is very little precedent to consult in the published literature. The comment also argued that the practical aspects of conducting a MUsT dictate what can reasonably be performed in terms of number of product applications, number of subjects, study arms, and timing. The comment asserted that if the defined, or desired, maximal use is not achievable in a MUsT and the resulting data do not meet the needs of the safety and risk assessment process, it is reasonable to question the utility, and expense, of conducting the study at all.

(Response 24) The MUsT intends to reflect the upper end of use expected in the real-world. Because the MUsT is designed to represent, as closely as possible, the maximal use of the health care antiseptic product under actual use conditions in the health care setting, the conduct of the trial itself should be feasible. The goal of the MUsT is to evaluate absorption under conditions of maximum use, so lower rates of application, different sites, and different frequency of application will be covered. As we also mentioned, with respect to the six deferred active ingredients, FDA is reviewing protocol designs for the respective deferred active ingredients.

(Comment 25) Another comment stated that, while data on the level of active ingredient in systemic circulation is arguably important for risk and safety assessment, it is not clear what any observed levels from MUsT may mean in this context in regards to risk and safety assessment. The comment argued that FDA has provided little guidance on how the MUsT data are used and that FDA has provided no data to indicate that there are any safety issues associated with any of the six active ingredients identified in the comment (alcohol, isopropyl alcohol, benzalkonium chloride, benzethonium

chloride, povidone-iodine, and chloroxylenol). The comment also asserted that, while the MUsTs will provide information on active ingredient levels in systemic circulation, it fundamentally remains a pharmacokinetic study. As such, the comment argued, it is not apparent that results from a MUsT will provide data that could not be better determined by an alternative or otherwise validated and accepted approach.

(Response 25) We disagree with the comment's assertion that the Agency has not provided any data to indicate that there are safety issues associated with the six active ingredients identified in the comment, which are the six active ingredients we have deferred from this rulemaking. Based on known available data, including data submitted by the interested parties, FDA identified and summarized safety concerns and safety data gaps for the health care active ingredients at the September 2014 NDAC meeting (Refs. 4 and 21) and in the 2015 Health Care antiseptic PR (80 FR 25166 at 25179 to 25195).

Moreover, the MUsT approach was specifically discussed at the September 2014 NDAC meeting (Refs. 4, 19, and 21). Information on systemic exposure derived from the MUsTs is necessary to determine a safety margin for the active ingredients. A margin of safety is a calculation that takes the no observed adverse effect level (NOAEL) derived from animal data and estimates a maximum safe level of exposure for humans, the data for which would be derived from data generated in the MUsT. In its objection to the proposed MUsT requirements, the comment did not provide an alternative or other validated and accepted approach available to assess human systemic exposure to the active ingredients (Refs. 4 and 21).

(Comment 26) Another comment stated that if MUsTs are to be executed, field studies of health care facility application frequency would be necessary to determine maximum rates as adequate data do not currently exist. The comment asserted that while these studies could take the form of a direct observational study, other avenues may also be considered, such as the use of automated hand hygiene monitoring data. The comment also stated that this data acquisition approach is not subject to behavioral modification interferences by the observer, or hospital department access restrictions, such as the intensive care and surgery units. The comment asserted that this technology has recently progressed substantially in its sophistication and data reliability.

(Response 26) As was mentioned earlier, FDA is discussing the design and conduct of their MUsT program of studies for the six deferred active ingredients.

(Comment 27) One comment submitted in response to the 2015 Health Care Antiseptic PR stated its support for an industry comment submitted to the September 2014 NDAC meeting, which stated that the FDA proposed a safety testing program for OTC products similar to those required for new molecular entity or new chemical entity (NCE) review. The submission asserted that the active ingredients under the 1994 TFM are not NCEs and should not be subjected to requirements that surpass the requirements of a conventional NDA. The submission stated that, in FDA's proposal for the consumer antiseptic wash TFM, the unsubstantiated justification for additional safety data is stated as ''new information regarding the potential risks from systemic absorption and long-term exposure to antiseptic active ingredients'' and the fact that exposure may be ''higher than previously thought,'' which, the submission argued, is not supported by information in the 2013 Consumer Antiseptic Wash PR or in the docket.

(Response 27) The assertion that the standards being proposed ''surpass the requirements of a conventional NDA'' is incorrect. As an example, the MUsT has been required of topical NDA products approved since the early 1990s. Also, a MUsT is often necessary to assess absorption when a topical NDA product is reformulated. Whereas, for the health care antiseptic products under consideration in this rulemaking, once an active ingredient is determined to be GRASE for a particular indication, although in vitro testing would be required under the current framework, no further in vivo studies, including a MUsT, would be required unless in vitro testing suggests that substantially greater absorption may occur with a particular formulation.

3. Carcinogenicity Studies

(Comment 28) Several comments asked FDA to reconsider the requirements for carcinogenicity studies, asserting that a good quality systemic carcinogenicity data set exists, along with in vitro genetic toxicology studies, for the majority of the active ingredients. The comments stated that it is unclear why FDA is requesting additional carcinogenicity studies for these ingredients. The comments also asserted that FDA should justify the requirement for additional carcinogenicity studies by the dermal route of exposure when a carcinogenicity study by the oral route exists because it is highly unlikely that systemic exposure would be higher from the dermal route of exposure than that resulting from the oral route of exposure. One comment requested that FDA focus on the ''health effects to be addressed in the safety assessment'' rather than establishing ''studies to be performed.'' Another comment stated that if inhalation carcinogenicity data are available, that such data may be used for worst-case exposure scenarios.

(Response 28) The FDA is requesting dermal carcinogenicity assessment for these topically applied ingredients because the dose that the skin is exposed to following topical exposure can be much higher than the skin dose resulting from systemic exposure (81 FR 61106 at 61123). FDA does not consider in vitro genetic toxicology studies to be a substitute for in vivo carcinogenicity studies. In addition, systemic exposure to the parent drug and metabolites can differ significantly in topically applied products, compared to orally administered products because the skin has its own metabolic capability (81 FR 61106 at 61123). Furthermore, the first-pass metabolism, which is available following oral exposure, is bypassed in the topical route of administration (81 FR 61106 at 61123) (Ref. 22). Dermal carcinogenicity studies, therefore, are not used solely to assess the effect of a drug on the skin tissue, but rather to evaluate the effect of topical exposure to all tissues of the treated animals.

4. Hormonal Effects

(Comment 29) One comment agreed with the Agency that any toxicological risk assessment should consider whether, under conditions of use, an ingredient could cause adverse effects as a result of its ability to interfere with endocrine homeostasis. The comment also agreed with the Agency's statement that general and reproductive toxicology studies are generally adequate to identify potential hormonal effects. The comment urged FDA to take a flexible approach to measuring hormonal effects, and stated that any potential for hormonal effects can be addressed by the interpretation of repeat-dose or developmental and reproductive toxicity testing (DART) data. Specifically, the comment stated that FDA should emphasize that a repeat-dose DART study will provide the point of departure (*e.g.,* NOAEL, Benchmark Dose Lower Bound of 10) for an ingredient that acts by an endocrine mode of action.

(Response 29) We agree that data for hormonal effects can be gleaned from

previously conducted studies (chronic toxicity, DART, and multigenerational studies). As stated in the 2015 Health Care Antiseptic PR, data obtained from general nonclinical toxicity studies and reproductive/developmental studies, such as the repeat-dose toxicity, DART and carcinogenicity, are generally sufficient to identify potential hormonal effects in the developing offspring. We also stated that, if no signals are obtained from these studies, assuming the studies covered all the life stages (*i.e.,* pregnancy, infancy, adolescence), then no further assessment of drug-induced hormonal effects are needed (80 FR 25166 at 25182 to 25183). However, if a positive response is seen in any of these animal studies that requires further investigation, additional studies, such as mechanistic studies, may be needed (Refs. 23, 24, and 25). In terms of the methodology used for the risk assessment of drug products, FDA does not follow the theoretical point of departure approach for assessing toxicological endpoints such as endocrine activity for drug products. Rather, FDA relies on the traditional NOAEL to identify a dose-response relationship in conducting its risk assessment (Refs. 26 and 27).

5. Resistance

(Comment 30) Numerous comments on the issue of bacterial resistance were submitted in response to the 2015 Health Care Antiseptic PR. In general, the comments disagreed on whether antiseptics pose a public health risk from bacterial resistance. Some comments argued that the pervasive use of health care antiseptics poses an unacceptable risk for the development of resistance and that such products should be banned. Other comments argued that antiseptics do not pose such risks and criticized the data on which they believe FDA based its concerns.

Specifically, several comments dismissed the in vitro data cited by FDA in the 2015 Health Care Antiseptic PR as not reflecting real-life conditions. The comments recommended that the most useful assessment of the risk of biocide resistance and cross-resistance to antibiotics are in situ studies, studies of clinical and environmental strains, or biomonitoring studies. Some comments asserted that studies of this type have reinforced the evidence that resistance and cross-resistance associated with antiseptics is a laboratory phenomenon observed only when tests are conducted under unrealistic conditions. One comment stated that there is little credible evidence that antiseptic products play any role in antibiotic resistance in human disease. The comment stated that, while some in vitro lab studies have been successful in forcing expression of resistance in some bacteria to antiseptic active ingredients, real world data from community studies using actual product formulations show no correlation between the use of such products and antibiotic resistance. The comment stated that further evidence of real world data showing no antimicrobial resistance development after the continued use of consumer products containing antimicrobial active compounds can be extracted from oral care clinical studies, which provide in vivo data, under well-controlled conditions, on exposure to antimicrobial-containing formulations over prolonged periods of time (*e.g.,* 6 months to 5 years). Another comment cited the conclusions of an International Conference on Antimicrobial Research held in 2012 on a possible connection between biocide (antiseptic or disinfectant) resistance and antibiotic resistance to support the point that there is no correlation between antiseptic use and antibiotic resistance.

(Response 30) As stated in the 2015 Health Care Antiseptic PR, we continue to believe that the development of bacteria that are resistant to antibiotics is an important public health issue, and additional data may tell us whether use of antiseptics in health care settings may contribute to the selection of bacteria that are less susceptible to both antiseptics and antibiotics (80 FR 25166 at 25183). Thus, we have conducted ingredient-specific reviews of the literature pertaining to antiseptic resistance and antibiotic cross-resistance, and determined that additional studies to assess the development of cross-resistance to antibiotics are needed for three of the deferred active ingredients—benzalkonium chloride, benzethonium chloride, and chloroxylenol. In the case of ethyl alcohol and isopropyl alcohol, sufficient data has been provided to assess the risk of antiseptic resistance and antibiotic cross-resistance.

Laboratory studies have identified and characterized bacterial resistance mechanisms that confer a reduced susceptibility to antiseptics and, in some cases, antibiotics. Specifically, these data suggest that resistance development in the laboratory is very common for some active ingredients, such as benzethonium and benzalkonium chloride (Refs. 28, 29, 30, 31, and 32), and chloroxylenol (Refs. 33, 34, 35, 36, 37, and 38). In contrast, resistance to other active ingredients, such as povidone-iodine (Refs. 39, 40, and 41) occurs infrequently in the laboratory setting. We acknowledge that observations made in the laboratory setting are not necessarily replicated in the real world setting. Therefore, we assessed additional studies performed in the clinical setting.

Studies performed using clinical isolates found strong evidence of antiseptic resistance to benzethonium and benzalkonium chloride (Refs. 42, 43, 44, 45, 46, 47, 48, 49, and 50). Antiseptic resistance genes *qacA/B* (Ref. 47) and *qacE* (Ref. 47) were identified and in 83 percent and 73 percent of the isolates tested, respectively, correlated with reduced susceptibility to benzalkonium and benzethonium chloride. In contrast, two studies published by Kawamura-Sato et al. (Refs. 51 and 52) found the MIC of benzalkonium chloride for 283 clinical isolates to be well within in-use concentration.

Only one clinical study could be found assessing resistance to chloroxylenol. Khor et al. (Ref. 53) collected samples from disinfectant solutions in hospitals. Of the chloroxylenol solutions tested, 42 percent had bacterial contamination. Isolation of these bacteria demonstrated that 81 percent were resistant to chloroxylenol, suggesting that these organisms have adapted to survival at concentrations which are usually bactericidal. Clinical studies assessing bacterial resistance to povidone-iodine were primarily negative (Refs. 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, and 64). Only one study, by Mycock et al. (Ref. 65), demonstrated resistance to povidone-iodine using clinical isolates, yet this study could not be repeated (Ref. 66). We believe that there is sufficient information to determine that exposure to povidone-iodine does not lead to the development of bacterial resistance, but additional data is necessary to assess this issue with regards to chloroxylenol.

Other studies examined a possible correlation between antiseptic and antibiotic resistance (Refs. 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 52, 53, 54, 55, 67, 68, 69, 70, 71, and 72). Comparisons suggest that alterations in the mean susceptibility of *Staphylococcus aureus* to antimicrobial biocides occurred between 1989 and 2000, but these changes were mirrored in both methicillin resistant and susceptible *Staphylococcus aureus,* suggesting that methicillin resistance has little to do with these changes (Ref. 72). In *Staphylococcus aureus, Escherichia coli,* and *Pseudomonas aeruginosa,* several correlations (both positive and negative) between antibiotics and antimicrobial biocides

were found (Refs. 52, 54, 56, 67, 70, and 72). From the analyses of these clinical isolates, it is very difficult to support a hypothesis that increased biocide resistance is a cause of increased antibiotic resistance in these species.

In general, studies have not clearly demonstrated an impact of antiseptic bacterial resistance mechanisms in the clinical setting. However, the available studies have limitations. As we noted in the 2015 Health Care Antiseptic PR, studies in a clinical setting that we evaluated were limited by the small numbers and types of organisms, the brief time periods, and the locations examined. Bacteria expressing resistance mechanisms with a decreased susceptibility to antiseptics and some antibiotics have been isolated from a variety of natural settings (Refs. 73 and 74). Although the prevalence of antiseptic tolerant subpopulations in natural microbial populations is currently low, overuse of antiseptic active ingredients has the potential to select for resistant microorganisms.

In sum, adequate data do not exist currently to determine whether the development of bacterial antiseptic resistance could also select for antibiotic resistant bacteria or how significant this selective pressure would be relative to the overuse of antibiotics, an important driver for antibiotic resistance. Moreover, the possible correlation between antiseptic and antibiotic resistance is not the only concern. Reduced antiseptic susceptibility may allow the persistence of organisms in the presence of low-level residues and contribute to the survival of antibiotic resistant organisms. Data are not currently available to assess the magnitude of this risk.

(Comment 31) The comments also disagreed on the data needed to assess the risk of the development of resistance. One comment disagreed with the proposed testing described in the 2015 Health Care Antiseptic PR, arguing that there are no standard laboratory methods for evaluating the development of antimicrobial resistance. With regard to the recommendation for mechanism studies, they believed that it is unlikely that this kind of information can be developed for all active ingredients, particularly given that the mechanism(s) of action may be concentration dependent and combination/formulation effects may be highly relevant. The comments also believed that data characterizing the potential for transferring a resistance determinant to other bacteria is also an unrealistic requirement for a GRAS determination.

Conversely, one comment recommended that antimicrobial resistance be addressed first through in vitro MIC determinations. The comment stated that, if an organism is shown to develop resistance rapidly, FDA should consider this information in its evaluation. The commenter believed that this test of the potential for the development of resistance is important because health care compliance with recommended use of health care antiseptic wash products is variable and products that result in the rapid development of antimicrobial resistance would pose a public health risk. The comment also asserted that GRAS/GRAE ingredients should pose little in the way of a resistance risk.

(Response 31) In the 2015 Health Care Antiseptic PR, we described the data needed to help establish a better understanding of the interactions between antiseptic active ingredients in health care antiseptic products and bacterial resistance mechanisms and the data needed to provide the information necessary to perform an adequate risk assessment for these health care product uses. We suggested a tiered approach as an efficient means of developing data to address this resistance issue—beginning with laboratory studies aimed at evaluating the impact of exposure to nonlethal amounts of antiseptic active ingredients on antiseptic and antibiotic bacterial susceptibilities, along with additional data, if necessary, to help assess the likelihood that changes in susceptibility observed in the preliminary studies would occur in the health care setting (80 FR 25166 at 25183 to 25184).

As we explained in the 2015 Health Care Antiseptic PR, we recognize that the science of evaluating the potential of compounds to cause bacterial resistance is evolving and acknowledged the possibility that alternative data may be identified as an appropriate substitute for evaluating resistance (80 FR 25166 at 25180). We also explained that we are aware that there are no standard protocols for these studies, but there are numerous publications in the literature of studies of this type that could provide guidance on the study design (Refs. 75, 76, and 77).

As explained in this document, we have deferred from this rulemaking six of the active ingredients used in health care antiseptic products, and we are discussing proposed protocols for the safety and effectiveness studies (Refs. 10, 11, 12, 13, 14, and 15). For those active ingredients for which resistance testing is required—chloroxylenol, benzethonium chloride, and benzalkonium chloride—we have advised manufacturers, as an initial step, to conduct an active ingredient-specific literature review related to antiseptic resistance and antibiotic cross-resistance to assess the active ingredient's effect on development of cross-resistance to antiseptics and antibiotics in the health care setting, and to submit as much information and data as can be provided. If the literature review results show evidence of antiseptic or antibiotic resistance, additional studies may be necessary, consistent with the recommendations outlined in the 2015 Health Care Antiseptic PR (80 FR 25166 at 25183 to 25184), to help assess the impact of the active ingredient on antiseptic and antibiotic susceptibilities. If, however, the literature review provides no evidence that the active ingredient affects antiseptic or antibiotic susceptibility, then it is likely that no further studies to address development of resistance will be needed to support a GRAS determination.

6. Other Safety Issues

(Comment 32) One comment also stated that FDA's evaluation of risks associated with the extensive use of health care antiseptic soaps by health care workers should include the data from the Nurses' Health Studies (NHS), which are a series of long-term studies of health outcomes in several large cohorts of nurses. The comment asserted that these studies did not show any evidence that the use of topical health care antiseptics leads to adverse health outcomes in nurses. The comment concedes that the studies were not designed to evaluate risks associated with the use of antiseptic soaps, but still believes these studies are adequate to detect clinically-relevant health outcomes, including those associated with endocrine effects, that might arise from the use of antiseptic soaps.

The comment also noted that the FDA's Safety Information and Adverse Event Reporting Program, MedWatch, did not have any safety-related reports on the health care antiseptic products identified in the 2015 Health Care Antiseptic PR. In addition, the comment stated that FDA has not issued any safety alerts related to antiseptic skin products.

(Response 32) FDA searched the NHS website cited in the comment, *www.channing.harvard.edu/nhs/,* and there did not appear to be any studies listed that specifically evaluated the health outcomes of nurses after using health care antiseptics. As the comment noted, the NHS studies were not designed to evaluate risks associated with the use of antiseptic soaps. In addition, in order to effectively evaluate the safety of an active ingredient or

drug, FDA uses data in which a control group is included in the study to compare to the treatment groups. A prospective NHS study evaluating the effect of exposure to the active ingredients in health care antiseptics would require a control group in which there is no exposure to health care antiseptic active ingredients. However, because all nurses in health care environments in which NHS studies have been conducted have to adhere to a universal hand washing protocol using antiseptic active ingredients, it is not possible to include a control group with no exposure to healthcare antiseptics in a NHS study.

We also note that the safety signals FDA uses in making a GRAS determination, such as developmental and reproductive toxicity, carcinogenicity, or hormonal effects, would not likely be reported by consumers or health care professionals to MedWatch. Thus, the lack of MedWatch safety-related reports does not eliminate the need for the safety data outlined in the 2015 Health Care Antiseptic PR.

(Comment 33) One comment stated that, for FDA to fully assess the safety of the health care topical antiseptic active ingredients, it must consider the impact of exposure on groups that may be particularly sensitive to exposure, including pregnant women, children, and the elderly, particularly with regards to chronic or highly sensitive (*e.g.,* newborn infant) exposure.

The comment also proposed that in classifying an ingredient as GRAS/GRAE, FDA should expand the health impacts (*e.g.,* impact on the microbiome) and should consider ''clinically-relevant'' effectiveness (*e.g.,* reduction of bacteria typically found in health care settings). The comment added that the final rule should incorporate safety standards to protect populations, outside of health care personnel, that could experience increased adverse events upon exposure to antiseptic products. The comment contended that the effect of antiseptic active ingredients on the microbiome should be more thoroughly considered in the final monograph to incorporate the effects into the benefit-to-risk calculation.

The comment also asserted that data used in the safety evaluation of these ingredients should include metabolic parameters of disease states of individuals who would be chronically exposed to health care antiseptics in animal pharmacokinetic absorption, distribution, metabolism, and excretion (ADME) models.

(Response 33) We agree that the impact of exposure to sensitive populations should be considered. Our paradigm of safety evaluation, which includes a battery of safety studies (ADME, MUsT, carcinogenicity, DART, and hormonal effects), can be used to establish a safety margin for potential safety signals in all populations, including sensitive ones.

Currently, the effect of health care antiseptic active ingredients on the microbiome have not been included as a safety signal in classifying an active ingredient as GRAS or non-GRAS. FDA will continue to monitor emerging technologies that can help address safety signals for all of the products that it regulates, including products under the OTC topical antiseptic monograph.

In addition, because there are many disease states which health care professionals or patients could have, it is not feasible to develop metabolic parameters for individual disease states in conducting the GRAS determinations of the active ingredients used in health care antiseptic products. Nor could one prospectively identify which specific metabolic parameters should be tracked, or if there were defined levels of changes in each parameter that would be of concern.

(Comment 34) Another comment stated that FDA needs to address the impact of inactive ingredients and final formulations on the safety assessments of health care antiseptic products.

(Response 34) Testing requirements for the final product formulations, which would require exposure to both active and inactive ingredients, are not addressed in this final rule because none of the active ingredients that are the subject of this final rule are considered GRAS/GRAE for use in health care antiseptic products, given the lack of sufficient effectiveness and safety data submitted for these ingredients. The testing requirements for final formulations of products containing the six deferred active ingredients will be addressed, if applicable, after a decision is made regarding the monograph status of those ingredients.

(Comment 35) One comment indicated that the cost of conducting safety studies is expensive and asserted that the testing requirements run counter to the spirit of the OTC monograph. The comment proposed that the safety studies, should therefore, be conducted by academic and National Institutes of Health (NIH) investigators.

(Response 35) The monograph process is public in nature and studies may be conducted by any interested parties, including academics and NIH investigators. FDA is willing to review all relevant available data in order to reach a final determination of safety and effectiveness. Ultimately, manufacturers are responsible for the safety and effectiveness of the drug products they market.

(Comment 36) One comment contended that NDA products, such as Avagard (1 percent chlorhexidine gluconate, 62 percent ethyl alcohol) should be subject to the safety standards proposed in the 2015 Health Care Antiseptic PR.

(Response 36) FDA regulates NDA products under a different regulatory pathway than the OTC drug monograph products, such as the OTC health care antiseptics that are the subject of this rulemaking. We consider safety criteria for both monograph and NDA products. The review of an individual product under an NDA may warrant a different assessment than a group of active ingredients used in a range of products.

F. Comments on the Preliminary Regulatory Impact Analysis and FDA Response

(Comment 37) Several comments raised issues concerning the preliminary regulatory impact analysis and the Agency's assessment of the net benefit of the rulemaking.

(Response 37) Our response is provided in the full discussion of economic impacts, available in the docket for this rulemaking (Docket No. FDA–2015–N–0101, (Ref. 78), *https://www.regulations.gov*) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

VI. Ingredients Not Generally Recognized as Safe and Effective

No additional safety or effectiveness data have been submitted to support a GRAS/GRAE determination for the non-deferred health care antiseptic active ingredients described in this rule. Thus, the following active ingredients are not GRAS/GRAE for use as a health care antiseptic:

- Chlorhexidine gluconate
- Cloflucarban
- Fluorosalan
- Hexachlorophene
- Hexylresorcinol
- Iodophors (Iodine-containing ingredients)
  - Iodine complex (ammonium ether sulfate and polyoxyethylene sorbitan monolaurate)
  - Iodine complex (phosphate ester of alkylaryloxy polyethylene glycol)
  - Iodine tincture USP
  - Iodine topical solution USP
  - Nonylphenoxypoly (ethyleneoxy) ethanoliodine

- Poloxamer—iodine complex
- Undecoylium chloride iodine complex
- Mercufenol chloride
- Methylbenzethonium chloride
- Phenol
- Secondary amyltricresols
- Sodium oxychlorosene
- Tribromsalan
- Triclocarban
- Triclosan
- Triple dye
- Combination of calomel, oxyquinoline benzoate, triethanolamine, and phenol derivative
- Combination of mercufenol chloride and secondary amyltricresols in 50 percent alcohol

Accordingly, OTC health care antiseptic drug products containing these active ingredients will require approval under an NDA or ANDA prior to marketing.

VII. Compliance Date

In the 2015 Health Care Antiseptic PR, we recognized, based on the scope of products subject to this final rule, that manufacturers would need time to comply with this final rule. Thus, as proposed in the 2015 Health Care Antiseptic PR (80 FR 25166 at 25195), this final rule will be effective 1 year after the date of the final rule's publication in the **Federal Register**. On or after that date, any OTC health care antiseptic drug products containing an ingredient that we have found in this final rule to be not GRAS/GRAE cannot be introduced or delivered for introduction into interstate commerce unless it is the subject of an approved NDA or ANDA.

VIII. Summary of Regulatory Impact Analysis

The summary analysis of benefits and costs included in this final rule is drawn from the detailed Regulatory Impact Analysis that is available at *https://www.regulations.gov*, Docket No. FDA–2015–N–0101, (Ref. 78).

A. Introduction

We have examined the impacts of the final rule under Executive Order 12866, Executive Order 13563, Executive Order 13771, the Regulatory Flexibility Act (5 U.S.C. 601–612), and the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). Executive Orders 12866 and 13563 direct us to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity). Executive Order 13771 requires that the costs associated with significant new regulations ''shall, to the extent permitted by law, be offset by the elimination of existing costs associated with at least two prior regulations.'' We believe that this final rule is a significant regulatory action as defined by Executive Order 12866. This final rule is considered an Executive Order 13771 regulatory action.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because we estimate that only four small businesses will be adversely affected by the final rule, we certify that the final rule will not have a significant economic impact on a substantial number of small entities.

The Unfunded Mandates Reform Act of 1995 (Section 202(a)) requires us to prepare a written statement, which includes an assessment of anticipated costs and benefits, before proposing ''any rule that includes any Federal mandate that may result in the expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more (adjusted annually for inflation) in any one year.'' The current threshold after adjustment for inflation is $148 million, using the most current (2016) Implicit Price Deflator for the Gross Domestic Product. This final rule would not result in an expenditure in any year that meets or exceeds this amount

B. Summary of Costs and Benefits

As discussed in the preamble of this final rule, this rule establishes that 24 eligible active ingredients are not generally recognized as safe and effective for use in OTC health care antiseptics. However, data from the FDA drug product registration database suggest that only one of these 24 ingredients is found in OTC health care antiseptic products currently marketed pursuant to the TFM: Triclosan. Regulatory action is being deferred on six active ingredients that were addressed in the health care antiseptic proposed rule: Benzalkonium chloride, benzethonium chloride, chloroxylenol, ethyl alcohol, isopropyl alcohol, and povidone-iodine. This final rule also addresses the eligibility of three active ingredients—alcohol (ethyl alcohol, see section V.C.3), benzethonium chloride, and chlorhexidine gluconate—and finds that these three active ingredients are ineligible for evaluation under the OTC Drug Review for certain health care antiseptic uses (see section IV.D.1, table 3). To our knowledge, there is only one ineligible product currently on the market, an alcohol-containing surgical hand scrub, which is affected by this rule.

Benefits are quantified as the volume reduction in exposure to triclosan found in health care antiseptic products affected by the rule, but these benefits are not monetized. Annual benefits are estimated to be a reduction in exposure of 88,000 kg of triclosan per year.

Costs are calculated as the one-time costs associated with reformulating health care antiseptic products containing the active ingredient triclosan and relabeling reformulated products, plus the lost producer surplus (measured as lost revenues) due to removing one alcohol surgical hand scrub from the market. We believe that the alcohol-containing surgical hand scrub that is affected by this rule is likely to be removed from the market. We categorize the associated loss of sales revenue as a transfer from one manufacturer to another and not a cost, because we assume that the supply of other, highly substitutable, products is highly elastic.

Annualizing the one-time costs over a 10-year period, we estimate total annualized costs to range from $1.1 to $4.1 million at a 3 percent discount rate, and from $1.2 to $4.7 million at a 7 percent discount rate. The present value of total costs ranges from $9.0 to $34.6 million at a 3 percent discount rate, and from $8.7 to $29.6 million at a 7 percent discount rate.

In this final rule, small entities will bear costs to the extent that they must reformulate and re-label any health care antiseptic containing triclosan that they produce. The average cost to small firms of implementing the requirements of this final rule is estimated to be $213,176 per firm. The costs of the changes, along with the small number of firms affected, implies that this burden would not be significant, so we certify that this final rule will not have a significant economic impact on a substantial number of small entities. This analysis, together with other relevant sections of this document, serves as the Regulatory Flexibility Analysis, as required under the Regulatory Flexibility Act.

We have developed a comprehensive Economic Analysis of Impacts that assesses the impacts of the final rule. The full analysis of economic impacts is available in docket FDA–2015–N–0101 (Ref. 78) and at *https://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

Table 4.—Economic Data: Costs and Benefits Statement

Category		Low Estimate	Primary Estimate	High Estimate	Units			Notes
					Year Dollars	Discount Rate	Period Covered	
Benefits	Annualized Monetized $millions/year					7%	10 years	
	Annualized Monetized $millions/year					3%	10 years	
	Annualized Quantified kilograms/year		88,000			7%	10 years	Reduced antiseptic active ingredient exposure (in kilograms).
	Annualized Quantified kilograms/year		88,000			3%	10 years	
	Qualitative	Potential reduction in antibiotic resistance due to exposure to triclosan and potential adverse effects of triclosan in health care antiseptics.						
Costs	Annualized Monetized $millions/year	$1.2	$2.45	$4.74	2016	7%	10 years	Annualized costs of reformulating and testing antiseptic products. Range of estimates captures uncertainty.
	Annualized Monetized $millions/year	$1.05	$2.10	$4.06	2016	3%	10 years	
	Annualized Quantified billion/year					7%		
	Annualized Quantified billion/year					3%		
	Qualitative							
Transfers	Federal Annualized					7%		
	Monetized $millions/year					3%		
	From/To							
	Other Annualized Monetized $millions/year	$3.6	$2.1	$6.6	2016	7%		Annualized transfers from the removal of one product from the market.
		$3.6	$2.1	$6.6	2016	3%		
	From/To							
Effects	State, Local, or Tribal Government: Not applicable Small Business: The costs associated with potentially affected small entities range between 0.1 and 22 percent of their average annual revenues. Wages: No estimated effect Growth: No estimated effect							

TABLE 5—EXECUTIVE ORDER 13771 SUMMARY TABLE

[In $ millions 2016 dollars, over an infinite time horizon]

	Primary (7%)	Lower bound (7%)	Upper bound (7%)
Present value of costs	$17.19	$8.68	$29.47
Present Value of Cost Savings			
Present Value of Net Costs	17.19	8.68	29.47
Annualized Costs	1.20	0.61	2.06
Annualized Cost Savings			
Annualized Net Costs	1.20	0.61	2.06

IX. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by OMB under the Paperwork Reduction Act of 1995 is not required.

X. Analysis of Environmental Impact

We have determined under 21 CFR 25.31(a) 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.

XI. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. Section 4(a) of the Executive order requires agencies to ''construe . . . a Federal statute to preempt State law only where the statute contains an express preemption provision or there is some other clear evidence that the Congress intended preemption of State law, or where the exercise of State authority conflicts with the exercise of Federal authority under the Federal statute.'' The sole statutory provision giving preemptive effect to the final rule is section 751 of the FD&C Act (21 U.S.C. 379r). We have complied with all of the applicable requirements under the Executive order and have determined that the preemptive effects

of this rule are consistent with Executive Order 13132.

XII. References

The following references are on display at the office of the Dockets Management Staff (see **ADDRESSES**) and are available for viewing by interested persons between 9 a.m. and 4 p.m., Monday through Friday; they are also available electronically at *https://www.regulations.gov.* FDA has verified all website addresses, as of the date of this document publishes in the **Federal Register**, but websites are subject to change over time.

1. Transcript of the January 22, 1997, Joint Meeting of the Nonprescription Drugs and Anti-Infective Drugs Advisory Committees, OTC Vol. 230002. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-0008.*
2. Comment submitted in Docket No. FDA–1975–N–0012–0081. Available at *https://www.regulations.gov/document?D=FDA-1975-N-0012-0081.*
3. Transcript of the March 23, 2005, Nonprescription Drugs Advisory Committee. Available at *http://www.fda.gov/ohrms/dockets/ac/05/transcripts/2005-4098T1.htm.*
4. Transcript of the September 3, 2014, Meeting of the Nonprescription Drugs Advisory Committee 2014. Available at *https://wayback.archive-it.org/7993/20170404152741/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/NonprescriptionDrugsAdvisoryCommittee/UCM421121.pdf.*
5. Part 130-New Drugs, Procedures for Classification of Over-the-Counter Drugs. Available at *http://www.ecfr.gov/cgi-bin/text-idx?SID=34d4a9d52dbac32a09a126a1dd44ef47&mc=true&node=se21.5.330_110&rgn=div8.*
6. Tuuli, M.G., et al., A Randomized Trial Comparing Skin Antiseptic Agents at Cesarean Delivery, *New England Journal of Medicine,* 374(7): p. 647–55, 2016. Available at *https://www.ncbi.nlm.nih.gov/pubmed/26844840.*
7. Centers for Disease Control and Prevention, Guideline for Hand Hygiene in Health-Care Settings: Recommendations of the Healthcare Infection Control Practices Advisory Committee and the HICPAC/SHEA/APIC/IDSA Hand Hygiene Task Force, *Morbidity and Mortality Weekly Report,* 51(RR–16): p. 1–45, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/12418624.*
8. Mangram, A.J., et al., Guideline for Prevention of Surgical Site Infection, 1999. Centers for Disease Control and Prevention Hospital Infection Control Practices Advisory Committee, *American Journal of Infection Control,* 27(2): p. 97–132, 1999. Available at *http://www.ncbi.nlm.nih.gov/pubmed/10196487.*
9. Larson, E., Innovations in Health Care: Antisepsis as a Case Study, *American Journal of Public Health,* 79(1): p. 92–99, 1989. Available at *http://www.ncbi.nlm.nih.gov/pubmed/2642372.*
10. FDA Deferral Letter for Benzalkonium Chloride in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1321.*
11. FDA Deferral Letter for Benzethonium Chloride in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1322.*
12. FDA Deferral Letter for Chloroxylenol in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1323.*
13. FDA Deferral Letter for Ethyl Alcohol in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1324.*
14. FDA Deferral Letter for Isopropyl Alcohol in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1325.*
15. FDA Deferral Letter for Povidone Iodine in Health Care Antiseptics on January 19, 2017. Available at *https://www.regulations.gov/document?D=FDA-2015-N-0101-1326.*
16. Wheelock, S.M. and S. Lookinland, Effect of surgical hand scrub time on subsequent bacterial growth, *Association of periOperative Registered Nurses Journal,* 65(6): p. 1087–92; 94–8, 1997. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=9187454.*
17. Rotter, M.L., et al., Population kinetics of the skin flora on gloved hands following surgical hand disinfection with 3 propanol-based hand rubs: a prospective, randomized, double-blind trial, *Infection Control Hospital Epidemiology,* 28(3): p. 346–50, 2007. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=17326028.*
18. Beldame, J., et al., Surgical glove bacterial contamination and perforation during total hip arthroplasty implantation: when gloves should be changed, *Orthopaedics & Traumatology: Surgery & Research,* 98(4): p. 432–40, 2012. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=22578871.*
19. Summary Minutes of the September 3, 2014, Nonprescription Drugs Advisory Committee Meeting. Available at *https://wayback.archive-it.org/7993/20170404152740/https://www.fda.gov/downloads/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/NonprescriptionDrugsAdvisoryCommittee/UCM421120.pdf.*
20. Dunnick, J.K. and J.R. Hailey, Phenolphthalein Exposure Causes Multiple Carcinogenic Effects in Experimental Model Systems, *Cancer Research,* 56(21): p. 4922–26, 1996. Available at *https://www.ncbi.nlm.nih.gov/pubmed/8895745.*
21. Briefing Material for the September 2014, Meeting of the Nonprescription Drugs Advisory Committee. Available at *https://wayback.archive-it.org/7993/20170404152730/https://www.fda.gov/AdvisoryCommittees/CommitteesMeetingMaterials/Drugs/NonprescriptionDrugsAdvisoryCommittee/ucm410287.htm.*
22. International Council for Harmonisation of Technical Requirements for Pharmaceuticals for Human Use, Guideline for Industry. The Need for Carcinogenicity Studies of Pharmaceuticals. Available at *http://www.fda.gov/downloads/drugs/.../guidances/ucm074911.pdf.*
23. Food and Drug Administration, Draft Guidance for Industry. Endocrine Disruption Potential of Drugs: Nonclinical Evaluation. Available at *https://www.federalregister.gov/documents/2013/09/20/2013-22864/draft-guidance-for-industry-on-endocrine-disruption-potential-of-drugs-nonclinical-evaluation.*
24. Food and Drug Administration, Redbook 2000: IV.C.9.a: Reproduction and Developmental Toxicity Studies: Guidelines for Reproduction Studies. Available at *http://www.fda.gov/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/IngredientsAdditivesGRASPackaging/ucm2006826.htm.*
25. United States Environmental Protection Agency, Guidelines for reproductive toxicity risk assessment. Available at *http://www2.epa.gov/sites/production/files/2014-11/documents/guidelines_repro_toxicity.pdf.*
26. Food and Drug Administration, Guidance for Industry. M3(R2) Nonclinical Safety Studies for the Conduct of Human Clinical Trials and Marketing Authorization for Pharmaceuticals. Available at *www.fda.gov/downloads/drugs/guidances/ucm073246.pdf.*
27. Food and Drug Administration, Guidance for Industry. Estimating the Maximum Safe Starting Dose in Initial Clinical Trials for Therapeutics in Adult Healthy Volunteers Available at *www.fda.gov/downloads/drugs/guidances/ucm078932.pdf.*
28. Bearden, D.T., et al., Comparative In Vitro Activities of Topical Wound Care Products Against Community-Associated Methicillin-Resistant *Staphylococcus aureus, Journal of Antimicrobial Chemotherapy,* 62(4): p. 769–72, 2008. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=18593725.*
29. Czerwinski, S.E., et al., Novel Water-Based Antiseptic Lotion Demonstrates Rapid, Broad-Spectrum Kill Compared with Alcohol Antiseptic, *Journal of Infection and Public Health,* 7(3): p. 199–204, 2014. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=24810728.*
30. Nagai, I. and H. Ogase, Absence of Role for Plasmids in Resistance to Multiple Disinfectants in Three Strains of Bacteria, *Journal of Hospital Infection,* 15(2): p. 149–55, 1990. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=1969437.*
31. Geraldo, I.M., et al., Rapid Antibacterial Activity of 2 Novel Hand Soaps:

Evaluation of the Risk of Development of Bacterial Resistance to the Antibacterial Agents, *Infection Control and Hospital Epidemiology,* 29(8): p. 736–41, 2008. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=18616390.*

32. Sakagami, Y. and K. Kajimura, Bactericidal Activities of Disinfectants against Vancomycin-Resistant Enterococci, *Journal of Hospital Infection,* 50(2): p. 140–44, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=11846542.*
33. Haley, C.E., et al., Bactericidal Activity of Antiseptics Against Methicillin-Resistant *Staphylococcus aureus, Journal of Clinical Microbiology,* 21(6): p. 991–92, 1985. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=4008627.*
34. Johnson, S.A., et al., Comparative Susceptibility of Resident and Transient Hand Bacteria to Para-chloro-meta-xylenol and Triclosan, *Journal of Applied Microbiology,* 93(2): p. 336–44, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=12147083.*
35. Kolawole, D.O., Resistance Mechanisms of Mucoid-Grown *Staphylococcus aureus* to the Antibacterial Action of Some Disinfectants and Antiseptics, *FEMS Microbiology Letters,* 25(2–3): p. 205–09, 1984. Available at *http://www.sciencedirect.com/science/article/pii/0378109784901198.*
36. Sivaji, Y. and A. Mandal, Antibiotic Resistance and Serotypic Variations in *Escherichia coli* Induced by Disinfectants, *Indian Journal of Medical Research,* 86(2): p. 165–72, 1987. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=3323039.*
37. Sivaji, Y., et al., Disinfectant Induced Changes in the Antibiotic Sensitivity and Phage Typing Pattern in *Staphylococcus aureus, Journal of Hospital Infection,* 7(3): p. 236–43, 1986. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=2873169.*
38. Young, R., et al., Comparative In Vitro Efficacy of Antimicrobial Shampoos: A Pilot Study, *Veterinary Dermatology,* 23(1): p. 36–40, 2012. Available at *https://www.ncbi.nlm.nih.gov/pubmed/21777309.*
39. Block, C., et al., Evaluation of Chlorhexidine and Povidone Iodine Activity Against Methicillin-Resistant *Staphylococcus aureus* and Vancomycin-Resistant *Enterococcus faecalis* Using a Surface Test, *Journal of Hospital Infection,* 46(2): p. 147–52, 2000. Available at *https://www.ncbi.nlm.nih.gov/pubmed/11049709.*
40. Kunisada, T., et al., Investigation on the Efficacy of Povidone-Iodine Against Antiseptic-Resistant Species, *Dermatology,* 195 Suppl 2(1): p. 14–8, 1997. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=9403250.*
41. Lacey, R.W., et al., Antiseptic Resistance in Methicillin-Resistant *Staphylococcus aureus, The Lancet,* 326(8467): p. 1307–08, 1985. Available at *https://www.ncbi.nlm.nih.gov/pubmed/2866372.*
42. Liu, Q., et al., Sensitivities to Biocides and Distribution of Biocide Resistance Genes in Quaternary Ammonium Compound Tolerant *Staphylococcus aureus* Isolated in a Teaching Hospital, *Scandinavian Journal of Infectious Diseases,* 41(6–7): p. 403–09, 2009. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=19353380.*
43. Furi, L., et al., Evaluation of Reduced Susceptibility to Quaternary Ammonium Compounds and Bisbiguanides in Clinical Isolates and Laboratory-Generated Mutants of *Staphylococcus aureus, Antimicrobial Agents and Chemotherapy,* 57(8): p. 3488–97, 2013. Available at *http://www.ncbi.nlm.nih.gov/pubmed/23669380.*
44. Babaei, M., et al., Extremely High Prevalence of Antiseptic Resistant Quaternary Ammonium Compound E Gene Among Clinical Isolates of Multiple Drug Resistant *Acinetobacter baumannii* in Malaysia, *Annals of Clinical Microbiology and Antimicrobials,* 14(1): p. 11, 2015. Available at *https://www.ncbi.nlm.nih.gov/pubmed/25858356.*
45. Ghasemzadeh-Moghaddam, H., et al., Methicillin-Susceptible and -Resistant *Staphylococcus aureus* With High-Level Antiseptic and Low-Level Mupirocin Resistance in Malaysia, *Microbial Drug Resistance,* 20(5): p. 472–77, 2014. Available at *https://www.ncbi.nlm.nih.gov/pubmed/24841796.*
46. Noguchi, N., et al., Susceptibilities to Antiseptic Agents and Distribution of Antiseptic-Resistance Genes qacA/B and smr of Methicillin-Resistant *Staphylococcus aureus* isolated in Asia During 1998 and 1999, *Journal of Medical Microbiology,* 54(1): p. 557–65, 2005. Available at *https://www.ncbi.nlm.nih.gov/pubmed/15888465.*
47. Shamsudin, M.N., et al., High Prevalence of qacA/B Carriage Among Clinical Isolates of Meticillin-Resistant *Staphylococcus aureus* in Malaysia, *Journal of Hospital Infection,* 81(3): p. 206–8, 2012. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=22633074.*
48. Weber, D.J. and W.A. Rutala, Use of Germicides in the Home and the Healthcare Setting: Is There a Relationship between Germicide Use and Antibiotic Resistance?, *Infection Control and Hospital Epidemiology,* 27(10): p. 1107–19, 2006. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=17006819.*
49. Rajamohan, G., et al., Biocide-Tolerant Multidrug-Resistant *Acinetobacter baumannii* Clinical Strains Are Associated with Higher Biofilm Formation, *Journal of Hospital Infection,* 73(3): p. 287–89, 2009. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=19762119.*
50. Akinkunmi, E.O. and A. Lamikanra, Susceptibility of Community Associated Methicillin Resistant *Staphylococcus aureus* Isolated From Faeces to Antiseptics, *Journal of Infection in Developing Countries,* 6(4): p. 317–23, 2012. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=22505440.*
51. Kawamura-Sato, K., et al., Reduction of Disinfectant Bactericidal Activities in Clinically Isolated Acinetobacter species in the Presence of Organic Material, *Journal of Antimicrobial Chemotherapy,* 61(3): p. 568–76, 2008. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=18192683.*
52. Kawamura-Sato, K., et al., Correlation Between Reduced Susceptibility to Disinfectants and Multidrug Resistance Among Clinical Isolates of Acinetobacter Species, *Journal of Antimicrobial Chemotherapy,* 65(9): p. 1975–83, 2010. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=20576639.*
53. Khor, S.Y. and M. Jegathesan, In-Use testing of Disinfectants in Malaysian Government Hospitals, *Medical Journal of Malaysia,* 32(1): p. 85–89, 1977. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=609352.*
54. Rikimaru, T., et al., Bactericidal Activities of Commonly Used Antiseptics Against Multidrug-Resistant *Mycobacterium tuberculosis, Dermatology,* 204(Supp): p. 15–20, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=12011515.*
55. Lanker Klossner, B., et al., Nondevelopment of Resistance by Bacteria During Hospital Use of Povidone-Iodine, *Dermatology,* 195(Supp 2): p. 10–13, 1997. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=9403249.*
56. Prince, H.N., et al., Drug Resistance Studies with Topical Antiseptics, *Journal of Pharmaceutical Sciences,* 67(11): p. 1629–31, 1978. Available at *https://www.ncbi.nlm.nih.gov/pubmed/712607.*
57. Wiegand, C., et al., Analysis of the Adaptation Capacity of *Staphylococcus aureus* to Commonly Used Antiseptics by Microplate Laser Nephelometry, *Skin Pharmacology and Physiology,* 25(6): p. 288–97, 2012. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=22890487.*
58. Giacometti, A., et al., Antiseptic Compounds Still Active Against Bacterial Strains Isolated From Surgical Wound Infections Despite Increasing Antibiotic Resistance, *European Journal of Clinical Microbiology and Infectious Diseases,* 21(7): p. 553–56, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=12172750.*
59. Gocke, D.J., et al., In Vitro Studies of the Killing of Clinical Isolates by Povidone-

Iodine Solutions, *Journal of Hospital Infection,* 6(Supp A): p. 59–66, 1985. Available at *http://www.ncbi.nlm.nih.gov/pubmed/2860177.*

60. Yasuda, T., et al., Comparison of Bactericidal Activities of Various Disinfectants Against Methicillin-Sensitive *Staphylococcus aureus* and Methicillin-Resistant *Staphylococcus aureus, Postgraduate Medical Journal,* 69(Supp 3): p. 66–69, 1993. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=8290461.*
61. Gordon, J. and A.R. Mclure, In-Vitro Comparison of Bactericidal Activity of Povidone-Iodine and Chlorhexidine Against Methicillin-Resistant *Staphylococcus aureus, Surgical Research Communications,* 5(4): p. 313–14, 1989. Available at *http://www.embase.com/search/results?subaction=viewrecord&from=export&id=L19121090.*
62. Barry, A.L., et al., Lack of Effect of Antibiotic Resistance on Susceptibility of Microorganisms to Chlorhexidine Gluconate or Povidone Iodine, *European Journal of Clinical Microbiology and Infectious Diseases,* 18(12): p. 920–21, 1999. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=10691210.*
63. Rikimaru, T., et al., Efficacy of Common Antiseptics Against Multidrug-Resistant *Mycobacterium tuberculosis, International Journal of Tuberculosis and Lung Disease,* 6(9): p. 763–70, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=12234131.*
64. Sakuragi, T., et al., Bactericidal Activity of Skin Disinfectants on Methicillin-Resistant *Staphylococcus aureus, Anesthesia and Analgesia,* 81(3): p. 555–58, 1995. Available at *http://www.ncbi.nlm.nih.gov/pubmed/7653822.*
65. Sanchez, P., et al., The Biocide Triclosan Selects *Stenotrophomonas maltophilia* Mutants That Overproduce the SmeDEF Multidrug Efflux Pump, *Antimicrobial Agents and Chemotherapy,* 49(2): p. 781–82, 2005. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=15673767.*
66. Payne, D.N., et al., Antiseptics: A Forgotten Weapon in the Control of Antibiotic Resistant Bacteria in Hospital and Community Settings?, *Journal of the Royal Society of Health,* 118(1): p. 18–22, 1998. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=9724934.*
67. Oggioni, M.R., et al., Significant Differences Characterize the Correlation Coefficients Between Biocide and Antibiotic Susceptibility Profiles in *Staphylococcus aureus, Current Pharmaceutical Design,* 21(16): p. 2054–57, 2015. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=25760337.*
68. Coelho, J.R., et al., The Use of Machine Learning Methodologies to Analyse Antibiotic and Biocide Susceptibility in *Staphylococcus aureus, PLoS One,* 8(2): p. 1, 2013. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=23431361.*
69. Stickler, D.J., et al., Antiseptic and Antibiotic Resistance in Gram-Negative Bacteria Causing Urinary Tract Infection in Spinal Cord Injured Patients, *Paraplegia,* 19(1): p. 50–58, 1981. Available at *https://www.ncbi.nlm.nih.gov/pubmed/7220061.*
70. Buffet-Bataillon, S., et al., Effect of Higher Minimum Inhibitory Concentrations of Quaternary Ammonium Compounds in Clinical *E. coli* Isolates on Antibiotic Susceptibilities and Clinical Outcomes, *Journal of Hospital Infection,* 79(2): p. 141–46, 2011. Available at *http://www.ncbi.nlm.nih.gov/pubmed/21807440.*
71. Shi, G.S., et al., Prevalence of Antiseptic-Resistance Genes in Staphylococci Isolated from Orthokeratology Lens and Spectacle Wearers in Hong Kong, *Investigative Ophthalmology and Visual Science,* 56(5): p. 3069–74, 2015. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=25788652.*
72. Lambert, R.J., Comparative Analysis of Antibiotic and Antimicrobial Biocide Susceptibility Data in Clinical Isolates of Methicillin-Sensitive *Staphylococcus aureus,* Methicillin-Resistant *Staphylococcus aureus* and *Pseudomonas aeruginosa* between 1989 and 2000, *Journal of Applied Microbiology,* 97(4): p. 699–711, 2004. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=15357719.*
73. Morrissey, I., et al., Evaluation of Epidemiological Cut-Off Values Indicates That Biocide Resistant Subpopulations Are Uncommon in Natural Isolates of Clinically-Relevant Microorganisms, *PLoS One,* 9(1): p. 86669, 2014. Available at *http://www.ncbi.nlm.nih.gov/pubmed/24466194.*
74. Copitch, J.L., et al., Prevalence of Decreased Susceptibility to Triclosan in *Salmonella enterica* Isolates from Animals and Humans and Association with Multiple Drug Resistance, *International Journal of Antimicrobial Agents,* 36(3): p. 247–51, 2010. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=20541914.*
75. Braoudaki, M. and A.C. Hilton, Adaptive Resistance to Biocides in *Salmonella enterica* and *Escherichia coli* O157 and Cross-Resistance to Antimicrobial Agents, *Journal of Clinical Microbiology,* 42(1): p. 73–78, 2004. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=14715734.*
76. Langsrud, S., et al., Cross-Resistance to Antibiotics of *Escherichia coli* Adapted to Benzalkonium Chloride or Exposed to Stress-Inducers, *Journal of Applied Microbiology,* 96(1): p. 201–08, 2004. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=14678175.*
77. Joynson, J.A., et al., Adaptive Resistance to Benzalkonium Chloride, Amikacin and Tobramycin: The Effect on Susceptibility to Other Antimicrobials, *Journal of Applied Microbiology,* 93(1): p. 96–107, 2002. Available at *https://www.ncbi.nlm.nih.gov/pubmed/?term=12067378.*
78. FDA Regulatory Impact Analysis, Safety and Effectiveness for Health Care Antiseptics; Topical Antimicrobial Drug Products for Over-the-Counter Human Use. Available at *http://www.fda.gov/AboutFDA/ReportsManualsForms/Reports/EconomicAnalyses/default.htm.*

List of Subjects in 21 CFR Part 310

Administrative practice and procedure, Drugs, Labeling, Medical devices, Reporting and recordkeeping requirements.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 310 is amended as follows:

PART 310—NEW DRUGS

■ 1. The authority citation for part 310 continues to read as follows:

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 355, 360b–360f, 360j, 360hh–360ss, 361(a), 371, 374, 375, 379e, 379k–l; 42 U.S.C. 216, 241, 242(a), 262.

■ 2. Amend § 310.545 as follows:
■ a. Add reserved paragraphs (a)(27)(v), (vii), and (ix);
■ b. Add paragraphs (a)(27)(vi), (viii), and (x);
■ c. In paragraph (d) introductory text, remove ''(d)(41)'' and in its place add ''(42)''; and
■ d. Add paragraph (d)(42).

The additions read as follows:

§ 310.545 Drug products containing certain active ingredients offered over-the-counter (OTC) for certain uses.

(a) * * *

(27) * * *

(v) [Reserved]

(vi) *Health care personnel hand wash drug products.* Approved as of December 20, 2018.

Cloflucarban
Fluorosalan
Hexachlorophene
Hexylresorcinol
Iodine complex (ammonium ether sulfate and polyoxyethylene sorbitan monolaurate)
Iodine complex (phosphate ester of alkylaryloxy polyethylene glycol)
Methylbenzethonium chloride
Nonylphenoxypoly (ethyleneoxy) ethanoliodine
Phenol
Poloxamer-iodine complex
Secondary amyltricresols
Sodium oxychlorosene
Tribromsalan
Triclocarban
Triclosan
Undecoylium chloride iodine complex

(vii) [Reserved]

(viii) *Surgical hand scrub drug products.* Approved as of December 20, 2018.

Cloflucarban
Fluorosalan
Hexachlorophene
Hexylresorcinol
Iodine complex (ammonium ether sulfate and polyoxyethylene sorbitan monolaurate)
Iodine complex (phosphate ester of alkylaryloxy polyethylene glycol)
Methylbenzethonium chloride
Nonylphenoxypoly (ethyleneoxy) ethanoliodine
Phenol
Poloxamer-iodine complex
Secondary amyltricresols
Sodium oxychlorosene
Tribromsalan
Triclocarban
Triclosan
Undecoylium chloride iodine complex

(ix) [Reserved]

(x) *Patient antiseptic skin preparation drug products.* Approved as of December 20, 2018.

Cloflucarban
Fluorosalan
Hexachlorophene
Hexylresorcinol
Iodine complex (phosphate ester of alkylaryloxy polyethylene glycol)
Iodine tincture (USP)
Iodine topical solution (USP)
Mercufenol chloride
Methylbenzethonium chloride
Nonylphenoxypoly (ethyleneoxy) ethanoliodine
Phenol
Poloxamer-iodine complex
Secondary amyltricresols
Sodium oxychlorosene
Tribromsalan
Triclocarban
Triclosan
Triple dye
Undecoylium chloride iodine complex
Combination of calomel, oxyquinoline benzoate, triethanolamine, and phenol derivative
Combination of mercufenol chloride and secondary amyltricresols in 50 percent alcohol

* * * * *

(d) * * *

(42) December 20, 2018, for products subject to paragraphs (a)(27)(vi) through (x) of this section.

Dated: December 14, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27317 Filed 12–19–17; 8:45 am]

BILLING CODE 4164–01–P

Reader Aids

Federal Register

Vol. 82, No. 243

Wednesday, December 20, 2017

CUSTOMER SERVICE AND INFORMATION

Federal Register/Code of Federal Regulations

General Information, indexes and other finding aids — **202–741–6000**

Laws — **741–6000**

Presidential Documents

Executive orders and proclamations — **741–6000**

The United States Government Manual — **741–6000**

Other Services

Electronic and on-line services (voice) — **741–6020**

Privacy Act Compilation — **741–6050**

Public Laws Update Service (numbers, dates, etc.) — **741–6043**

ELECTRONIC RESEARCH

World Wide Web

Full text of the daily Federal Register, CFR and other publications is located at: **www.fdsys.gov.**

Federal Register information and research tools, including Public Inspection List, indexes, and Code of Federal Regulations are located at: **www.ofr.gov.**

E-mail

FEDREGTOC (Daily Federal Register Table of Contents Electronic Mailing List) is an open e-mail service that provides subscribers with a digital form of the Federal Register Table of Contents. The digital form of the Federal Register Table of Contents includes HTML and PDF links to the full text of each document.

To join or leave, go to **https://public.govdelivery.com/accounts/USGPOOFR/subscriber/new**, enter your email address, then follow the instructions to join, leave, or manage your subscription.

PENS (Public Law Electronic Notification Service) is an e-mail service that notifies subscribers of recently enacted laws.

To subscribe, go to **http://listserv.gsa.gov/archives/publaws-l.html** and select *Join or leave the list (or change settings);* then follow the instructions.

FEDREGTOC and **PENS** are mailing lists only. We cannot respond to specific inquiries.

Reference questions. Send questions and comments about the Federal Register system to: **fedreg.info@nara.gov**

The Federal Register staff cannot interpret specific documents or regulations.

CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, DECEMBER

56859–57104 1
57105–57330 4
57331–57536 5
57537–57656 6
57657–57818 7
57819–58096 8
58097–58332 11
58333–58532 12
58533–58706 13
58707–59502 14
59503–59946 15
59947–60098 18
60099–60280 19
60281–60504 20

CFR PARTS AFFECTED DURING DECEMBER

At the end of each month the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
6920 (Amended by Proc. 9682) 58089
9558 (Amended by Proc. 9681) 58081
9679 57533
9680 57535
9681 58081
9682 58089
9683 58331
9684 58531
9685 58699

Executive Orders:
11580 (Revoked by EO 13816) 58701
13816 58701

Administrative Orders:
Memorandums:
Memorandum of December 8, 2017 58705
Presidential Determinations:
No. 2018–1 of November 15, 2017 59503
Space Policy Directive 1 of December 11, 2017 59501

5 CFR

1600 60099
1601 60099
1603 60099
1605 60099
1650 60099
1651 60099
1690 60099

Proposed Rules:
890 60126

7 CFR

3 57331
12 58333
402 58707
407 58707
457 58707
900 ..... 58097, 60281
1200 ..... 58097, 60281

Proposed Rules:
205 59988
906 57164
966 58133
985 56922
986 57106
1006 58135

8 CFR

1240 57336

10 CFR

72 57819
851 59947
710 57105

Proposed Rules:
430 59992

12 CFR

201 60281
204 60282
607 58533
701 ..... 60283, 60390
705 60290
708a 60290
708b 60290
790 60290

Proposed Rules:
Ch. II 58764, 59547
201 57886
252 ..... 59528, 59533

13 CFR

300 57034
301 57034
302 57034
303 57034
304 57034
305 57034
307 57034
309 57034
314 57034

14 CFR

39 ..... 56859, 56865, 57340, 57343, 57537, 57539, 58098, 58102, 58107, 58110, 58533, 58707, 58709, 58713, 58715, 58718, 59957, 59960, 59963, 59967, 60106, 60292, 60295, 60298, 60300
71 ..... 57541, 58334, 60108, 60109, 60111
91 ..... 58546, 58722, 60302
97 ..... 57115, 57117

Proposed Rules:
27 57685
29 57687
39 ..... 57172, 57383, 57390, 57552, 58137, 58140, 58362, 58566, 58772, 59555, 59557, 59560, 60128
71 ..... 57554, 57556, 57558, 57888, 58142, 58144, 60130, 60132
241 58777
399 58778

15 CFR

744 60304
801 58551

16 CFR

312 58076
1112 ..... 57119, 59505

1130.....59505
1232.....59505
1250.....57119
1460.....58728
Proposed Rules:
311.....60334
315.....57889

17 CFR

229.....58731
232.....58731
239.....58731
249.....58731
270.....58731
274.....58731
Proposed Rules:
1.....60335

18 CFR

Proposed Rules:
35.....60134

19 CFR

4.....57821
12.....57346
133.....59511

20 CFR

404.....59514
641.....56869

21 CFR

14.....58553
310.....60473
510.....58554
520.....58554
522.....58554
524.....58554
529.....58554
558.....58554
880.....60306
884.....60112
886.....60114
1308.....58557
Proposed Rules:
Ch. 1.....57560
15.....58572
884.....57174
1308.....58575

22 CFR

Proposed Rules:
50.....58778
51.....58778

24 CFR

5.....58335
891.....58335
960.....58335
982.....58335

26 CFR

Proposed Rules:
1.....60135
301.....60144

27 CFR

9.....57657, 57659
24.....57351
27.....57351
Proposed Rules:
24.....57392, 57688
27.....57392

28 CFR

Proposed Rules:
16.....57181

29 CFR

2550.....57664
4022.....59515
4044.....59515, 60308
Proposed Rules:
101.....58783
102.....58783
531.....57395, 59562

30 CFR

936.....58559
950.....57664

31 CFR

100.....60309

32 CFR

9.....57825
10.....57825
11.....57825
12.....57825
13.....57825
14.....57825
15.....57825
16.....57825
17.....57825
45.....58562
232.....58739

33 CFR

100.....59517, 60312, 60314
117.....56886, 57353, 57674, 57825, 58113, 58562, 59517, 60116, 60312, 60314, 60315, 60316
147.....60312, 60314
165.....57354, 57826, 57828, 58113, 58742, 60312, 60314, 60318
Proposed Rules:
100.....58578
117.....57561, 58145, 59562
165.....57413, 58147, 58149, 58151, 60341

37 CFR

6.....56887
201.....56890
202.....56890
Proposed Rules:
201.....56926, 58153

38 CFR

3.....57830

39 CFR

20.....57356
501.....60117
Proposed Rules:
111.....58580
3010.....58280
3020.....58280
3050.....58280
3055.....58280

40 CFR

52.....57123, 57125, 57126, 57130, 57132, 57133, 57362, 57677, 57835, 57836, 57848, 57849, 57853, 57854, 58115, 58116, 58118, 58341, 58342, 58347, 58563, 58745, 58747, 59519, 59521, 59969, 60119, 60121
80.....58486
81.....57853, 57854
82.....58122
174.....57135, 57137
180.....57140, 57144, 57149, 57151, 57367, 57854, 57860, 57867, 57872, 60122
300.....56890
770.....57874
1601.....57875
Proposed Rules:
52.....57183, 57415, 57418, 57689, 57694, 57892, 58790, 59997, 60348
80.....58364
81.....57892
82.....58154
131.....58156
180.....57193, 60167
300.....56939
713.....60168

42 CFR

414.....59216
416.....59216
419.....59216
510.....57066
512.....57066

43 CFR

3160.....58050
3170.....58050
8360.....60320

44 CFR

64.....57680

45 CFR

1149.....58348
1158.....58348
Proposed Rules:
1304.....57905

46 CFR

67.....58749
296.....56895
356.....56899
393.....56902

47 CFR

1.....57876, 58749, 59971
2.....59972
10.....57158
11.....57158
25.....58759, 59972
32.....59971
51.....57161
64.....56909
69.....57161
73.....57684, 57876, 59987
Proposed Rules:
15.....60350
73.....60350
74.....60350
76.....58365, 60350
95.....58374

48 CFR

604.....58350
636.....58351
637.....58351
642.....58350
652.....58351

49 CFR

395.....60323
801.....58354
1104.....57370
1109.....57370
1111.....57370
1114.....57370
1130.....57370
Proposed Rules:
174.....58582
243.....60355
395.....60360

50 CFR

300.....58564
622.....56917, 59523
635.....57543, 57885, 58761
648.....57382, 59526, 59987
665.....57551, 58129
679.....57162, 60325, 60327, 60329
Proposed Rules:
17.....57562, 57698, 60362
80.....59564
223.....57565
224.....57565
Ch. III.....57699
600.....57419
622.....60168
648.....58164, 58583
660.....60170
665.....60366
679.....57906, 57924, 58374

LIST OF PUBLIC LAWS

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws**.

Last List December 14, 2017

Public Laws Electronic Notification Service (PENS)

PENS is a free electronic mail notification service of newly enacted public laws. To subscribe, go to *http://listserv.gsa.gov/archives/publaws-l.html*

Note: This service is strictly for E-mail notification of new laws. The text of laws is not available through this service. **PENS** cannot respond to specific inquiries sent to this address.