FEDERAL REGISTER

Vol. 82 Thursday,
No. 248 December 28, 2017

Pages 61443–61672

OFFICE OF THE FEDERAL REGISTER

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

Rules and Regulations

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FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 324, 329, and 382

RIN 3064–AE46

Restrictions on Qualified Financial Contracts of Certain FDIC-Supervised Institutions; Revisions to the Definition of Qualifying Master Netting Agreement and Related Definitions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Final rule; technical correction; confirmation of effective date.

SUMMARY: This document makes technical corrections to regulations that were published in the **Federal Register** on October 30, 2017. The FDIC added Part 382 to its regulations to improve the resolvability of systemically important U.S. banking organizations and systemically important foreign banking organizations and enhance the resilience and the safety and soundness of certain State savings associations and State-chartered banks and made certain conforming changes to Part 329. This document is being published to make technical corrections to certain rules under Parts 329 and 382 and make effective amendatory instruction 6 in the previously published regulation.

DATES: Effective January 1, 2018. Amendatory instruction 6 in the final rule published October 30, 2017, at 82 FR 50228, is effective January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ryan Billingsley, Acting Associate Director, Capital Markets Branch, Division of Risk Management and Supervision, *rbillingsley@fdic.gov;* Alexandra Steinberg Barrage, Senior Resolution Policy Specialist, Office of Complex Financial Institutions, *abarrage@fdic.gov;* David N. Wall, Assistant General Counsel, *dwall@fdic.gov,* Cristina Regojo, Counsel, *cregojo@fdic.gov,* Phillip Sloan, Counsel, *psloan@fdic.gov,* Michael Phillips, Counsel, *mphillips@fdic.gov,* Greg Feder, Counsel, *gfeder@fdic.gov,* or Francis Kuo, Counsel, *fkuo@fdic.gov,* Legal Division, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: We are making technical corrections to 12 CFR 329.3 and 382.2. We are also making effective amendatory instruction #6, published in the final rule on October 30, 2017, at 82 FR 50228.

List of Subjects

12 CFR Part 329

Administrative practice and procedure, Banks, banking, Federal Deposit Insurance Corporation, FDIC, Liquidity, Reporting and recordkeeping requirements.

12 CFR Part 382

Administrative practice and procedure, Banks, banking, Federal Deposit Insurance Corporation, FDIC, Qualified financial contracts, Reporting and recordkeeping requirements, State savings associations, State non-member banks.

For the reasons stated in the supplementary information, the Federal Deposit Insurance Corporation amends 12 CFR chapter III as follows:

PART 329—LIQUIDITY RISK MEASUREMENT STANDARDS

■ 1. The authority citation for part 329 continues to read as follows:

Authority: 12 U.S.C. 1815, 1816, 1818, 1819, 1828, 1831p–1, 5412.

§ 329.3 [Amended]

■ 2. In § 329.3, amend paragraph (2)(i)(A) of the definition of ‘‘Qualifying master netting agreement’’ by adding ‘‘or’’ following the semi-colon.

PART 382—RESTRICTIONS ON QUALIFIED FINANCIAL CONTRACTS

■ 3. The authority citation for part 382 continues to read as follows:

Authority: 12 U.S.C. 1816, 1818, 1819, 1820(g), 1828, 1828(m), 1831n, 1831o, 1831p–l, 1831(u), 1831w.

§ 382.1 [Amended]

■ 4. As of January 1, 2018, make effective amendatory instruction #6 as published October 30, 2017, at 82 FR 50228.

§ 382.2 [Amended]

■ 5. In § 382.2, amend paragraph (c)(1)(ii) by removing ‘‘January 19, 2019’’ and adding ‘‘January 1, 2019’’ in its place.

Dated at Washington, DC, on December 21, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–27971 Filed 12–27–17; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 16 and 511

[Docket No. FDA–2011–N–0079]

RIN 0910–AH64

New Animal Drugs for Investigational Use; Disqualification of a Clinical Investigator

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, the Agency, or we) is issuing a final rule amending the regulations for new animal drugs for investigational use to expand the scope of clinical investigator disqualification to include ineligibility to conduct nonclinical laboratory studies. Under this final rule, when the Commissioner of Food and Drugs (the Commissioner) determines that an investigator is ineligible to receive a new animal drug for investigational use, the investigator also will be ineligible to conduct any nonclinical study intended to support an application for a research or marketing permit for a new animal drug. This final rule will help ensure adequate protection of animal research subjects and the quality and integrity of data submitted to FDA.

DATES: This rule is effective January 29, 2018.

ADDRESSES: For access to the docket to read background documents or 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: Vernon Toelle, Center for Veterinary Medicine (HFV–230), Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–5637, *vernon.toelle@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Executive Summary

A. Purpose of the Final Rule

The regulations in § 511.1(c) (21 CFR 511.1(c)) provide that a disqualified clinical investigator is ineligible to conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA. However, the animal drug regulations permit the same clinical investigator to conduct both nonclinical laboratory studies as well as clinical investigations. We have proposed changes to these regulations (81 FR 57812, August 24, 2016) that would prevent disqualified clinical investigators from conducting nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug, thus enhancing protection of animal research subjects and ensuring the quality and integrity of data submitted to FDA in support of a new animal drug approval.

B. Summary of the Major Provisions of the Final Rule

This final rule expands the clinical investigator disqualification regulations in § 511.1(c) to include the ineligibility of a disqualified investigator to conduct any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug. We received one comment, and it supported the proposed amendment.

C. Legal Authority

FDA is issuing these regulations based on its authority under the new animal drug provisions in section 512 of the Federal Food, Drug, and Cosmetic Act (FD&C Act) (21 U.S.C. 360b) and under section 701(a) of the FD&C Act (21 U.S.C. 371(a)), which gives the Agency general rulemaking authority to issue regulations for the efficient enforcement of the FD&C Act.

D. Costs and Benefits

FDA believes this final rule is not a significant regulatory action as defined by Executive Order 12866 and certifies that it will not have a significant economic impact on a substantial number of small entities. FDA and applicants will not incur additional costs by expanding the scope in part 511 for disqualification of a clinical investigator. The benefit of preventing a disqualified clinical investigator from performing both nonclinical laboratory studies as well as clinical investigations will be enhanced protection of animal research subjects and data integrity submitted to FDA in support of a new animal drug approval.

II. Background

FDA may consider disqualification of a clinical investigator when FDA has information that an investigator has repeatedly or deliberately failed to comply with applicable requirements for the conduct of clinical investigations, or has repeatedly or deliberately submitted to FDA or to the sponsor false information in any required report. Disqualification of an investigator is initiated by the appropriate FDA center depending upon the particular type of test article (*e.g.,* new animal drug for investigational use) under study by the investigator in the clinical investigation. For example, the Center for Veterinary Medicine (CVM or the Center) may pursue disqualification of a clinical investigator who conducted a new animal drug clinical investigation and allegedly submitted to FDA or the sponsor false information in a required report.

The regulations provide the investigator who is subject to disqualification an opportunity to be heard and explain the matter complained of, *i.e.,* explain the alleged violations. If the explanation offered is not accepted by the Center, the investigator will be given an opportunity for an informal regulatory hearing under part 16 (21 CFR part 16). After evaluating all available information, including any explanation presented by the investigator, the Commissioner issues a Commissioner's decision regarding the eligibility of the investigator to receive a particular type of test article (*e.g.,* a new animal drug for investigational use). When disqualified by a Commissioner's decision, the investigator is no longer eligible to receive the particular type of test article under study when the violations occurred (*e.g.,* new animal drugs). Also, an investigator disqualified by a Commissioner's decision is ineligible to conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA.

Because CVM regulates drugs for animal use, the study subjects are animals in both clinical investigations and nonclinical laboratory studies intended to support the approval of a new animal drug. Nonclinical laboratory studies such as those for target animal safety and human food safety may be essential in determining whether to approve an application for a research or marketing permit for a new animal drug. For animal drug products regulated by CVM, the same investigator may conduct both clinical investigations and nonclinical laboratory studies. For example, CVM's two most recent clinical investigator disqualification matters involved investigators who were also study directors on nonclinical laboratory studies submitted to CVM in support of applications for a new animal drug. In addition, CVM is aware of multiple persons who conduct both clinical investigations and nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug. Therefore, CVM proposed (81 FR 57812) that it have authority to disqualify an investigator from conducting nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug when that same investigator is disqualified from conducting clinical investigations.

A. Need for the Regulation

Expanding the regulations to include that a disqualified investigator is ineligible to conduct any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug helps to ensure adequate protection of animal research subjects and data integrity. This action also leads to improved public confidence in the nonclinical and clinical data supporting FDA decisions for new animal drug approvals.

B. Summary of Comments to the Proposed Rule

We received one comment to the proposed rule. The comment supports the proposal. Therefore, we are finalizing the proposal without revision.

III. Legal Authority

We are issuing this final rule under section 512(j) of the FD&C Act, which authorizes FDA to issue regulations for exempting from the operation of section 512 of the FD&C Act new animal drugs intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety and effectiveness of animal drugs, and section 701(a) of the FD&C Act, which authorizes FDA to issue regulations for the efficient enforcement of the FD&C Act. An investigator who repeatedly or deliberately submits to FDA or the sponsor false information in a required report would not be considered a qualified expert with the experience required to conduct nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug. FDA therefore concludes that legal authority to promulgate this rule exists under sections 512(j) and 701(a) of the FD&C Act, as essential to protection of the public health and safety and to enforcement of the Agency's responsibilities under sections 201, 501, 502, 503, 512, and 701 of the FD&C Act (21 U.S.C. 321, 351, 352, 353, 360b, and 371).

IV. Comments on the Proposed Rule and FDA Response

We received no adverse or substantive comment and are finalizing without change.

V. Effective Date

This rule is effective January 29, 2018.

VI. Economic Analysis of Impacts

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." This final rule is not a significant regulatory action as defined by Executive Order 12866.

The Regulatory Flexibility Act requires us to analyze regulatory options that would minimize any significant impact of a rule on small entities. Because this rule does not impose new requirements on any entity and therefore has no associated compliance costs, 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 issuing "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 will not result in an expenditure in any year that meets or exceeds this amount.

This rule expands the scope in part 511 of disqualification of a clinical investigator to include ineligibility to conduct nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug. A final rule published on April 30, 2012 (77 FR 25353), prevents a disqualified investigator from conducting any clinical investigation, and therefore applies explicitly to clinical investigations. However, that rule was silent on nonclinical laboratory studies. Thus, before this final rule, a disqualified investigator could conduct a nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug. Because the reason for disqualification in part 511 is typically the repeated or deliberate submission of false information to us or to sponsors in a required report, preventing a disqualified clinical investigator from performing both nonclinical laboratory studies and clinical investigations is essential to adequate protection of animal research subjects and data integrity.

We will not incur additional costs by expanding the scope in part 511 for disqualification of a clinical investigator because we already post the names of any disqualified investigator on FDA's internet site at *https://www.accessdata.fda.gov/scripts/SDA/sdNavigation.cfm?sd=clinicalinvestigatorsdisqualificationproceedings&previewMode=true&displayAll=true.* Similarly, industry will not incur additional costs because the rule does not require applicants to perform additional tasks. For instance, upon disqualification, we post the respective investigator's name on FDA's internet site, which helps mitigate the employment of a disqualified investigator for clinical investigations or nonclinical laboratory studies intended to support an application for a research or marketing permit for a new animal drug. The benefit of preventing a disqualified clinical investigator from performing both nonclinical laboratory studies and clinical investigations will be enhanced protection of animal research subjects and data integrity.

VII. Analysis of Environmental Impact

We have determined under 21 CFR 25.30(h) 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.

VIII. Paperwork Reduction Act of 1995

This final rule contains no collection of information. Therefore, clearance by the Office of Management and Budget under the Paperwork Reduction Act of 1995 is not required.

IX. Federalism

We have analyzed this final rule in accordance with the principles set forth in Executive Order 13132. FDA has determined that the rule does not contain policies that 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. Accordingly, we conclude that the rule does not contain policies that have federalism implications as defined in the Executive order and, consequently, a federalism summary impact statement is not required.

List of Subjects

21 CFR Part 16

Administrative practice and procedure.

21 CFR Part 511

Animal drugs, Medical research, 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 parts 16 and 511 are amended as follows:

PART 16—REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION

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

Authority: 15 U.S.C. 1451–1461; 21 U.S.C. 141–149, 321–394, 467f, 679, 821, 1034; 28 U.S.C. 2112; 42 U.S.C. 201–262, 263b, 364.

■ 2. In § 16.1, in paragraph (b)(2), revise the numerically sequenced entry for § 511.1(c)(1) to read as follows:

§ 16.1 Scope.

* * * * *

(b) * * *

(2) * * *

(c)(1), relating to whether an investigator is eligible to receive test articles under part 511 of this chapter and eligible to conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA including drugs, biologics, devices, new animal drugs, foods, including dietary supplements, that bear a nutrient content claim or a health claim, infant formulas, food and color additives, and tobacco products; and any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug.

* * * * *

PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

■ 3. The authority citation for part 511 continues to read as follows:

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

■ 4. In § 511.1:

■ a. Revise the section heading;

■ b. Revise the last sentence in paragraph (c)(1);

■ c. Add paragraphs (c)(1)(i) and (ii);

■ d. Revise the last sentence in paragraph (c)(2);

■ e. Add paragraphs (c)(2)(i) and (ii); and

■ f. Revise paragraph (c)(6).

The revisions and additions read as follows:

§ 511.1 New animal drugs for investigational use exempt from section 512(a) of the Federal Food, Drug, and Cosmetic Act.

* * * * *

(c) * * *

(1) * * * If an explanation is offered but not accepted by the Center for Veterinary Medicine, the investigator will be given an opportunity for a regulatory hearing under part 16 of this chapter on the question of whether the investigator is eligible to receive test articles under this part and eligible to conduct:

(i) Any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA; and

(ii) Any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug.

(2) * * * The notification also will explain that an investigator determined to be ineligible to receive test articles under this part will be ineligible to conduct:

(i) Any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA, including drugs, biologics, devices, new animal drugs, foods, including dietary supplements, that bear a nutrient content claim or a health claim, infant formulas, food and color additives, and tobacco products; and

(ii) Any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug.

* * * * *

(6) An investigator who has been determined to be ineligible under paragraph (c)(2) of this section may be reinstated as eligible when the Commissioner determines that the investigator has presented adequate assurances that the investigator will employ all test articles, and will conduct any clinical investigation that supports an application for a research or marketing permit for products regulated by FDA and any nonclinical laboratory study intended to support an application for a research or marketing permit for a new animal drug, solely in compliance with the applicable provisions of this chapter.

* * * * *

Dated: December 21, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27973 Filed 12–27–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 884

[Docket No. FDA–2017–N–6842]

Medical Devices; Obstetrical and Gynecological Devices; Classification of the Pressure Wedge for the Reduction of Cesarean Delivery

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the pressure wedge for the reduction of cesarean delivery 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 pressure wedge for the reduction of cesarean delivery's classification. We are taking this action because we have determined that classifying the device into class II (special controls) will provide a reasonable assurance of safety and effectiveness of the device. We believe this action will also enhance patients' access to beneficial innovative devices, in part by reducing regulatory burdens.

DATES: This order is effective December 28, 2017. The classification was applicable on December 19, 2016.

FOR FURTHER INFORMATION CONTACT: Mack Hall III, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3572, Silver Spring, MD 20993–0002, 301–796–5621, *mack.hall@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the pressure wedge for the reduction of cesarean delivery 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 to a predicate device that does not require premarket approval (see 21 U.S.C. 360c(i)). 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 (21 U.S.C. 360c(f)(2)). 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 (21 U.S.C. 360c(a)(1)). Although the device was automatically 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 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

On January 29, 2016, Stetrix, Inc., submitted a request for De Novo classification of the Hem-Avert® Perianal Stabilizer. 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 December 19, 2016, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 884.5210. We have named the generic type of device pressure wedge for the reduction of cesarean delivery, and it is identified as a prescription device that provides external mechanical support to the perianal region during the labor and vaginal delivery process. External mechanical support of the perianal region is intended to help reduce the occurrence of cesarean delivery.

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—PRESSURE WEDGE FOR THE REDUCTION OF CESAREAN DELIVERY RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measures
Skin/tissue trauma	Non-clinical performance data, Clinical performance data, and Labeling.
Device failure • Breakage. • Slippage.	Non-clinical performance data and Labeling.
Infection	Sterilization validation, Shelf life testing, and Labeling.
Adverse tissue reaction	Biocompatibility evaluation.
Pain	Labeling.
Use error	Labeling.

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

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

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

List of Subjects in 21 CFR Part 884

Medical devices.

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

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

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

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

■ 2. Add § 884.5210 to subpart F to read as follows:

§ 884.5210 Pressure wedge for the reduction of cesarean delivery.

(a) *Identification.* A pressure wedge for the reduction of cesarean delivery is a prescription device that provides external mechanical support to the perianal region during the labor and vaginal delivery process. External mechanical support of the perianal region is intended to help reduce the occurrence of cesarean delivery.

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

(1) The patient contacting materials must be evaluated to be biocompatible.

(2) Nonclinical performance data must demonstrate that the device will not break when subjected to the forces it will be exposed to during labor.

(3) Performance data must validate the sterility of the device.

(4) Performance data must support the shelf life of the device by demonstrating continued sterility and package integrity over the labeled shelf life.

(5) Clinical performance data must be provided that characterizes the rate of skin/tissue trauma.

(6) The labeling must include:

(i) Specific instructions regarding the proper placement and use of the device.

(ii) A shelf life.

Dated: December 22, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28042 Filed 12–27–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

[189A2100DD/AAKC001030/A0A501010.999900]

RIN 1076–AF39

Addition of the Wind River Indian Reservation to the List of Courts of Indian Offenses

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule; confirmation.

SUMMARY: The Bureau of Indian Affairs (BIA) is confirming the interim final rule published on October 27, 2016, establishing a Court of Indian Offenses (also known as a CFR Court) for the Wind River Indian Reservation.

DATES: This final rule is effective on December 28, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION:

I. Summary of Rule

Generally, Courts of Indian Offenses operate in those areas of Indian country where Tribes retain jurisdiction over Indians that is exclusive of State jurisdiction, but where Tribal courts have not been established to fully exercise that jurisdiction. The Eastern Shoshone Tribe and the Northern Arapaho Tribe have an equal joint interest in the Wind River Indian Reservation. Since the publication of the Interim Final Rule establishing the Court of Indian Offenses for the Wind River Indian Reservation, the Shoshone & Arapaho Tribal Court has operated without the legal support of the Eastern Shoshone Tribe, and with limited resources. The Bureau has attempted to work with the Northern Arapaho Tribe towards establishing a system of courts with concurrent jurisdiction. However, after nine months of operation, the joint nature of the Wind River Indian Reservation has proven establishing such a system untenable.

Allowing the Bureau of Indian Affairs to constitute a CFR Court will provide all residents on the Wind River Indian Reservation with comprehensive judicial services, and ensure the administration of justice and public safety. To accomplish this, this rule finalizes the revision of a section of 25 CFR part 11 to add the Wind River Indian Reservation in Wyoming to the list of areas in Indian country with established Courts of Indian Offenses (also known as CFR Courts). This rule inserts the Wind River Indian Reservation into a new paragraph (d) in 25 CFR 11.100.

An interim final rule published on October 27, 2016 (81 FR 74675). Comments received on the interim final rule are addressed in Section II.H of this preamble, below.

II. Procedural Requirements

A. Regulatory Planning and Review (E.O. 12866 and 13563)

Executive Order 12866 provides that the Office of Information and Regulatory Affairs in the Office of Management and Budget will review all significant rules. The Office of Information and

Regulatory Affairs has determined that this rule is not significant.

Executive Order 13563 reaffirms the principles of E.O. 12866 while calling for improvements in the nation's regulatory system to promote predictability, to reduce uncertainty, and to use the best, most innovative, and least burdensome tools for achieving regulatory ends. The executive order directs agencies to consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public where these approaches are relevant, feasible, and consistent with regulatory objectives. E.O. 13563 emphasizes further that regulations must be based on the best available science and that the rulemaking process must allow for public participation and an open exchange of ideas. We have developed this rule in a manner consistent with these requirements.

B. Regulatory Flexibility Act

This rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) because the rule affects only the administration of justice on a reservation through a CFR court.

C. Small Business Regulatory Enforcement Fairness Act

This rule is not a major rule under the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 804(2)). This rule:

(a) Does not have an annual effect on the economy of $100 million or more;

(b) Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions;

(c) Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises.

D. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

E. Takings (E.O. 12630)

This rule does not affect a taking of private property or otherwise have taking implications under Executive Order 12630. A takings implication assessment is not required.

F. Federalism (E.O. 13132)

Under the criteria in section 1 of Executive Order 13132, this rule does not have sufficient federalism implications to warrant the preparation of a federalism summary impact statement. A federalism summary impact statement is not required.

G. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation; and

(b) Meets the criteria of section 3(b)(2) requiring that all regulations be written in clear language and contain clear legal standards.

H. Consultation With Indian Tribes (E.O. 13175 and Departmental Policy)

The Department of the Interior strives to strengthen its government-to-government relationship with Indian Tribes through a commitment to consultation with Indian Tribes and recognition of their right to self-governance and Tribal sovereignty. We have evaluated this rule under the department's consultation policy under the criteria in Executive Order 13175 and have consulted with the affected tribes.

Prior to issuing this regulation, the Department of the Interior and its Agencies, Bureaus, and Offices, communicated repeatedly with the Eastern Shoshone Tribe and the Northern Arapaho Tribe regarding public safety concerns for the residents of the Wind River Indian Reservation. Following the withdrawal of the Northern Arapaho Tribe from the Joint Business Committee, the Shoshone & Arapaho Tribal Court continued to operate with limited resources and only with the support of the Northern Arapaho Tribe. The Northern Arapaho Tribe has established its own Northern Arapaho Tribal Code has retitled the Shoshone & Arapaho Tribal Court as the Northern Arapaho Tribal Court. The Northern Arapaho Tribe and Eastern Shoshone Tribe have responded to the Interim Final Rule. The Northern Arapaho Tribe provided extensive documentation on its right to establish an independent judiciary, without addressing the pragmatic consequences of having multiple courts with concurrent jurisdiction on the Reservation. The Eastern Shoshone Business Committee expressly requested that the Department establish and operate a Court of Indian Offenses for the Wind River Indian Reservation.

After reviewing these comments, and the operation of the Court of Indian Offenses for the Wind River Indian Reservation over the past nine months, the Department has determined that to ensure public safety, it is necessary to establish a Court of Indian Offenses for the Wind River Indian Reservation.

I. Paperwork Reduction Act

This rule does not contain information collection requirements, and a submission to the Office of Management and Budget under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*) is not required. We may not conduct or sponsor, and you are not required to respond to, a collection of information unless it displays a currently valid OMB control number.

J. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 (''NEPA'', 42 U.S.C. 4321 *et seq.*) is not required because the rule is covered by a categorical exclusion. This rule is excluded from the requirement to prepare a detailed statement because it is a regulation of an administrative nature. (For further information, see 43 CFR 46.210(i)) We have also determined that the rule does not involve any of the extraordinary circumstances listed in 43 CFR 46.215 that would require further analysis under NEPA.

K. Effects on the Energy Supply (E.O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A Statement of Energy Effects is not required.

L. Clarity of This Regulation

We are required by Executive Orders 12866 (section 1(b)(12)), and 12988 (section 3(b)(1)(B)), and 13563 (section 1(a)), and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use common, everyday words and clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that you find unclear, which sections or sentences are too long, the sections where you think lists or tables would be useful, etc.

M. E.O. 13771: Reducing Regulation and Controlling Regulatory Costs

This rule is not an E.O. 13771 regulatory action because this rule is not significant under E.O. 12866.

List of Subjects in 25 CFR Part 11

Courts, Indians—law.

For the reason stated in the preamble the Department of the Interior, Bureau of Indian Affairs amends part 11 in Title 25 of the Code of Federal Regulations as follows:

PART 11—COURTS OF INDIAN OFFENSES AND LAW AND ORDER CODE

■ The interim final rule amending 25 CFR part 11 which was published at 81 FR 74675 on October 27, 2016, is adopted as final without change.

Dated: December 19, 2017.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2017–28063 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 11

[189A2100DD/AAKC001030/ A0A501010.999900]

Court of Indian Offenses Serving the Wind River Indian Reservation

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Waiver of certain regulations.

SUMMARY: This document accompanies the final rule establishing a Court of Indian Offenses (also known as a CFR Court) for the Wind River Indian Reservation published today and waives the application of certain regulations for the Court of Indian Offenses serving the Wind River Indian Reservation.

DATES: This waiver is applicable on December 28, 2017.

FOR FURTHER INFORMATION CONTACT: Elizabeth Appel, Director, Office of Regulatory Affairs & Collaborative Action—Indian Affairs, (202) 273–4680; *elizabeth.appel@bia.gov.*

SUPPLEMENTARY INFORMATION: Generally, Courts of Indian Offenses operate in those areas of Indian country where Tribes retain jurisdiction over Indians exclusive of State jurisdiction, but where Tribal courts have not been established to fully exercise that jurisdiction. The Eastern Shoshone Tribe and the Northern Arapaho Tribe have an equal joint interest in the Wind River Indian Reservation. However, since October of 2016, the former Shoshone & Arapaho Tribal Court has operated only with the support of the Northern Arapaho Tribe. The Bureau of Indian Affairs (BIA) is taking the next step to provide all residents on the Wind River Indian Reservation with comprehensive judicial services, and ensure the permanent administration of justice and public safety.

Therefore, the Secretary has determined, in his discretion under 5 U.S.C. 301, 25 U.S.C. 2 and 9, that it is necessary to waive 25 CFR 11.104(a), (b) and 11.201(a), (e), and (f), as well as a portion of 25 CFR 11.108, as applied to the Wind River Indian Reservation. This waiver will ensure that a BIA Court of Indian Offenses can effectively operate and serve all of the residents of the Wind River Indian Reservation.

The Secretary has determined that, for the Wind River Reservation, it is necessary to waive 25 CFR 11.201(a), (e), and (f)—requirements that a magistrate must be confirmed by a tribal governing body, or, in the case of multi-tribal courts, confirmation by a majority of the tribal governing bodies; and requirements regarding training or other qualifications for CFR Court Magistrates—to ensure that the Bureau has the ability to hire and staff the Court with qualified employees efficiently.

Additionally, 25 CFR 11.104, which provides that the regulations in part 11 continue to apply until either: (1) The BIA and the tribe enter into a contract or compact for the tribe to provide judicial services; or (2) [t]he tribe has put into effect a law-and-order code that establishes a court system, is waived in part as applied to the Wind River Indian Reservation. Due to the shared nature of the Wind River Indian Reservation, the practical consequences of separate courts with overlapping jurisdiction will be further confusion about the authority of each court and exponentially increase the difficulty of maintaining law and order on the Reservation. While the Tribes are free to operate judicial systems independently, the Department will not acknowledge or enforce acts of those judicial systems entered after the publication of this waiver, with the exception that the Department will acknowledge any emergency restraining or protective issued by the Northern Arapaho Court within ten (10) days of the publication of this waiver, until such time as both tribes jointly petition under 25 CFR 11.104.

Finally, 25 CFR 11.108 is waived to the extent necessary for the Court of Indian Offenses for the Wind River Indian Reservation to enforce Titles II, III, V, VII, VIII, IX, Title XI Chapters 3 and 4, Title XII Chapter 2, Titles XIV, and XVI of the Shoshone and Arapaho Law and Order Code as it existed on October 1, 2016. To the extent that the Shoshone and Arapaho Law and Order Code, as written, requires an action of the Joint Business Committee as a predicate for a criminal offense or the regulation of an action, *e.g.* the determination of the hunting season, that authority is hereby vested in the BIA Superintendent of the Wind River Agency.

The authority for publication of this document is: 5 U.S.C. 301; R.S. 463, 25 U.S.C. 2; R.S. 465, 25 U.S.C. 9; 42 Stat. 208, 25 U.S.C. 13; 38 Stat. 586, 25 U.S.C. 200.

Dated: December 5, 2017.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2017–28062 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

31 CFR Part 576

Iraq Stabilization and Insurgency Sanctions Regulations

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Final rule.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adopting a final rule amending the Iraq Stabilization and Insurgency Sanctions Regulations to implement Executive Order (E.O.) 13668 of May 27, 2014 (''Ending Immunities Granted to the Development Fund for Iraq and Certain Other Iraqi Property and Interests in Property Pursuant to Executive Order 13303, as Amended''). These amendments also implement certain technical and conforming changes.

DATES: *Effective:* December 28, 2017.

FOR FURTHER INFORMATION CONTACT: The Department of the Treasury's Office of Foreign Assets Control: Assistant Director for Licensing, tel.: 202–622–2480, Assistant Director for Regulatory Affairs, tel.: 202–622–4855, Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the Chief Counsel (Foreign Assets Control), Office of the General Counsel, tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

This document and additional information concerning OFAC are available from OFAC's website (*www.treasury.gov/ofac*).

Background

OFAC issued the Iraq Stabilization and Insurgency Sanctions Regulations, 31 CFR part 576 (the ''Regulations''), on September 13, 2010 (see 75 FR 55463), as a final rule to implement E.O. 13303 (68 FR 31931, May 28, 2003) (E.O. 13303), E.O. 13315 (68 FR 52315, September 3, 2003), E.O. 13350 (69 FR 46055, July 30, 2004), E.O. 13364 (69 FR 70177, December 2, 2004) (E.O. 13364), and E.O. 13438 (72 FR 39719, July 19, 2007). OFAC has amended the Regulations on several occasions. Today, OFAC is making amendments to the Regulations to implement E.O. 13668 (79 FR 31019, May 29, 2014) (E.O. 13668).

In support of the orderly reconstruction of Iraq, the restoration and maintenance of peace and security in Iraq, and the development of political, administrative, and economic institutions in Iraq, E.O. 13303, as amended by E.O. 13364, prohibited and deemed null and void, with certain limited exceptions, any attachment, judgment, decree, lien, execution, garnishment, or other judicial process with respect to: (i) The Development Fund for Iraq; (ii) all Iraqi petroleum and petroleum products, and interests therein, but only until title passes to the initial purchaser, and proceeds, obligations, or any financial instruments of any nature whatsoever arising from or related to the sale or marketing thereof, and interests therein, in which any foreign country or a national thereof has any interest, that are in the United States, that thereafter came within the United States, or that were or thereafter came within the possession or control of United States persons; and (iii) any accounts, assets, investments, or any other property of any kind owned by, belonging to, or held by the Central Bank of Iraq, or held, maintained, or otherwise controlled by any financial institution of any kind in the name of, on behalf of, or otherwise for the Central Bank of Iraq.

E.O. 13668 terminated the protections granted under amended E.O. 13303 in response to the changed circumstances in Iraq, including the Government of Iraq's progress in resolving and managing the risk associated with outstanding debts and claims arising from actions of the previous regime. Today, OFAC is amending the Regulations to implement E.O. 13668 by removing the regulatory provisions that implemented the protections granted under amended E.O. 13303. These amendments also make certain technical and conforming changes.

Public Participation

Because the amendment of the Regulations involves a foreign affairs function, the provisions of E.O. 12866 and the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, opportunity for public participation, and delay in effective date, as well as the provisions of E.O. 13771, are inapplicable. Because no notice of proposed rulemaking is required for this rule, the Regulatory Flexibility Act (5 U.S.C. 601–612) does not apply.

Paperwork Reduction Act

The collections of information related to the Regulations are contained in 31 CFR part 501 (the ''Reporting, Procedures, and Penalties Regulations''). Pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), those collections of information have been approved by the Office of Management and Budget under control number 1505–0164. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid control number.

List of Subjects in 31 CFR Part 576

Administrative practice and procedure, Banks, banking, Foreign trade, Iraq, Petroleum, Sanctions.

For the reasons set forth in the preamble, the Department of the Treasury's Office of Foreign Assets Control amends 31 CFR part 576 as follows:

PART 576—IRAQ STABILIZATION AND INSURGENCY SANCTIONS REGULATIONS

■ 1. The authority citation for part 576 is revised to read as follows:

Authority: 3 U.S.C. 301; 22 U.S.C. 287c; 31 U.S.C. 321(b); 50 U.S.C. 1601–1651, 1701–1706; Pub. L. 110–96, 121 Stat. 1011; E.O. 13303, 68 FR 31931, 3 CFR, 2003 Comp., p. 227; E.O. 13315, 68 FR 52315, 3 CFR, 2003 Comp., p. 252; E.O. 13350, 69 FR 46055, 3 CFR, 2004 Comp., p. 196; E.O. 13364, 69 FR 70177, 3 CFR, 2004 Comp., p. 236; E.O. 13438, 72 FR 39719, 3 CFR, 2007 Comp., p. 224; E.O. 13668, 79 FR 31019, 3 CFR, 2014 Comp., p. 248.

Subpart B—Prohibitions

§ 576.206 [Removed]

■ 2. Remove § 576.206 from subpart B.

Subpart C—General Definitions

■ 3. Amend § 576.303 by:

■ a. Revising paragraphs (a) and (c);

■ b. In paragraph (b), adding the word ''and'' after the semi-colon; and

■ c. Removing paragraphs (d) and (e).

The revisions read as follows:

§ 576.303 Effective date.

* * * * *

(a) With respect to a person whose property and interests in property are blocked pursuant to § 576.201(a)(1):

(1) 12:01 a.m. eastern daylight time, August 29, 2003, for those persons listed on the Annex to Executive Order 13315; and

(2) 12:01 a.m. eastern daylight time, July 30, 2004, for those persons added to the Annex to Executive Order 13315 by Executive Order 13350;

* * * * *

(c) With respect to the transactions prohibited by § 576.201(b) or § 576.208, 12:01 a.m. eastern daylight time, July 30, 2004.

§ 576.308 [Removed]

■ 4. Remove § 576.308 from Subpart C.

Subpart D—Interpretations

§ 576.404 [Amended]

■ 5. In § 576.404, remove paragraph (c).

Subpart E—Licenses, Authorizations, and Statements of Licensing Policy

§ 576.508 [Removed]

■ 6. Remove § 576.508 from subpart E.

Dated: December 22, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–28023 Filed 12–27–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–0161]

Drawbridge Operation Regulation; Canaveral Barge Canal, Canaveral, FL

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 SR 401 Drawbridges, mile 5.5 at Port Canaveral, Florida. The deviation is necessary to reduce vehicular traffic congestion and to ensure the safety of roadways while passengers are transiting to and from the cruise ship terminals. Since the arrival of additional cruise ships to the Port of Canaveral, massive traffic back-ups have been caused by the on demand drawbridge openings. This deviation allows the bridges to not open to navigation during prime cruise ship passenger loading and unloading times on Saturdays and Sundays.

DATES: This deviation is effective without actual notice from December 28, 2017 through January 31, 2018. For the purposes of enforcement, actual notice will be used from December 5, 2017, until December 28, 2017.

ADDRESSES: The docket for this deviation, USCG–2017–0161 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 LT Allan Storm, Sector Jacksonville, Waterways Management Division, U.S. Coast Guard; telephone 904–714–7616, email *Allan.H.Storm@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Canaveral Port Authority, with concurrence from the bridge owner, Florida Department of Transportation have requested the Coast Guard consider allowing the SR 401 Drawbridges across the Canaveral Barge Canal, Port Canaveral, Florida to not open to navigation from 11 a.m. to 2 p.m. on Saturdays and Sundays.

On October 23, 2017 the Coast Guard published a notice of proposed rulemaking entitled ''Drawbridge Operation Regulation; Canaveral Barge Canal, Canaveral, FL in the **Federal Register** (82 FR 48940). Under that proposed rule, the bridges would remain in the closed-to-navigation position from 11 a.m. to 2 p.m. on Saturdays and Sundays. The existing regulation for the SR 401 Drawbridges, across Canaveral Barge Canal, mile 5.5 at Port Canaveral, FL is published in 33 CFR 117.273(b). The SR 401 Drawbridges provide a vertical clearance of 25 feet in the closed position at Mean High Water (MHW) and a horizontal clearance of 90 feet between fenders. The bridge logs from October 2017 indicate that, at most, approximately nine vessels may be affected by establishing this three hour bridge closure on Saturdays and Sundays. The majority of the opening requests were either at the beginning or end of this closure period; therefore, by adjusting their transits slightly there should be a negligible overall effect. This temporary deviation is effective from December 28, 2017 until January 31, 2018. The Coast Guard will continue to evaluate the impact to mariners navigating this area during the closure periods.

Vessels able to pass through the bridge in the closed position may do so at any time. The bridge will be able to open for emergencies and there is no immediate alternate route for vessels to pass through the bridge in closed position. The Coast Guard will also inform the users of the waterways 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 5, 2017.

Barry Dragon,

Director, Bridge Branch, Seventh Coast Guard District.

[FR Doc. 2017–27969 Filed 12–27–17; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2017–1031]

Drawbridge Operation Regulation; Passaic River, Newark, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from drawbridge regulation; modification.

SUMMARY: The Coast Guard has modified a temporary deviation from the operating schedule that governs the Routes 1 & 9 (Lincoln Highway) Bridge across the Passaic River, mile 1.8 at Newark, New Jersey. This modified deviation extends the period the bridge may remain in the closed-to-navigation position and is necessary to facilitate structural steel repairs at the lift span.

DATES: This modified deviation is effective from 12:01 a.m. January 6, 2018 to 11:59 p.m. February 2, 2018.

ADDRESSES: The docket for this deviation, USCG–2017–1031, 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 Judy K. Leung-Yee, Bridge Management Specialist, First District Bridge Branch, U.S. Coast Guard; telephone 212–514–4336, email *Judy.K.Leung-Yee@uscg.mil.*

SUPPLEMENTARY INFORMATION: On November 21, 2017, the Coast Guard published a temporary deviation entitled ''Drawbridge Operation Regulation; Passaic River, Newark, NJ'' in the **Federal Register** (82 FR 55322). That temporary deviation allows the bridge to be in the closed position from November 20, 2017 through January 5, 2018.

The owner of the bridge, the New Jersey Department of Transportation, requested a modification of the currently published deviation to extend the bridge closure from 12:01 a.m. January 6, 2018 to 11:59 p.m. February 2, 2018 in order to facilitate structural steel repairs at the lift span.

The Routes 1 & 9 Bridge across the Passaic River, mile 1.8, at Newark, New Jersey is a vertical lift bridge with a vertical clearance of 40 feet at mean high water and 45 feet at mean low water in the closed position. The existing drawbridge operating regulations are listed at 33 CFR 117.739(b).

The waterway users are seasonal recreational vessels and commercial vessels of various sizes. Coordination with waterway users indicated no objection to the proposed closure of the draw. Vessels that can pass under the bridge without an opening may do so at all times. The bridge will not be able to open for emergencies. There is no alternate route for vessels to pass.

The Coast Guard will also inform the users of the waterways through our Local and Broadcast Notices to Mariners of the change in operating schedule for the bridge so vessel operators may arrange their transits to minimize any impact caused by the temporary deviation.

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

Dated: December 21, 2017.

Christopher J. Bisignano,

Supervisory Bridge Management Specialist, First Coast Guard District.

[FR Doc. 2017–28008 Filed 12–27–17; 8:45 am]

BILLING CODE 9110–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 51, and 63

[WC Docket No. 17–84; FCC 17–154]

Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, a Report and Order takes a number of actions aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks. The Report and Order adopts pole attachment reforms, changes to the copper retirement and other network change notification processes, and changes to the section 214(a) discontinuance application process. The Commission adopted the Report and Order in conjunction with a Declaratory Ruling and Further Notice of Proposed Rulemaking (FNPRM) in WC Docket No. 17–84, published elsewhere in this issue of the **Federal Register**.

DATES: Effective January 29, 2018, except for the amendments to 47 CFR 1.1424, 51.325, 51.329, 51.332, 51.333, 63.60, and 63.71, which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Michele Berlove, at (202) 418–1477, *michele.berlove@fcc.gov,* or Michael Ray, at (202) 418–0357, *michael.ray@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order in WC Docket No. 17–84, FCC 17–154, adopted November 16, 2017 and released November 29, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is available on the Commission's website at *https://apps.fcc.gov/edocs_public/attachmatch/FCC-17-154A1.docx.*

Synopsis

I. Introduction

1. Access to high-speed broadband is an essential component of modern life, providing unfettered access to information and entertainment, an open channel of communication to far-away friends and relatives, and unprecedented economic opportunity. Technological innovation and private investment have revolutionized American communications networks in recent years, making possible new and better service offerings, and bringing the promise of the digital revolution to more Americans than ever before. As part of this transformation, consumers are increasingly moving away from traditional telephone services provided over copper wires and towards next-generation technologies using a variety of transmission means, including copper, fiber, and wireless spectrum-based services.

2. Despite this progress, too many communities remain on the wrong side of the digital divide, unable to take full part in the benefits of the modern information economy. To close that digital divide, we seek to use every tool available to us to accelerate the deployment of advanced communications networks. Accordingly, today we embrace the transition to next-generation networks and the innovative services they enable, and adopt a number of important reforms aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks.

3. By removing unnecessary impediments to broadband deployment, the regulatory reforms we adopt today will enable carriers to more rapidly shift resources away from maintaining outdated legacy infrastructure and services and towards the construction of next-generation broadband networks bringing innovative new broadband services. And by reducing the costs to deploy high-speed broadband networks, we make it more economically feasible for carriers to extend the reach of their networks, increasing competition among broadband providers to communities across the country. We expect competition will include such benefits as lower prices to consumers. We anticipate taking additional action in the future in this proceeding to further facilitate broadband deployment.

II. Background

4. On April 20, 2017, the Commission adopted a notice of proposed rulemaking, notice of inquiry, and request for comment (*Wireless Infrastructure NPRM*) proposing and seeking comment on a number of actions designed to accelerate the deployment of next-generation networks and services by removing barriers to infrastructure investment. *See* 82 FR 22453 (May 16, 2017). More specifically, the *Wireline Infrastructure NPRM* sought comment on: (1) Reforming the Commission's pole attachment rules to make it easier, faster, and less costly to access the poles, ducts, conduits, and rights-of-way necessary for building out next-generation networks; (2) changing the process for retiring copper facilities and making other network changes to provide greater regulatory certainty and better enable carriers to transition more rapidly to modern networks; (3) streamlining the regulatory process by which carriers must obtain Commission authorization to discontinue legacy services so that scarce capital is free to be spent on delivering modern, innovative services; (4) using the Commission's preemption authority to prevent the enforcement of state and local laws that inhibit broadband deployment; and (5) changing the Commission's legal interpretations to clarify when carriers must ask for permission to alter or discontinue a service and, thereby, to reduce the regulatory uncertainty that is costly and burdensome to providers.

5. At the same time, the Commission's Broadband Deployment Advisory Committee (BDAC), a federal advisory committee chartered earlier this year, is examining several of the issues raised in the *Wireline Infrastructure NPRM.* The BDAC is charged with providing the Commission with recommendations on how to accelerate the deployment of high-speed internet access, or ''broadband,'' by reducing and/or removing regulatory barriers to infrastructure investment. Since being

chartered, the BDAC has held [three] public meetings and has five active working groups. We anticipate that the BDAC will provide important input on several matters relevant to this proceeding. We will examine the BDAC's recommendations closely in considering whether and how to move forward with those issues.

III. Report and Order

A. Pole Attachment Reforms

6. In this Order, we address three pole attachment issues on which the Commission sought comment in the *Wireline Infrastructure NPRM:* (1) Excluding capital costs recovered via make-ready fees from pole attachment rates; (2) establishing a shot clock for resolution of pole attachment access complaints; and (3) allowing incumbent local exchange carriers (LECs) access to poles owned by other LECs. In the *Wireline Infrastructure NPRM,* we requested comment on several other pole attachment issues, and we anticipate that we will address other pole attachment issues in a future order. In addition to the pole attachment issues addressed by this Order, the Commission sought comment in the *Wireline Infrastructure NPRM* on proposals that would adopt a streamlined timeframe for gaining access to utility poles, reduce charges paid by attachers to utilities for work done to make a pole ready for new attachments, and adopt a formula for computing the maximum pole attachment rate that may be imposed on an incumbent LEC.

1. Excluding Capital Costs Recovered Via Make-Ready Fees From Pole Attachment Rates

7. We adopt the *Wireline Infrastructure NPRM'*s proposal to amend § 1.1409(c) of our rules to exclude capital expenses already recovered via non-recurring make-ready fees from recurring pole attachment rates. ''Make-ready'' generally refers to the modification of poles or lines or the installation of certain equipment (*e.g.,* guys and anchors) to accommodate additional facilities on poles. In adopting this proposal, we reaffirm and emphasize longstanding Commission precedent. Almost forty years ago, the Commission found that ''where a utility has been directly reimbursed by [an] . . . operator for non-recurring costs, including plant, such costs must be subtracted from the utility's corresponding pole line capital account to insure that . . . operators are not charged twice for the same costs.'' Since that time, the Commission has made clear that ''[m]ake-ready costs are non-recurring costs for which the utility is directly compensated and as such are excluded from expenses used in the rate calculation.'' Nonetheless, the record demonstrates that not all attachers benefit from lower rates in these circumstances, in part because our rules do not explicitly require utilities to exclude already-reimbursed capital costs from their pole attachment rates.

8. We agree with commenters that argue that codifying the exclusion of capital expenses already recovered via make-ready fees from recurring pole attachment rates will help eliminate confusion. Codifying this exclusion is consistent with the BDAC recommendation that we clarify that utilities are not allowed to ''use an increase in rates to recover capital costs already addressed in make-ready fees.'' While some commenters argue that it is unnecessary to codify this exclusion because current Commission policies already prevent make-ready payments from being included in the formulas used to calculate recurring pole attachment rates, we find that codification of the rule will enhance the deployment of broadband services and should improve compliance with long-standing precedent by providing additional clarity in the text of our rules.

2. Establishing a ''Shot Clock'' for Resolution of Pole Access Complaints

9. *180-Day Shot Clock.* We establish a 180-day ''shot clock'' for Enforcement Bureau resolution of pole access complaints filed under § 1.1409 of our rules. A ''pole access complaint'' is a complaint filed by a cable television system or a provider of telecommunications service that alleges a complete denial of access to a utility pole. This term does not encompass a complaint alleging that a utility is imposing unreasonable rates, terms, or conditions that amount to a denial of pole access. When the Commission last considered this issue as part of the *2011 Pole Attachment Order,* the record did not support the creation of new pole attachment complaint rules. By contrast, the record before us today includes broad support for establishing a shot clock for resolving pole access complaints, and we agree with commenters that establishment of such a shot clock will expedite broadband deployment by resolving pole attachment access disputes in a quicker fashion. As the POWER Coalition explains, pole access complaints ''are more urgent than complaints alleging unreasonable rates, terms and conditions,'' and because the only meaningful remedy for lack of pole access ''is the grant of immediate access to the requested poles,'' it is crucial for the Enforcement Bureau to complete its review of pole access complaints in a timely manner. Similar to the shot clock for Commission review of domestic transfer of control applications, we expect that the 180-day shot clock for pole access complaints will be met except in extraordinary circumstances.

10. We agree with commenters that argue that 180 days provides a reasonable timeframe for the Enforcement Bureau to resolve pole access complaints. While some commenters request a shorter shot clock, and the Utilities Technology Council opposes a shot clock on the grounds that it would inhibit the Enforcement Bureau's ability to comprehensively evaluate facts on a case-by-case basis, we find that 180 days will provide the Enforcement Bureau sufficient time to carefully evaluate the particular facts of each pole access complaint. We note that in a separate proceeding, the Commission is considering whether to adopt a shot clock for all pole attachment complaints. We find the record for this Order is sufficient to support the adoption now of a shot clock for a narrowly-targeted group of pole attachment complaints (*i.e.,* those alleging a denial of access to poles) that will aid broadband deployment and investment. We find it instructive that, as Verizon points out, a 180-day shot clock for pole access complaints aligns ''with the time period that Congress gave reverse-preemption states to decide pole attachment complaints'' under section 224(c)(3)(B) of the Act. Furthermore, the Enforcement Bureau can pause the shot clock in certain situations and/or exceed 180 days in extraordinary circumstances, which should ensure that the Enforcement Bureau can comprehensively evaluate any pole attachment access dispute.

11. *Starting the Shot Clock at the Time a Complaint Is Filed.* We direct the Enforcement Bureau to start the 180-day shot clock when a pole access complaint is filed. This approach is consistent with that set forth in the Act for states that act on pole attachment complaints, is broadly supported in the record, and was recommended by the BDAC.

12. *Pausing the Shot Clock.* The Enforcement Bureau may pause the shot clock when actions outside the Enforcement Bureau's control delay the Bureau's review of a pole access complaint. This approach also has broad support in the record and was recommended by the BDAC. We find it

instructive that in the transactions context, the reviewing Bureau can pause the shot clock while waiting for parties to provide additional requested information. The Enforcement Bureau may, for example, pause the shot clock when the parties need additional time to provide key information requested by the Bureau, or when the parties decide to pursue informal dispute resolution or request a delay to pursue settlement discussions after a pole access complaint is filed. The Enforcement Bureau should resume the shot clock immediately when the cause for pausing the shot clock has been resolved. We direct the Enforcement Bureau to provide the parties written notice of any pause in the shot clock, as well as when the shot clock is resumed.

13. *Establishment of Pre-Complaint Procedures.* Consistent with our goal of adopting measures to expedite broadband deployment by resolving pole attachment access disputes in a more timely manner, we decline to delay the beginning of the complaint process by requiring the parties to resolve procedural issues and deadlines in a meeting with Enforcement Bureau staff prior to the filing of a pole access complaint. We also decline the suggestion made by Ameren et al. that we require pre-complaint mediation or the discussion of mediation in a pre-complaint meeting. Successful mediation can save the parties and the Enforcement Bureau valuable time and resources and we encourage the voluntary use of mediation through the Enforcement Bureau, but we decline to adopt such a requirement and believe the decision as to whether to mediate is better left to the parties. We also recognize that there are times when the Enforcement Bureau requests that parties participate in post-complaint meetings in order to resolve procedural issues and deadlines associated with its review of a complaint. We find that, in general, the complaint process has proceeded in a more timely and smooth manner as a result of post-complaint meetings, and encourage the Enforcement Bureau to continue that practice as appropriate.

14. *Use of Shot Clock for Other Pole Attachment Complaints.* We also decline at this time to adopt a 180-day shot clock for pole attachment complaints other than those relating to pole access issues. We recognize the BDAC adopted a recommendation in favor of a 180-day shot clock for all pole attachment complaints, including pole access complaints; however, in the *Complaint Procedures NPRM,* we are currently seeking comment on whether to apply shot clocks (either uniformly or with differing deadlines) to a number of types of formal complaints, including non-access pole attachment complaints filed under section 224 of the Act. In addition to complaints filed under section 224 of the Act, the Commission is seeking comment on whether to adopt shot clocks for complaints filed under sections 208, 255, 716, and 718 of the Act. Although some commenters in this record support a 180-day shot clock for all pole attachment complaints, we defer to the record being developed in the Complaint Procedures NPRM for resolution of this issue. We note the BDAC also recommended adoption of a 180-day shot clock for all pole attachment complaints.

3. Recognizing a Reciprocal System of Access to Poles Pursuant to Section 251

15. We also take this opportunity to reconsider the Commission's previous interpretation of the interplay between sections 224 and 251(b)(4) of the Act. Based on the record before us, we conclude the better interpretation is to give effect to both sections and read the two sections in harmony as creating a reciprocal system of infrastructure access rules in which incumbent LECs, pursuant to section 251(b)(4) of the Act, are guaranteed access to poles owned or controlled by competitive LECs and vice versa, subject to the rates, terms, and conditions for pole attachments described in section 224. We note that incumbent LECs will be entitled to file pole access complaints under the new rule adopted in this Order and such complaints will be subject to the 180-day shot clock. As CenturyLink explains, the disparate treatment of incumbent LECs and competitive LECs prevents incumbent LECs from gaining access to competitive LEC-controlled infrastructure and in doing so dampens the incentives for all LECs to build and deploy the infrastructure necessary for advanced communications services.

16. Section 251 of the Act provides that ''[e]ach local exchange carrier'' has the duty ''to afford access to the poles, ducts, conduits, and rights-of-way of such carrier to competing providers of telecommunications services on rates, terms, and conditions that are consistent with section 224 [of the Act].'' Section 224(f) of the Act requires utilities to provide cable television systems and telecommunications carriers with nondiscriminatory access to any pole that they own or control. While section 224(a) of the Act defines a ''utility'' to include both incumbent LECs and competitive LECs, the definition of ''telecommunications carrier'' used in section 224 specifically does not include incumbent LECs, thus potentially denying incumbent LECs the benefits of section 224's specific pole attachment access and rate protections.

17. When the Commission initially examined this disparate treatment of incumbent LECs as part of the *First Local Competition Order,* it held that incumbent LECs cannot use section 251(b)(4) as a means of gaining access to competitive LEC poles because section 224(a) specifically excludes incumbent LECs from the definition of those telecommunications carriers entitled to nondiscriminatory access to utility poles. As a result, the Commission concluded it would be inappropriate to grant incumbent LECs access rights that the Commission believed were ''expressly withheld by section 224.'' Consequently, while incumbent LECs were required as utilities under section 224 to provide nondiscriminatory access to their poles to all cable television providers and telecommunications carriers (including competitive LECs), incumbent LECs could not obtain reciprocal nondiscriminatory access to the poles controlled by competitive LECs. However, as the Ninth Circuit Court of Appeals explained in *US West Communications, Inc.* v. *Hamilton,* sections 224 and 251 can ''be read in harmony'' to support a right of access for incumbent LECs on other LEC poles. Despite its skepticism of the Commission's analysis in the *First Local Competition Order*, the Ninth Circuit held it was obligated to adhere to that analysis because the parties had not directly challenged the *First Local Competition Order* via the Hobbs Act.

18. Because the Commission's prior interpretation of sections 224 and 251(b)(4) fails to give full effect to the language of section 251(b)(4) and in doing so also disserves the public interest and harms consumers by distorting both incumbent LEC and competitive LEC incentives to construct infrastructure that can be used to provide broadband services, we think the better approach is to read the sections in harmony. We agree with the Ninth Circuit in *US West,* as well as with commenters such as AT&T and WTA, that section 251(b)(4) provides incumbent LECs with an independent right of access to the poles owned by other LECs and that section 224 then determines the appropriate rates, terms, and conditions of such access. We disagree with NCTA's claim that imposing new infrastructure access obligations on competitive LECs ''would be of limited relevance because the only infrastructure owned by competitive LECs that conceivably would be useful to an incumbent LEC is conduit.'' We find that broadband deployment is

likely to be spurred by applying the reciprocal access obligations to all broadband infrastructure covered by section 251(b)(4) of the Act (*e.g.,* poles, ducts, conduits, rights-of-way). As the Ninth Circuit stated in *US West,* ''Section 224 deals with all utilities, whereas section 251(b)(4) concerns only telecommunications carriers. Section 224 allows CLECs, but not ILECs, access to the physical networks and rights-of-way of all other utilities, including those belonging to electric companies, gas companies, water companies, and the like. Because ILECs had their own physical networks and established rights-of-way when the Act was passed, Congress may have seen fit to grant access to non-carrier utilities' networks and rights-of-way only to CLECs. But in order to maintain a level playing field within the telecommunications industry itself, Congress reasonably could have granted reciprocal access among telecommunications carriers, ILECs and CLECs alike, by means of section 251(b)(4).'' Our reading gives full effect to the language of both sections 224 and 251(b)(4) without creating a conflict between them and also advances our goal in this proceeding of advancing broadband infrastructure investment and deployment.

19. We disagree with ExteNet and the Competitive Fiber Providers' arguments that reversing the Commission's prior interpretation of sections 224 and 251(b)(4) ''could discourage the broadband deployment these proceedings are designed to promote, impose discriminatory costs and obligations on only one type of owner of competitive poles, and reverse decades of light touch regulation for competitive providers.'' According to ExteNet and the Competitive Fiber Providers, the burden of accommodating incumbent LEC pole access will fall disproportionately on competitive LECs instead of the cable companies that are not ''local exchange carriers'' under section 251(b)(4). However, even if ExteNet and the Competitive Fiber Providers are correct that accommodating incumbent LEC pole access creates additional burdens for non-cable competitive LECs, we are bound by Congress' determination in section 251(b)(4) to apply such obligations to competitive LECs and not to cable operators.

20. We also fail to see how the imposition of incumbent LEC pole access obligations on poles owned by other LECs will ''stifle competitive deployment of fiber infrastructure'' as argued by the Competitive Fiber Providers. Competitive LECs are already required to make their pole infrastructure available to other competitive LECs as well as cable television system operators, so any pole deployment decisions would be made (or have been made) with the knowledge that other pole attachers must be accommodated. Any incremental costs associated with expanding the accommodation to include incumbent LECs should not deter competitive LEC pole ownership because such costs will be borne by the incumbent LEC attachers in the form of make-ready fees. Consequently, we find that rather than stifling broadband deployment, the opposite is more likely—allowing incumbent LEC access to poles owned by other LECs should expand broadband deployment by increasing access to broadband infrastructure.

21. We also disagree with ExteNet and the Competitive Fiber Providers' argument that changing our interpretation of sections 251(b)(4) and 224 will give incumbent LECs greater leverage over their competitors because they own more poles and therefore have greater bargaining power. Our decision does not change the pole access rights of competitive LECs, as they will continue to have mandatory non-discriminatory access to incumbent LEC poles. Rather than ''putting the Commission's thumb on the scale in favor of the party [incumbent LECs] that owns a much greater percentage of poles,'' our decision instead creates regulatory parity among all categories of attachers by ensuring reciprocal pole access rights.

B. Streamlining the Network Change Notification Process

22. Today we eliminate unnecessary and costly regulations governing network change disclosures, including copper retirements, while retaining certain requirements whose benefits outweigh the associated costs to incumbent LECs. The revised rules we adopt today, consistent with the Act, the Commission's longstanding policy goals, and supported by the record now before us, ensure that competing providers receive ''adequate, but not excessive, time to respond to changes to an incumbent LEC's network.'' We conclude that the Commission failed to achieve this balanced objective in 2015 when it imposed far-reaching and burdensome notice obligations on incumbent LECs that frustrate their efforts to modernize their networks. By reforming our rules and returning to the Commission's longstanding balance, we eliminate unnecessary delays in our regulatory process that help carriers more rapidly transition to more modern networks benefitting more Americans at lower costs.

23. Section 251(c)(5) of the Act requires an incumbent LEC ''to provide reasonable public notice of changes'' to its facilities or network that might affect the interoperability of those facilities or networks. Congress expressly made this a notice-based process, in contrast to statutory provisions requiring an approval-based process. Incumbent LECs are also subject to certain state laws requiring them to maintain adequate equipment and facilities.

24. It is important to distinguish between copper retirement and discontinuance of service. While it is possible that a network change, like a copper retirement, could ultimately lead to a discontinuance of service, that eventuality is governed by the Commission's section 214(a) discontinuance process. Otherwise, section 214(a)'s exception from its coverage for changes to a carrier's network would be rendered moot. The Commission's decision in the *Triennial Review Order* to include the copper retirement provisions in the network change notice rules rather than in the rules governing the discontinuance process underscores this distinction. Section 251(c)(5) reflects the decision by Congress that a notice-based network change process best serves the public by striking a balance between allowing incumbent LECs to make changes to their networks without undue regulatory burdens and giving competitive LECs time to account for those changes. We are empowered to ensure that our rules governing copper retirements and other network changes do not impede or delay these transformational and beneficial network changes through unreasonable and burdensome notice-related obligations. The actions we take today will accomplish this objective.

25. We are also unpersuaded by incumbent LEC assertions that the network change disclosure rules are outdated because they apply only to incumbent LECs despite the fact that incumbent LECs currently provide voice service to a relatively small percentage of households. The implementing statute specifically applies these notice requirements solely to incumbent LECs, and consistent with the Act we find they continue to be necessary to ensure the interoperability of our nation's communications networks.

1. Revising the General Network Change Disclosure Process

a. Eliminating Prohibition on Incumbent LEC Disclosure of Information About Planned Network Changes Prior to Public Notice

26. Section 51.325(c) of our rules currently prohibits incumbent LECs from disclosing information about planned network changes to ''separate affiliates, separated affiliates, or unaffiliated entities (including actual or potential competing service providers or competitors)'' until public notice has been given under the applicable rules. Based on the record, we find that this prohibition on incumbent LECs' ability to freely communicate with other entities regarding their plans for upgrading their networks prior to filing the requisite public notice impedes the ability of these LECs to engage and coordinate with the parties that will ultimately be affected by those changes. Accordingly, we eliminate this provision.

27. A primary goal of the 1996 Act was to foster competition. When the Commission adopted § 51.325(c) in 1996, the Commission was concerned that incumbent LECs might try to give their long distance or equipment manufacturing affiliates a competitive advantage through early disclosure. Circumstances have substantially changed in the intervening two decades and incumbent LECs no longer have the near-monopoly they once did. To the contrary, intermodal competition is more prevalent than ever. Moreover, given this intermodal competition, long-distance service is no longer a separate market. Further, as noted by AT&T, incumbent LECs ''do not have a significant presence in the market for manufacturing CPE.'' As a result, commenters' concern that eliminating this prohibition may result in anti-competitive conduct by incumbent LECs is no longer as persuasive as it once was. We are similarly unpersuaded by ADT's concern that incumbent LECs may gain a competitive advantage with respect to services such as alarm monitoring. As with the manufacturing of CPE, there is significant intermodal competition in the provision of alarm monitoring services, including provision of such services over media other than copper.

28. The practical effect of § 51.325(c) today is to slow deployment of next-generation networks and withhold useful information by preventing incumbent LECs from discussing their network change plans with any party. For example, this prohibition has prevented incumbent LECs from sharing planned copper retirement information with wholesale and retail customers in response to customers' specific requests for information, and impeded incumbent LECs' ability to engage with landlords and tenants early in a copper retirement process to ensure timely access to the premises to deploy fiber prior to retiring existing copper facilities. We agree with commenters that argue that removing the prohibition on the free flow of information between the incumbent LEC and all potentially impacted entities will permit incumbent LECs to work with affected competitive LECs, government users, enterprise customers, and others at the appropriate time in the normal course of business dealings with such entities, and over a longer period of time to plan for eventual network changes. Giving incumbent LECs the ability to engage with these entities prior to providing public notice under our rules will be especially useful to mitigating concerns raised by certain commenters regarding the impact our revised copper retirement notice process might have on particular users.

29. We decline certain commenters' suggestions that if we eliminate § 51.325(c), we require incumbent LECs to provide notice of network changes to all interconnecting entities before providing public notice. Such a requirement would be unwieldy and unduly burdensome and it would effectively require public notice earlier than would otherwise be required by the rules. Moreover, such pre-public notice disclosures of potential changes to the incumbent LEC's network may well occur at a phase when the incumbent LEC's plans are not yet solidified and might still change. Requiring formal disclosure to interconnecting parties that will eventually be entitled to disclosure under the Commission's rules could result in unnecessary confusion or unnecessary work by and expense to interconnecting carriers should the incumbent LEC's plans change. This is the very reason the network change disclosure rules do not require public notice until the incumbent LEC's plans reach the make/buy point, a requirement that remains in place. To be clear, however, our rules do not negate the terms of privately negotiated contracts that may include provisions regarding notice of potential network changes. Moreover, by eliminating § 51.325(c), we enable parties to negotiate network change notification provisions that allow for notice well in advance of public notice and that best serve their individual needs in the service contracts they enter into with incumbent LECs.

b. Retaining Objection Procedures for Short-Term Network Change Notices

30. We conclude that we should retain the objection procedures currently applicable to short-term notices of network changes. Short-term network change notices are an exception to the general rule adopted in the *Second Local Competition Order* requiring notice of planned network changes at least six months before implementation of the planned changes. An objector can seek to have the waiting period for a short-term network change extended to no more than six months from the date the incumbent LEC first gave notice. Although the objection procedures have rarely been invoked, the possibility of an objection provides incentive for incumbent LECs to work cooperatively with competitive LECs and keep open lines of communication with them, thus avoiding potential delays. We are unpersuaded by USTelecom's concern that competing service providers might use the objection process to unwarrantedly delay a network change. The Commission made clear in the *Second Local Competition Order* that such efforts would not be tolerated and indeed could expose the objector to sanctions. We thus conclude that retaining the objection procedures applicable to short-term notices of planned network changes maintains an appropriate balance between the needs of incumbent and competitive LECs and is consistent with Commission precedent.

2. Expediting Copper Retirement

31. Today we eliminate or substantially scale back the copper retirement rules adopted by the Commission in 2015, because the record demonstrates that those rules have added cost and delay into the process with no apparent corresponding benefits. The record shows that these rules have delayed certain incumbent LECs' plans to deploy fiber and, in some instances, to even consider foregoing fiber deployment altogether. We therefore make these rule changes to ensure these delays and foregone next-generation network opportunities no longer occur on our account. In doing so, however, we continue to recognize the unique circumstances posed by the need to accommodate copper retirements in contrast to other types of network changes.

32. When the Commission first adopted its copper retirement rules fourteen years ago, fiber deployment

was in its infancy and copper was the primary last-mile transmission medium for telecommunications services. In seeking to foster competition in adopting rules implementing the 1996 Act, the Commission signaled its goal was not to impose the associated regulatory burdens on incumbent LECs indefinitely. Rather, it intended to eventually ease those burdens once they became unnecessary. Permitting competitive LECs to continue to rely on unfettered access to incumbent LECs' copper facilities when incumbent LECs are rapidly trying to modernize such networks to both compete with newer fiber-based competitors and to bring innovative and superior services to the public frustrates rather than facilitates fiber deployment. Indeed, as early as 2003, the Commission recognized ''that the substantial revenue opportunities posted by FTTH deployment help ameliorate many of the entry barriers presented by the costs and scale economies,'' specifically noting then that ''competitive LECs have demonstrated that they can self-deploy FTTH loops and are doing so at this time.'' Thus, competitive LECs could not have been operating under the impression that they would be able to rely on incumbent LEC networks forever in the ''race to build next generation networks'' envisioned by the Commission.

33. In the intervening years, competitors have had the opportunity to explore and develop ways to compete in a world without copper. Likewise, consumers and enterprise customers have had the opportunity to learn about the transition from legacy networks comprised of copper to next-generation fiber networks. The ''gradual transition'' advocated by one commenter has been ongoing for many years now. Although this will continue to be a gradual, organic, carrier-driven process, we believe it is important to spur the process along rather than slow it down with unnecessary regulatory burdens. We will not impede the progress toward deployment of next-generation facilities for the many because of the reticence of an ever-shrinking few.

a. Retaining Distinctions Between Copper Retirement and Other Network Changes

34. At the outset, we retain the distinction between copper retirements and other types of network changes for purposes of section 251(c)(5) notice. On balance, the record supports the continued need for such a distinction. In adopting the network change disclosure rules following the 1996 Act, the Commission recognized that not all types of network changes present the same level of difficulty for interconnecting carriers. It thus adopted different requirements for long-term network changes, *i.e.,* those that cannot be implemented in less than six months from the make/buy point, and short-term network changes, *i.e.,* those that can be implemented in less than six months. The Commission subsequently recognized that copper retirement network changes have a potentially greater impact on interoperability than other network changes because they ''affect[] the ability of competitive LECs to provide service.'' Although competitors are increasingly relying on their own facilities to compete, for at least some competitive LECs that remains the case today.

35. We agree that competitive LECs are more familiar with accommodating copper retirements now than they were 14 years ago when the Commission first adopted its copper retirement rules; however, we are not persuaded that experience obviates the fact that copper retirements are more complicated and impactful than many other types of network changes. For example, where the copper retirement impacts competitive LECs providing Ethernet over Copper or purchasing TDM-based DS1s and DS3s, the affected competitive LECs often must migrate to other forms of last-mile access, change the service being offered and provide time for the retail customer to accommodate the change, or provide time for the retail customer to secure an alternative service arrangement. We thus disagree with incumbent LEC commenter assertions that copper retirements require no special treatment as compared to other types of network changes. As the Commission previously explained, competitors cannot be expected ''to react immediately to network changes that the incumbent LEC may have spent months or more planning and implementing.''

36. The reforms we adopt today bring the copper retirement process closer in line with the more generally applicable network change disclosure process. However, because short-term network changes can be implemented within as little as ten days of the Commission's release of a public notice, eliminating the distinction between copper retirements and other types of network changes could have adverse effects on interconnected carriers that continue to rely on available copper facilities to serve their end-users. We therefore decline to eliminate the distinction altogether. The reforms discussed below reduce the burdens on incumbent LECs, achieving a balance between those minimal burdens and the benefits of adequate notice to interconnected carriers who rely on the incumbent LECs' networks.

b. Narrowing the Definition of Copper Retirement

37. *De Facto Retirement.* We revise the definition of copper retirement to eliminate the *de facto* retirement concept that was included in the amendments made to the rules in 2015. We agree with commenters that the de facto retirement provision has unreasonably increased incumbent LECs' burden with no corresponding benefit, and serves no purpose in the context of section 251(c)(5)'s notice requirement. The current rule requires that the incumbent LEC provide notice of copper retirement when it fails to ''maintain copper loops, subloops, or the feeder portion of such loops or subloops that is the functional equivalent of removal or disabling.'' Thus, by its very terms, a *de facto* retirement could have conceptually already occurred when notice would be required under the rule we eliminate. Unlike notice of a forthcoming change, there is no practical way to implement the requirement that an incumbent LEC provide notice of a *de facto* retirement, and therefore consumers receive no notice benefit from this concept being part of the definition of copper retirement. Further, loss of service is properly addressed in the context of the discontinuance approval process established by section 214(a) of the Act.

38. We do not agree with those commenters that argue that customers located in areas where there are no options other than copper will suffer if the Commission eliminates *de facto* retirement from the notice requirement. If an incumbent LEC has no plans to deploy fiber or other next-generation technology, it must maintain its copper networks, or it will have access to fewer customers. More fundamentally, we do not agree with commenters that argue that copper retirement notices are an important way for customers to learn about network deterioration or that eliminating *de facto* retirement from the notice requirement ''will allow incumbent carriers to neglect their copper infrastructure.'' If copper deterioration is causing service quality issues, notice that copper deterioration is the reason for the service quality problems provides no benefit to the customers. Moreover, incumbent LECs are free to resolve those issues by migrating the customer to fiber, as long as the nature of the service being provided to the customer remains the same.

39. We are similarly unpersuaded by arguments that incumbent LECs allow their copper networks to deteriorate in order to ''push'' their customers onto fiber. The Act gives carriers, not the Commission, the authority to design their networks and choose their own architecture. The Act directs that incumbent LECs need only go through the Commission's copper retirement notice process, absent a discontinuance of service that triggers the requirement to seek Commission approval under section 214(a). To the extent commenters are concerned that eliminating the *de facto* retirement provision could result in an inability to seek Commission redress should an incumbent LEC willfully or otherwise allow its network to degrade, a mandatory notice requirement with no accompanying remedy should give them little solace. Either way, eliminating this unnecessary notice requirement does not foreclose other avenues for relief. Incumbent LECs providing telecommunications services remain subject to section 214(a)'s discontinuance process requirements, and in some states, they remain subject to state-level service quality requirements.

40. *Feeder.* By contrast, we retain the feeder portion of the incumbent LECs' loops in the copper retirement definition because of the significant impact retirement of copper feeder can have on competitive LECs' abilities to continue to provide service to their end-user customers. We agree with commenters that recommend that an incumbent LEC seeking to retire the feeder portion of its copper-based network must comply with the copper retirement notice rules rather than the more generally applicable network change disclosure rules. The record demonstrates that the benefits to both interconnected competitive LECs and their respective end-user customers of providing notice under the copper retirement rules when an incumbent LEC seeks to retire the copper feeder portion of its loops significantly outweighs the additional burdens on the incumbent LEC of complying with the copper retirement notice process in such situations. It is not ''mere theory'' that an interconnecting carrier might need notice of an incumbent LEC's plan to retire copper feeder. The record indicates that there are interconnected carriers that rely on copper feeder to serve their end-users. If we eliminate feeder from the definition of copper retirement, interconnecting carriers entitled to ''reasonable notice'' under section 251(c)(5) might not receive sufficient notice to continue to provide services to their end-user customers or to enable those end-users to transition to another provider. Retaining feeder in the definition ensures that these interconnected carriers are provided notice of copper retirement in the same timeframes as interconnected carriers that rely on copper loops or sub-loops to serve their end-users. Moreover, we find our additional streamlining of the copper retirement notice process should address the primary concerns of commenters advocating for elimination of feeder from our copper retirement rules.

c. Streamlining the Copper Retirement Notice Process

41. Today we eliminate the changes made to the copper retirement rules adopted in 2015 and reinstate, with certain modifications, the rules applicable to copper retirements that existed prior to that time. We find broad support in the record for these changes that will ease the regulatory burdens on incumbent LECs in transitioning to next-generation networks, affording them greater flexibility and eliminating the delays and additional costs imposed by § 51.332's rigid requirements. We also find that these changes, along with incumbent LECs' greater freedom to engage potentially affected parties earlier in the planning process, will simultaneously accommodate the concerns of most commenters by affording sufficient time to accommodate planned changes and addressing parties' needs for adequate information and consumer protection.

42. At the outset, we disagree with commenters that assert that the record contains no evidence that alleviating the significant burdens on incumbent LECs imposed by the copper retirement rules adopted in 2015 will spur broadband deployment. The record shows that the burdens caused by delays in copper retirements resulting from expansive notice obligations can be quite significant, including costs associated with the ongoing need to maintain various parallel computer systems and retain dedicated engineering staff. Indeed, record evidence suggests savings of $45–$50 per home passed per year achieved by retiring copper facilities. According to Corning, this savings estimate breaks down as follows: First, by ''[r]educing the copper footprint [the incumbent LEC] can save upwards of 80% of central office space,'' which ''equates to a savings of roughly $35 per home passed per year of real estate expense.'' Second, ''electrifying the copper network and equipment takes a significant amount of electricity to operate, estimated at $1.49 per home passed per year of electricity expense.'' Finally, ''there is a large amount of incremental maintenance for the copper network,'' and ''[i]n 2013, Verizon estimated that in areas where both FiOS and copper existed, they were spending more than $200 million annually on the copper network, or roughly $10 per home passed with both fiber and copper per year of maintenance expense.'' Couple that with Verizon's statement that it has filed to retire copper facilities at 3.8 million locations, and it appears that Verizon's copper retirements alone may result in between $171 million and $190 million in cost savings that could be put to use in deploying next-generation networks. And expediting the copper retirement process could contribute to 26.7 million incremental premises being passed by fiber over a five-year period. Requiring that incumbent LECs forego these potential savings results in opportunity costs and creates a disincentive to broadband investment.

43. We disagree with arguments that the changes we adopt today to our copper retirement notice process ''may make it easier for providers to shut down networks and services.'' We start by noting that incumbent LECs, like their competitors, already have marketplace incentives to maintain service to customers. What is more, such arguments confuse the copper retirement notice process—which applies only when a carrier makes changes to its network—with the discontinuance process. If an incumbent LEC's copper retirement will result in a discontinuance of service, the carrier must still go through the process of obtaining Commission authorization. In that process, customers can still object to the proposed discontinuance and raise concerns regarding the adequacy of available alternative services, one of the five factors the Commission traditionally considers when evaluating discontinuance applications.

(i) Reducing Scope of Direct Notice Requirements

44. To facilitate the rapid transition to next-generation services, we eliminate unnecessary copper retirement notice requirements.

45. *Eliminating notice to retail customers.* Today we revise the copper retirement rules to eliminate the requirement of direct notice to retail customers adopted in 2015. Based on the record, we conclude that the potential benefits of direct notice of copper retirements touted in the *2015 Technology Transitions Order* have not come to pass. Instead, there is evidence

that notice of planned copper retirements, pursuant to § 51.332, has caused confusion and delay. Moreover, incumbent LECs have strong incentives to work closely with their retail customers in order to retain their business given the competition they face from competitive LECs, cable providers, and wireless providers. They do not require mandatory and prescriptive Commission-ordered notice to educate and inform their customers of network transitions from copper to fiber. Rather, these communications must necessarily occur for the incumbent LEC to continue providing the services to which its customers subscribe.

46. We are unpersuaded by commenter assertions that retail customers need us to mandate direct notice of planned copper retirements because of the impact these changes will have on the functionality of devices and services operating on the network. We recognize the reliance consumers place on the functioning of equipment that connect to incumbent LECs' legacy networks, such as fax machines, alarm systems, and health monitoring devices. And many enterprise customers, particularly utilities, continue to rely on TDM-based services today despite the existence and widespread availability of more innovative IP-based services. In both instances, however, commenters calling for continued direct notice of copper retirements wrongly focus on the underlying transmission medium, *i.e.,* the copper network facilities, rather than on the technology of the service being provided by the incumbent LEC, *i.e.,* whether it is TDM-based or IP-based. Should the copper retirement be accompanied by a transition to an IP or other technology-based service, only then would the carrier be potentially subject to our Section 214(a) discontinuance process rules. The record confirms that the equipment and devices about which commenters express concern generally continue to function over fiber facilities as long as that service remains TDM-based. This is the case in copper retirements absent other service changes, despite the confusion of many commenters who conflate copper retirement and service discontinuance. Indeed, incumbent LECs devote resources to ensure that the devices their residential customers use over their networks continue to work, including TTY devices. And while the lines serving a customer's home will no longer carry power, that is remedied by use of a back-up power unit, a matter the Commission has previously addressed. Indeed, certain carriers, such as Verizon, provide back-up power units to their customers free of charge in connection with copper retirements without a Commission mandate to do so.

47. We recognize that copper-to-fiber transitions can be more complicated and time-consuming for certain non-residential retail customers, including utilities and federal agency customers. However, the record shows that in practice, § 51.332's requirement that incumbent LECs provide notice on a reticulated schedule to non-residential retail customers imposes more significant burdens and delay on incumbent LECs than the Commission anticipated when it adopted the *2015 Technology Transitions Order.* Indeed, in adopting that order, the Commission failed to account for the important fact that large enterprise customers with complex telecommunications requirements generally enter into long-term contracts with their telecommunications providers, thus affording those customers the ability to negotiate service-related protections from changes that might abruptly and negatively impact their communications capabilities. This is an especially significant oversight given the fierce competition among incumbent LECs, large cable companies, competitive LECs, and numerous smaller facilities-based service providers for these non-residential retail customers. Incumbent LECs have strong incentives to work with these enterprise customers to avoid service disruptions, and we reiterate that our rules do not override the terms of these privately negotiated agreements, including any notice provisions related to network changes generally and copper retirements specifically, contained within those agreements. Accordingly, we disagree with commenters that assert that enterprise customers, in particular utilities as well as federal agencies such as the FAA, will be harmed and public safety will be put at risk if they do not receive direct notice of copper retirements. Suggestions that incumbent LECs would risk harming public safety or fail to work cooperatively and diligently to accommodate critical needs of their public-safety related customers absent a mandatory Commission notice obligation defies both reason and experience.

48. We expect and encourage incumbent LECs to continue to collaborate with their customers, especially utilities and public safety and other government customers, to ensure that they are given sufficient time to accommodate the transition to new network facilities such that key functionalities are not lost during this period of change, and we specifically rely on incumbent LEC commenters that stress the incentives they have to work with their retail customers. And because we are eliminating the rule prohibiting incumbent LECs from discussing planned network changes in advance of public notice, incumbent LECs can now respond to requests for information from these customers about planned network changes at any time. By eliminating this prohibition, we give incumbent LECs the freedom to engage their wholesale and retail customers far earlier in the planning process, thus allowing those customers, in turn, to begin planning and budgeting for the coming changes.

49. Similarly, with respect to residential retail customers, we do not believe that Commission-mandated direct notice of planned copper retirements serves any practical purpose, nor has it helped reduce confusion, despite the relatively seamless nature of a copper-to-fiber transition. We anticipate that residential consumers will continue to be well-informed about copper retirements impacting their service absent Commission-imposed notice obligations. Indeed, incumbent LECs necessarily must reach out to these customers and communicate with them about their specific planned copper retirement to work with them, individually, to access their homes in order to accomplish their migration to the new fiber-based network. This migration simply cannot occur absent these communications. As a result, commenters are mistaken to assert that consumers need Commission-mandated direct notice of planned copper retirements to be fully informed.

50. The record shows that the three largest incumbent LECs that together serve approximately 74% of households purchasing legacy voice service from incumbent LECs acknowledge and embrace their role in educating consumers of the effect of impending changes in the network over which their service is provided, not just of the benefits of advanced, IP-based services. And the record suggests that States that wish to do so are well positioned to engage in consumer education and outreach efforts. Indeed, incumbent LECs are already collaborating with state commissions in certain jurisdictions to educate consumers and minimize confusion about copper retirements. Such efforts are more likely to reduce consumer confusion than governmentally-mandated notices and timeframes. While we acknowledge here USTelecom's suggestion of a ‘‘concerted, federal government-wide effort to ensure that Executive Branch

policies do not prolong the federal government's reliance on legacy services,'' such action is outside the scope of the Commission's authority.

51. Finally, section 251(c)(5) of the Act, embodied in the market-opening local competition provisions, sets forth the duties of telecommunications carriers vis-à-vis other telecommunications carriers. It specifically speaks to the need to provide information to allow ''transmission and routing'' and ongoing ''interoperability'' with the incumbent LECs' networks, matters in which retail customers are not engaged. The Commission implicitly and correctly recognized this limitation when adopting the first network change disclosure rules in the *Second Local Competition Order,* concluding that notice of sufficient information to deter anticompetitive behavior was necessary and that ''incumbent LECs should give competing service providers complete information about network design, technical standards and planned changes to the network.''

52. *Limiting notice requirement for interconnecting entities to interconnecting telephone exchange service providers.* We modify the copper retirement direct notice requirement for providing notice to interconnecting entities by limiting that requirement to providing notice to telephone exchange service providers that directly interconnect with the incumbent LEC's network. We also afford incumbent LECs some flexibility in the manner in which they provide notice of planned copper retirements to entitled recipients by permitting them to provide notice via web posting to the extent the affected interconnected carriers have agreed to receive notice in this manner.

53. In eliminating the requirement that direct notice be provided to all entities that directly interconnect with the incumbent LEC's network, we return to the pre-2015 requirement that such notice be provided only to directly interconnecting telephone exchange service providers. We agree with commenters that argue that requiring direct notice to all entities that interconnect with the incumbent LEC's network is overbroad, encompassing multiple interconnected entities that are not affected by copper retirements. Requiring that direct notice be provided only to telephone exchange service providers that directly interconnect with the incumbent LEC's network achieves an appropriate balance between the needs of interconnecting carriers that purchase either copper inputs or services provisioned over copper facilities and the need to minimize regulatory burdens on incumbent LECs that affect their ability or incentive to deploy next-generation facilities.

54. To further reduce regulatory burdens and modernize our process, we allow incumbent LECs to post notices of copper retirements on their website in lieu of direct notice to interconnecting telephone exchange service providers where the incumbent LEC can certify that the interconnecting telephone exchange service provider agreed to that method of notice. We agree that for incumbent LECs who maintain web pages on which they post network change notices, providing notice via web posting is efficient and is reasonably calculated to provide expeditious notice to affected interconnecting carriers. This change aligns with our process for non-short-term network changes.

55. Regardless of which method of notice the incumbent LEC chooses, consistent with the pre-2015 requirements, as well as the current short-term network change requirements, incumbent LECs must provide notice to interconnecting telephone exchange service providers at least five business days in advance of filing with the Commission. Further, consistent with the pre-2015 requirements, the incumbent LEC must include with its filing with the Commission a certificate of service to demonstrate that it has provided the required direct notice to interconnecting telephone exchange service providers. This certificate of service effectively replaces the certification previously required by the *2015 Technology Transitions Order,* which we eliminate as moot. As a result, AT&T's request that the Commission pare down the various certifications required by the network change disclosure rules, is also rendered moot.

56. *Eliminating unnecessary governmental notices.* We eliminate the requirement that incumbent LECs provide direct notice of planned copper retirements to state commissions, governors, Tribal Nations, and Department of Defense. When the Commission adopted these direct notice requirements in 2015, it was done to synchronize the notice requirements for copper retirements with those for section 214(a) discontinuances. However, discontinuances present a very different set of concerns because of the potential for loss of service and/or functionality, thereby justifying greater notice than mere changes to the facilities over which an incumbent LEC provides its services. A number of commenters have stated that providing copper retirement notices to governmental entities beyond the Commission is burdensome.

57. States and Tribal Nations that have regulatory authority over copper and wish to mandate notice are able to do so without the need for an across-the-board Commission rule. We thus disagree with NARUC that eliminating the requirement of direct notice to government entities might ''handicap[] State options to address real issues that can arise in the wake of a natural disaster and in the wake of technology transitions.'' That in some cases such entities lack regulatory authority over or take a deregulatory approach to network changes shows that a Commission mandate is in many cases unnecessary and imposes a burden for no reason. With regard to Tribal Nations, Verizon asserts that incumbent LECs lack sufficient information to determine whether a copper retirement affects areas within a particular Tribal nation's boundaries. We further find that requiring direct notice of planned copper retirements to the Department of Defense serves no regulatory purpose. The Department of Defense has no regulatory or consumer protection role in the context of copper retirements. Moreover, copper retirements do not themselves present an increased cybersecurity risk. In other words, we disavow the Commission's prior finding that keeping the Department of Defense informed of planned copper retirements was warranted because of ''the increased cybersecurity risks posed by IP-based networks.'' A transition from copper to fiber does not necessitate a transition to IP-based networks and does not change a network's cybersecurity risk. NTIA, however, urges us to retain this notice requirement because the ''Department of Defense is a major and critical user of telecommunications services.'' Although true, it does not explain why the Department of Defense should be notified of copper retirements that affect other users. Moreover, we find a notice requirement to keep the Department of Defense apprised as a customer is unnecessary because we are lifting barriers that currently prevent carriers from discussing network changes with their customers, and the record shows that carriers have adequate incentives to negotiate contract provisions addressing such changes with government customers.

58. *Eliminating additional content requirement added in 2015.* By eliminating the section of the rule requiring direct notice of copper retirement to retail customers, we are also eliminating the requirement that incumbent LECs include in their copper

retirement notices ''a description of any changes in prices, terms, or conditions that will accompany the planned changes.'' No commenters addressed this specific issue in support of or in opposition to the potential elimination of § 51.332. Consistent with the other reduced notice requirements we adopt herein, we find this prescriptive content requirement has no bearing on the type of notice the Commission correctly recognized section 251(c)(5) was intended to provide, *i.e.,* changes in ''network design, technical standards and planned changes to the network'' when first implementing this provision. As such, we conclude that it imposes an unnecessary regulatory obligation on incumbent LECs beyond the scope of the statutorily mandated notice process.

59. *Rejecting requests to further streamline notice requirements.* We reject requests to further streamline our copper retirement notice requirements. First, we decline to do away altogether with the direct notice requirement, as some in the record suggest. Because an incumbent LEC's copper retirement could significantly impact an interconnected competitive carrier's ability to continue providing certain services to its customers, it remains an important requirement. Requiring every competitive LEC to monitor every notice of network change published by the Commission, as would be necessary absent a direct notice requirement, would be unreasonable for these service providers. Moreover, because we are shortening the notice period for copper retirements today, continuing to require direct notice strikes an appropriate balance between facilitating incumbent LEC network changes and the needs of affected interconnecting carriers. Ensuring that interconnecting service providers will continue to receive copper retirement notices directly from incumbent LECs will afford those entities as much time as possible to convey necessary information to their customers who will be impacted by the incumbent's planned copper retirement.

60. Similarly, we reject Frontier's suggestion that we exempt from our copper retirement rules those copper retirements occurring in areas where the Commission is funding broadband deployment, *e.g.,* in areas receiving Connect America Fund support. The fact that broadband will be deployed in such areas over time does not obviate the benefit of receiving timely notice of impending copper retirements to the parties entitled to such notice under our rules. Recipients of CAF Phase II model-based support have to deploy broadband to 40% of supported locations by the end of 2017, increasing by 20% each year until they reach 100% by the end of 2020. As a result, to the extent copper retirement rules require notice, those notifications are likely to be spread over time.

(ii) Reducing Copper Retirement Waiting Periods

61. *Reducing the standard waiting period for copper retirements from 180 days to 90 days after the Commission issues its public notice.* We reduce the generally applicable 180-day waiting period for copper retirements to a 90-day waiting period, which was the waiting period prior to the Commission's 2015 amendments to the copper retirement rules. We find that a 90-day waiting period after the Commission releases a public notice of the filing meets the needs of interconnecting carriers and other interested entities while minimizing the risk of undue delay for incumbent LECs. In reinstating that provision in § 51.333(b), we revise the language both to more accurately reflect that the copper retirement process, like all network changes, is a notice-based process and to make the treatment of copper retirement notices consistent with that of short-term network change notices in the same rule.

62. The record demonstrates that the current, longer waiting period has already slowed down affected incumbent LEC deployment plans, and caused uncertainty for at least one carrier's planned broadband buildout. The return to the 90-day waiting period is particularly appropriate in light of the other changes we adopt today that reduce the need for a longer waiting period, including allowing incumbent LECs to share information about planned network changes prior to providing the requisite public notice, and reinstating the previously applicable objection procedures, actions that address competitors' concerns that 90 days is not sufficient time to accommodate copper retirements involving large numbers of circuits. As a result, the 90-day notice period we adopt today best achieves the balance of ''adequate, but not excessive,'' notice.

63. The copper to fiber transition has been ongoing for the past fourteen years. The timing and rates of transitions or the decision to transition in the first instance vary on a carrier-by-carrier, and even on a case-by-case basis for each individual incumbent LEC. While we recognize that copper loops are not obsolete, competitive LECs have had ample notice that many legacy copper networks are likely to be retired at some point in the not-so-distant future. It is in this context that we must evaluate commenters' claims that they continue to need extensive notice of copper retirements so that they can, if necessary, deploy their own fiber. Longer periods or more open-ended structures requested by some commenters would pose the risk of holding incumbent LEC networks hostage indefinitely, a result explicitly sought by at least one commenter. Such a result would run counter to the expressed goals of this proceeding to accelerate next-generation network deployment, and in any case longer periods are unwarranted.

64. Certain commenters refer to the reduced 90-day waiting period as a ''speeded-up time frame.'' To the contrary, we simply return to the timeframes that applied for more than a decade, before the Commission adopted the *2015 Technology Transitions Order.* By contrast, the extended notice periods sought by competitive LEC commenters constitute the very ''overextended advance notification intervals'' the Commission was concerned might needlessly ''delay the introduction of new services, provide the interconnecting carrier with an unfair competitive advantage, or slow the pace of technical innovation.''

65. We decline to adopt certain incumbent LEC requests that the 90-day waiting period begin to run when the incumbent LEC files its copper retirement notice or, in the alternative, to require that we release a public notice within a specified period of time. Incumbent LEC commenters assert that delays in our processing of filings can result in delays in implementation. However, commenters do not point to any specific instance in which a planned copper retirement had to be delayed due to the timing of our release of the relevant public notice. Moreover, having the waiting period run from the date we release a public notice of the filing, as has been the case for more than two decades, affords Commission staff the necessary opportunity to review filings for mistakes and/or non-compliance with the rules. Indeed, Commission staff routinely contacts filers to clarify or correct information contained in filings or to add required information that is missing, and this ability is necessary to ensure the integrity of the filing process. Otherwise, incumbent LEC notices could fail to contain the required information at the time of filing, depriving notice recipients of information they need to accommodate the network change. Incumbent LEC commenters have not specified any reason why, or demonstrated any harm from, timely release of a copper

retirement public notice based on the incumbent LEC's own planned implementation date as specified in the notice.

66. *Adopting expedited 15-day waiting period where no customers are served over affected copper.* We further amend our rules to provide for a 15-day waiting period after Commission release of its public notice of an incumbent LEC's filing for copper retirements where the affected copper facilities are no longer being used to provide service. As AT&T explains in its comments, this streamlined notice process, which received support from incumbent and competitive LECs alike, is appropriate because it will not impact any interconnecting carriers or require the transition of any services.

(iii) Reinstating Objection Procedures for Copper Retirement Notices

67. Because the rules we adopt today reduce the waiting period from 180 days to 90 days, we reinstate the objection procedures previously applicable to copper retirement notices prior to the *2015 Technology Transitions Order* and currently applicable to short-term network change notices. We therefore find it unnecessary to retain the good faith communication requirement adopted in 2015. In the rare instances in which a competitor may need additional information or be unable to make the accommodations necessary to continue to provide service to its customers within the 90 day notice timeframe, the objection procedure will provide a mechanism to provide more time to address concerns. Before the 2015 changes went into effect, carriers infrequently invoked the objection procedures, but reinstating the procedure affords some measure of protection to competing providers facing extenuating circumstances. The objection procedure further serves as an incentive for an incumbent LEC to work closely with competitive LECs to ensure the competitive LECs have the information they need to accommodate the planned copper retirement within the 90-day period, a role that was filled by the good faith communication requirement when the Commission eliminated the objection procedures applicable to copper retirement notices in 2015. Moreover, these procedures allow objections only to delay the planned retirement up to a total of six months from the initial public notice under our rules. In no case, however, do they prevent the retirement from occurring or extend the timeframe beyond the six-month period.

68. We are unpersuaded by Windstream's assertion that it is necessary to retain the requirement that incumbent LECs work in good faith with interconnecting entities to provide information necessary to assist them in accommodating planned copper retirements without disruption of service to their customers. A competitive LEC that feels an incumbent LEC is engaging in anticompetitive behavior by not providing necessary information has two avenues of recourse. First, the objection procedures we reinstate today provide a mechanism for competitive LECs to seek any additional information they need to allow them to accommodate the planned transition. Second, the competitive LEC may assert a claim under section 201(b) of the Act that the incumbent LEC is engaging in an unjust or unreasonable practice.

69. Finally, we are unpersuaded by unsubstantiated incumbent LEC concerns that competitive LECs might use the objection procedures to engage in anti-competitive behavior. Indeed, the Commission is unaware of, and incumbent LEC commenters do not point to, any such instances occurring under the pre-2015 copper retirement objection procedure rules, or the current short-term network change rules, which have always contained an objection period. To the extent this occurs in the future, we again make it clear that we will not tolerate such efforts and that objections proffered for anticompetitive purposes can expose the objector to sanctions. We thus conclude that reinstating the objection procedures previously applicable to copper retirement notices maintains an appropriate balance between the needs of incumbent and competitive LECs and is consistent with Commission precedent.

(iv) Reinstating ''Deemed Denied'' Objection Resolution for Copper Retirements

70. We also reinstate the objection resolution procedures applicable to copper retirements that were eliminated by the *2015 Technology Transitions Order.* Absent Commission action, an objection to a copper retirement notice will be deemed denied ninety days after the Commission releases its public notice of the incumbent LEC's filing. By reinstating this provision, we further streamline the copper retirement process and obviate the concerns expressed by some commenters that competitors might use the objection procedures for anti-competitive reasons.

d. Adopting Streamlined Copper Retirement Notice Procedures for *Force Majeure* Events

71. As recent events have shown, it is vital that we do everything we can to facilitate rapid restoration of communications networks in the face of natural disasters and other unforeseen events. We recognize that when networks are damaged or destroyed by devastating *force majeure* events such as Hurricanes Harvey, Irma, and Maria, the top priority for service providers must be to restore their networks and service to consumers as quickly as possible rather than jump through regulatory hoops. Regulatory processes that could make sense in normal times may cause unnecessary delay when exigent circumstances arise. To provide incumbent LECs the flexibility to restore service as quickly as possible, today we streamline our copper retirement procedures for cases of natural disasters or other unforeseen events. To be clear, we revise only our network change notification rules that govern how incumbent LECs notify other carriers of copper retirements, and we do not revisit our existing procedures for emergency discontinuances of service.

72. The record shows that as incumbent and competitive LECs recognize, incumbent LECs need the flexibility to restore service as quickly as possible in the case of unforeseen events and should not be rendered non-compliant by actions beyond their control. For example, when a natural disaster such as a hurricane damages an incumbent LEC's facilities, or a copper line is inadvertently cut during a road work project, an incumbent LEC must, first and foremost, take whatever action is necessary to restore impacted service as quickly as possible. We find that it makes more sense to allow the prompt installation of replacement facilities than to require the incumbent LEC to first repair the damaged copper lines, if the incumbent LEC determines that is the best course of action, only to subsequently expend additional resources to then retire and replace those facilities later. The same logic applies when state or municipal authorities notify an incumbent LEC that due to an impending project, the incumbent LEC must move its copper lines within a shorter period of time than might allow the carrier to comply with the advance notice and waiting periods required by the Commission's rules.

73. With respect to *force majeure* events, this new provision applicable to copper retirements codifies streamlined procedures already available to certain

incumbent LECs pursuant to a set of waiver orders, the first of which was adopted in the wake of Hurricane Katrina. By codifying these waivers for copper retirements and extending them to all incumbent LECs alike, we adopt well-tested requirements, provide greater regulatory certainty, and promote competitive neutrality among incumbent LECs.

74. Turning to the language of the rule provision we adopt, we specifically revise the rules governing copper retirement to (i) exempt incumbent LECs from advance notice and waiting period requirements for copper retirements that are required as a direct result of *force majeure* events such as the ''emergencies'' identified in § 79.2(a)(2) of our rules (other than school closings, bus schedule changes, and weather warnings or watches), as well as terrorist attacks, and (ii) require that an incumbent LEC give notice of a copper retirement resulting from a municipal mandate or third-party damage or destruction to copper lines as soon as practicable, and permit a reduced waiting period commensurate with the amount of notice provided to the incumbent LEC by the municipal authority. Political or economic events (*e.g.,* Commission action, a market crash) also will not qualify as *force majeure* events for purposes of this rule.

75. Under the rules we adopt today, in the case of a *force majeure* event for which an incumbent LEC invokes its disaster recovery plan, the incumbent LEC will be exempted during the period when the disaster recovery plan is invoked, for up to 180 days, from all advance notice and waiting period requirements associated with copper retirements that are a direct result of damage to the incumbent LEC's network infrastructure caused by the *force majeure* event. Certain carriers undertook disaster response planning in the wake of Hurricane Katrina and in response to the Administration's expressed hope for greater national preparedness. The term ''disaster recovery plan'' as used here is intended to refer to a disaster response plan developed by an incumbent LEC for the purpose of responding to a *force majeure* event. We find that in the event of a disaster, requiring compliance with these rules would impede restoration efforts and delay recovery. However, during the exemption period, as soon as practicable after the *force majeure* event occurs and the disaster recovery plan is invoked, the incumbent LEC must comply with § 51.325(a)'s public notice requirement and include in such public notice the date on which the carrier invoked its disaster recovery plan. It must also communicate with other interconnected telephone exchange service providers to ensure that such carriers are aware of any changes being made to the incumbent LEC's networks that may impact those carriers' operations, as soon as practicable. No further notice requirements apply.

76. Should an incumbent LEC require relief longer than 180 days after the disaster recovery plan is invoked, the incumbent LEC must request further relief authority from the Commission. Any such request must be accompanied by a status report describing the incumbent LEC's progress and providing an estimate of when the incumbent LEC expects to be able to resume compliance with copper retirement disclosure requirements. In the event of circumstances triggered by third parties, such as a municipal mandate or inadvertent third party cuts to the incumbent LEC's copper lines, the incumbent LEC's direct and public notice must comply in all respects with the copper retirement notice rules, except that the notice must: (1) Incorporate a reduced waiting period commensurate with the specific circumstances at issue; (2) provide an explanation of the particular circumstances; and (3) explain how the incumbent LEC intends to minimize the impact of the reduced waiting period on interconnected carriers.

77. In the event that unforeseen circumstances arise warranting relief that falls outside of the *force majeure* rules we adopt, the Wireline Competition Bureau has delegated authority to address waiver requests. However, we reject CWA's argument that the Commission should proceed solely via waiver in this context. The waiver process is slower and less predictable than a rule, which is especially problematic when carriers need to make quick decisions in exigent circumstances.

78. Finally, we disagree with CALTEL that this issue requires further comment before we adopt this limited exemption. As discussed above, the limited *force majeure* exemption simply codifies and makes uniform across carriers the waivers that have been available to certain incumbent LECs since 2005. We are unaware of any instances in which carriers have sought to invoke the waiver provisions in inappropriately broad circumstances. We are also unaware of any instances in which: (1) Network change notices filed after an incumbent LEC has invoked its disaster recovery plan has caused confusion among interconnecting carriers, or (2) the incumbent LEC has taken longer than 180 days to implement the necessary repairs or network changes. Moreover, the Commission staff reviews all network change notices and will help guard against incumbent LECs invoking this exemption improperly.

e. Updating Filing Titles Applicable to Copper Retirements

79. We update the titles available to incumbent LECs for use in labeling their copper retirement filings. Section 51.329(c)(1) sets forth titles that incumbent LECs must use to label their network change disclosure filings. The Commission added the titles applicable to copper retirement filings in 2016 ''to alleviate potential confusion.'' Those newly-added titles specifically reference § 51.332, which we eliminate today. Because we add the copper retirement notice requirements back into § 51.333, where they originally resided, we revise the copper retirement-related titles set forth in § 51.329(c)(1) to correctly refer to § 51.333.

C. Section 214(a) Discontinuance Process

80. Today we take several important steps to eliminate unnecessary regulatory process encumbrances when carriers decide to cease offering legacy services that are rapidly and abundantly being replaced with more innovative alternatives. Section 214(a) requires carriers to obtain authorization from the Commission before discontinuing, reducing, or impairing service to a community or part of a community. As a matter of convenience, unless otherwise noted this item uses the term ''discontinue'' or ''discontinuance'' as a shorthand for the statutory language ''discontinue, reduce, or impair.'' To be clear, section 214(a)'s discontinuance requirements apply solely to telecommunications services, and to interconnected VoIP service to which the Commission has extended section 214(a)'s discontinuance requirements. Section 214(a) discontinuance requirements would not apply where the Commission forbears from application of these rules. These requirements do not apply to any other services a carrier may offer.

81. The reforms we adopt reflect the reality of today's marketplace. As USTelecom and other commenters in this proceeding observe, demand for the kinds of low-speed services that carriers generally provide over legacy networks is rapidly decreasing, as consumers move towards modern, competing alternatives. As of June 2016, interconnected VoIP lines accounted for nearly half of all retail voice telephone service connections in the United States. Section 9.3 of our rules defines

''interconnected VoIP.'' Non-incumbent LECs operate more than three quarters of these approximately 60 million interconnected VoIP lines. And mobile voice service subscriptions now outnumber end-user switched access lines in service by more than five-to-one. This gap is widening. As the Wireline Competition Bureau (Bureau) recently found, between 2013 and 2016, ''interconnected VoIP subscriptions increased at a compound annual growth rate of 10%, while mobile voice subscriptions increased at a compound annual growth rate of 3%, and retail switched access lines declined at 11% per year.'' Similar trends are affecting legacy low-speed data services, which have largely been abandoned by consumers. Our data show that between December 2014 and June 2016 the proportion of all fixed broadband consumer connections with a download speed between 200 Kbps and 1.544 Mbps has fallen from 6 percent to 3 percent.

82. These developments drive our efforts to streamline the section 214(a) discontinuance process for legacy services. Section 214 directs the Commission to ensure that a loss of service does not harm the public convenience or necessity. In determining whether a discontinuance will harm the public interest, the Commission has traditionally utilized a five-factor balancing test to analyze: (1) The financial impact on the common carrier of continuing to provide the service; (2) the need for the service in general; (3) the need for the particular facilities in question; (4) increased charges for alternative services; and (5) the existence, availability, and adequacy of alternatives. Increasing competition and deployment of higher-speed next-generation services allow most consumers to purchase services that are superior to legacy services. As a number of commenters note, these developments have greatly reduced the risk of harm to consumers stemming from the discontinuance of legacy services.

83. The record also makes clear that the Commission's current section 214(a) discontinuance rules impose needless costs and delay on carriers that wish to transition from legacy services to next-generation, IP-based infrastructure and services. Even relatively short delays or periods of unpredictability can, in the aggregate, create significant hurdles for providers who seek to upgrade hundreds or thousands of lines across their service territory. As Verizon explains, excessive restrictions on the discontinuance of legacy services harm both consumers and competition alike ''as they delay the ability of providers to shift resources from legacy voice services to the more modern offerings that consumers demand.'' For example, Verizon estimates that that ''the necessary equipment to provide a single fiber based DS0 equivalent at a customer location can cost more than $30,000'' and observes that ''[p]roviders who are unable to discontinue these services efficiently would be faced with the cost of maintaining them over fiber should they choose to retire copper, which could divert resources that could be used for newer services.'' For these reasons, as described below, we streamline and expedite our processes for section 214 discontinuance applications for a variety of legacy services.

1. Expediting Applications That ''Grandfather'' Low-Speed Legacy Services for Existing Customers

84. First, we streamline the approval process for discontinuance applications to grandfather low-speed (*i.e.,* below 1.544 Mbps) legacy services. ''Grandfathering'' a service under section 214 refers to a request by a carrier for authorization to stop accepting new customers for a service while maintaining that service to existing customers. Throughout this section we use the terms ''grandfathering,'' ''grandfather,'' and ''grandfathered'' interchangeably to refer to this type of section 214(a) application. Specifically, we adopt a uniform reduced public comment period of 10 days and an automatic grant period of 25 days for all carriers seeking to grandfather legacy low-speed services for existing customers. The record supports our conclusion that streamlined processing of these applications will remove unnecessary regulatory delay for carriers seeking to discontinue legacy services with no harmful impact to existing customers.

85. *Streamlined Comment and Auto-Grant Period.* There is broad support in the record for reducing the processing period for applications to grandfather low-speed legacy services to a 10-day comment period and a 25 day auto-grant period. The Commission's rules provide for a 30 day comment period and a 60 day auto-grant period for service discontinuance applications filed by dominant carriers. For non-dominant carrier applications, comments are due within 15 days of the release of a public notice announcing the filing, and there is a 30 day auto-grant period. Commenters urge the Commission to make the discontinuance process easier for carriers seeking to replace their legacy services with next-generation services, especially to the extent that such discontinuances do not impact those using the service, as is the case with grandfathering.

86. The record demonstrates that longer processing timelines for grandfathering applications are unnecessary to protect consumers from potential harm stemming from discontinuances, and that our current discontinuance rules may unnecessarily impede the deployment of advanced broadband networks by imposing costs on service providers who seek to upgrade legacy infrastructure. Our section 214 discontinuance provisions are intended to protect the public by ensuring that consumers are not harmed by loss of service as a result of a discontinuance, and we will normally authorize a discontinuance unless it is shown that affected customers would be unable to receive a reasonable substitute service. However, as numerous commenters observe, national marketplace trends show that businesses and consumers alike are moving away from legacy services and toward modern alternatives. In both the residential and enterprise services marketplace, incumbent LECs now face widespread competition from numerous intermodal competitors offering services that compete with legacy services. These competitive forces have made substitute services readily available to the majority of consumers, mitigating any potential harm that might result from legacy services being grandfathered.

87. The record also makes clear that the section 214(a) discontinuance rules impose costs on carriers that wish to transition from legacy services to next-generation infrastructure, slowing the deployment of advanced services. As Verizon explains, processing times for 214(a) discontinuances ''can delay services upgrades considerably.'' Similarly, ITIF observes, that ''[a]llowing faster approval of exit applications will speed the transition away from legacy services and towards next generation IP-based networks.'' We find that affording carriers a more rapid glide path to transition away from legacy services they no longer seek to offer will reduce costs and promote the availability of innovative new services that benefit the public. By balancing the needs of consumers and carriers to optimize the deployment of new network technologies, these common-sense reforms help us better fulfill our section 214(a) statutory obligations.

88. We disagree with commenters that argue that the reduced comment and auto-grant periods will provide insufficient opportunity for public

comment, or will otherwise prevent the Commission from fulfilling its statutory obligation to ensure that discontinuances do not harm the public interest. One commenter goes so far as to argue that grandfathering applications in general run afoul of Commission precedent because the fundamentals of common carriage dictate that telecommunications services must be offered to all comers. On the contrary, the Act affords the Commission broad flexibility in administering the section 214 discontinuance process to serve the public interest, and the Commission has long considered applications to grandfather services pursuant to section 214(a) or permitted carriers to grandfather certain service offerings in their FCC tariffs. Relatively few customers remain on legacy services, and because existing customers will be grandfathered under this section of our rules, they are unlikely to be harmed by these new processes. Moreover, a 10-day comment period will permit affected customers sufficient time to raise any applicable concerns with the Commission. Finally, nothing in the rule we adopt today changes a carrier's obligations to directly notify its customers of its plans to grandfather a service at, or before, the time it files its grandfathering application with the Commission. Thus, to the extent customers have concerns about the grandfathering application, they will be able to present concerns both during the 10-day comment period and prior to that period while the Commission's release of the public notice is pending. Similarly, we conclude that a 25-day auto-grant period will provide the Commission with ample time to evaluate any objections to the grandfathering application, and, if necessary, remove the application from streamlined treatment to conduct a more searching review of the application or to give the carrier and objecting party more time to resolve its issues.

89. Our reform is limited in scope. Nothing in the reduced processing timeframes we adopt today alters our obligation under section 214(a) to ensure that discontinuances, including those which occur when a service is grandfathered, do not run contrary to the ''public convenience and necessity.'' These streamlining measures do not in any way change the methodology we use to conduct our public interest evaluation or the criteria upon which it is based. We continue to apply our traditional five-factor balancing test to all section 214 discontinuance applications, including the specific grandfathered applications at issue here, regardless of which review timeline applies. If a grandfathering application subject to these new rules raises substantial questions, Bureau staff may remove it from streamlined processing just as it can under our prior approval timeframes.

90. We reject the proposals of Windstream and Ad Hoc Telecom Users Committee to prescribe specific terms and conditions carriers must include in their grandfathering plans. Similarly, we decline to adopt specific requirements unique to grandfathered services for government customers as sought by NTIA for the same reasons we discuss in paras. 106–07, *infra.* We intend to streamline processing, not impose delay and complexity by interfering with a carrier's specific business plans or how it intends to continue serving its existing customers. As AT&T notes, carriers may have limited ability to provide legacy services that are being phased out, and in any event, requiring carriers to allow moves, additions, and/or changes to grandfathered services would ''force carriers to invest resources in outdated technology rather than investing in deployment of next-generation services,'' which runs contrary to the purpose of the reforms we adopt today. To the extent affected customers believe the terms of a carriers' proposed grandfathering application raises concerns, customers can raise these concerns during the public comment period.

91. *Uniform Treatment for Dominant and Non-Dominant Carriers.* Our section 214 discontinuance rules have traditionally applied different comment and automatic grant periods to dominant and non-dominant carriers. However, in light of the technological and competitive dynamics of today's modern communications landscape, we find it is unnecessary to maintain a distinction between dominant and non-dominant carriers in the context of section 214 applications to grandfather low speed legacy services.

92. *Eligible Low-Speed Legacy Services.* We make the streamlined approval process we adopt available to all carriers seeking to grandfather any voice and data services at speeds below 1.544 Mbps. We recognize that legacy services, in general, constitute numerous services at speeds equal to or greater than 1.544 Mbps and over technologies other than TDM, some of which could be characterized as low-speed. Nevertheless, solely for purposes of the rules we adopt herein today, we apply our streamlined criteria only to those low-speed legacy services lower than a DS1 speed as specified in the *Wireline Infrastructure NPRM.* As the record indicates, demand for these services is falling as consumers migrate to more advanced services that offer greater speed and functionality or to competitive alternatives such as IP or wireless. We find broad record support for including both voice and data services meeting our speed threshold. Indeed some commenters suggest substantially broadening the scope of services covered by these reduced timeframes to include all grandfathered services or all grandfathered legacy services, regardless of speed. We decline to extend our streamlined grandfathering provisions to additional services or speed thresholds at this time. We find that limiting our streamlined-treatment to legacy voice and data services below 1.544 Mbps strikes the appropriate balance to provide relief to carriers who wish to transition away from the provision of legacy services for which there is rapidly decreasing demand, while at the same time ensuring that potential consumers of these services have readily available alternatives.

2. Expediting Applications To Discontinue Previously Grandfathered Legacy Data Services

93. Second, we streamline the discontinuance process for applications seeking authorization to discontinue legacy data services that have previously been grandfathered for a period of at least 180 days. We define legacy data services for the purpose of these new rules as data services below 1.544 Mbps.

94. *Streamlined Comment and Auto-Grant Periods.* We adopt a uniform reduced public comment period of 10 days and an auto-grant period of 31 days for all carriers. Discontinuing carriers that wish to avail themselves of this streamlined process may do so by including a simple certification that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This certification must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue.

95. The record supports reducing the public comment period to 10 days and the auto-grant period to 31 days for previously-grandfathered legacy data applications. Streamlining the comment and auto-grant periods for this class of discontinuance applications will benefit both industry and consumers by speeding the retirement of outdated services and the transition to next-generation networks. Carriers that seek

to completely retire legacy data services that have previously been grandfathered will be better able to focus resources on more innovative, technologically advanced services, while simultaneously protecting customers of these previously grandfathered legacy data services.

96. A 10-day comment period for these applications will provide customers with ample notice of the impending discontinuance of their service, as the initial grandfathering of the service is a clear signal to these customers that such service is likely to be discontinued in the future. This is particularly true considering our requirement that such services be grandfathered for a minimum of 180 days prior to the filing of a discontinuance application. Thus, we disagree with commenters that claim that this shortened comment interval will fail to give impacted customers sufficient notice, or suggest merely knowing that a service is grandfathered does not prepare retail or wholesale customers for the subsequent end to that service. In its comments, Harris Corporation appears to mistakenly believe we have proposed to allow the discontinuance to go into effect ten days after issuance of a public notice. It also appears to mistakenly conflate the network change notification process with the section 214(a) discontinuance process. In reality, the 180-day minimum period for grandfathering legacy data services will give these previously-grandfathered customers more notice and a far longer timeframe within which to consider alternative services than existed under our prior rules. And as competition continues to grow and providers offer new and better services over modern broadband facilities, it is less likely that customers will experience a harmful service loss or be unable to secure a reasonable substitute service for legacy services at any rate.

97. The 31-day auto-grant period will provide us sufficient time to determine whether to remove an application from automatic grant if we find that such application raises concerns, and carriers and their customers are unable to resolve their issues prior to the end of the 31-day period. We are not persuaded by arguments claiming that we fail to account for the need for longer timeframes to transition customers to new or alternative services, potentially disrupting and hampering mission-critical communications, and pointing to past service transitions that have taken more than a year to complete. Many discontinuances are already subject to a 31-day auto-grant period, and commenters have failed to show why this existing interval is a problem. Moreover, we expect that in the case of discontinuances involving multiple customer locations that require lengthy transition periods to implement, particularly of the type concerning these commenters, the discontinuing carrier has strong incentives to work with its customers to establish a transition schedule that is seamless, physically attainable, and comports with the service agreement or master contract governing the terms of service between that customer and carrier. After all, the carrier is in business to provide service, and in today's increasingly competitive business services marketplace, the incentives to retain and grow existing customer relationships are strong.

98. Similarly, we are not persuaded by commenters' concerns that streamlining the auto-grant period for applications to discontinue previously grandfathered legacy data services may allow carriers to quickly discontinue vital services used by 9–1–1 networks to deliver calls from end users to emergency responders. Carriers' incentives to ensure seamless service transitions for services involved in safety-of-life are even more acute than other types of mission-critical safety-related service arrangements. Nonetheless, we invite customers to comment on specific applications that raise public safety or other mission-critical safety concerns, where the discontinuance timeframe is too short to accommodate its transition needs, or where the carrier is not working cooperatively to effectuate such a transition. We retain flexibility to address these circumstances on a case-by-case basis.

99. We also decline to grant Verizon's request that we further shorten the streamlined auto-grant period for applications to discontinue previously grandfathered legacy data services from 31 days to 25 days. Although it is admittedly a judgment call, we would prefer a slightly longer period to evaluate discontinuance applications that impact existing customers than applications that seek to grandfather such customers.

100. Having considered the record, we find that the auto-grant period we adopt today will eliminate needless delay in eliminating these previously grandfathered legacy data services and enable carriers to spend their limited resources on deploying innovative next-generation services. At the same time, we recognize that nothing about our auto-grant timeframe alters our statutory obligation to ensure that these discontinuance applications, like all other discontinuance applications, are not contrary to the public interest, nor does it impact our ability to remove it from streamlined treatment.

101. *Uniform Treatment for Dominant and Non-Dominant Carriers.* We adopt uniform timeframes for all carriers for applications to discontinue previously grandfathered legacy data services for the same reasons we adopt uniform timeframes for grandfathering applications. These legacy data services are characterized by falling demand, and consumers are increasingly abandoning them and adopting more advanced data services with better capability and greater functionality. Moreover, the market for data services as a whole is characterized by increasing competition from a variety of competitive sources, including cable, wireless, and satellite providers, all offering alternative data services that provide, at a minimum, the same capabilities of these legacy data services. Given these market dynamics, disparate treatment of dominant and non-dominant carriers seeking to discontinue these previously grandfathered services is no longer necessary.

102. *Eligible Previously-Grandfathered Legacy Data Services.* The record supports limiting previously grandfathered legacy data services subject to our new rules to speeds below 1.544 Mbps. Given the falling demand for data services below this speed as consumers migrate to more advanced offerings with higher speeds and greater functionality, we find this to be the appropriate threshold at this time. Moreover, adopting this speed threshold maintains consistency with the rules we adopt today governing low-speed legacy grandfathered services, and will thus avoid any customer and carrier confusion as to which previously-grandfathered data services these new rules apply.

103. We decline to extend these streamlined comment and auto-grant periods to all applications to discontinue any type of grandfathered services, as Verizon suggests. We prefer to proceed incrementally and legacy data services present the most obvious case for the streamlining reforms we adopt given declines in usage and competitive options available. As reflected in the FNPRM, we will explore in greater depth whether to adopt further streamlining reforms for other legacy services.

104. We also decline to limit eligibility to only those applications that include prescribed methods of demonstrating the availability of alternative comparable data services

throughout the service area from the discontinuing provider or a third party, as Southern Company Services recommends. Introducing additional requirements that carriers must satisfy before discontinuing low speed legacy data services does not comport with our objectives in adopting new more flexible streamlined rules today. Moreover, we consider the existence of available and adequate alternative services as a part of our five-factor test for evaluating discontinuance applications. Consequently, there is no need to make these applications unnecessarily arduous by adding redundant and inflexible new content requirements.

105. Finally, we reject Windstream's proposal to exclude from eligibility previously-grandfathered services that are subject to a specified customer term before that term has expired. Nothing in our rules modifies or abrogates the terms of contracts. Windstream offers no good reason to insert ourselves into contractual disputes.

106. *Special Consideration for Federal, State, Local, and Tribal Government Users.* We also decline to adopt special provisions for applications seeking to discontinue previously grandfathered legacy data services to federal, state, local, and Tribal government users. Although we are sensitive to the budget and procurement challenges that government customers face, as well as other challenges associated with transitioning strategic government applications that use legacy services to alternative next-generation services, these issues are not insurmountable and the record does not support adoption of unique rule-based regulatory requirements to address them. Instead, the record shows that incumbent LECs and other carriers have incentives and a long history of accommodating government customers to avoid costly and dangerous disruptions of service. The record makes clear that carriers discuss service changes with affected government customers ''well before the changes are implemented,'' and are especially sensitive to the needs of government customers when supplying mission-critical services that implicate emergency response or national security. For example, CenturyLink's standard agreement for federal government customers obligates CenturyLink to provide ''18 months' notice prior to discontinuing a service covered by that agreement, and/or to deliver an alternative product equivalent to the service being discontinued.'' Moreover, as AT&T and others explain any hurdles associated with transitioning large volumes of services, even those considered to be critical, can be overcome through negotiation and coordination between the carrier and government customers. Indeed, this process is routine for carrier/customer relationships of this size.

107. Because the record shows that any concerns about government entities' transition away from legacy services are better and more appropriately addressed by government customers and their carriers in their negotiated service agreements which necessarily cover service continuity provisions, we decline to adopt special rules for such entities with respect to the discontinuance of legacy services. Based on the record, we believe that negotiated service contracts are the best vehicle for addressing government users' specific concerns and best serve as enforceable protections to address their long-term planning needs. However, we retain authority to take action in individual circumstances where the public interest requires. Having found that negotiated service contracts—which typically provide substantial advanced notice of service discontinuance—are the best vehicle for addressing government users' specific needs and concerns, and because government users are well-placed to come to the Commission with individual cases that require our attention, we find it unnecessary to address NTIA's request that we require the grandfathering of all services received by federal customers prior to a service discontinuance. We note that NTIA has separately filed a petition that remains pending seeking reconsideration or clarification of the *2016 Technology Transitions Order.* The resolution of that petition, as well as NTIA's request for interoperability protection for the CPE used by the federal government, is outside the scope of the decisions we make here.

3. Expediting Applications To Discontinue Low-Speed Legacy Services With No Customers

108. Recognizing that there are minimal concerns when a carrier seeks to discontinue a service which has no customers, we adopt new streamlined processing rules for a specific category of ''no customer'' discontinuance applications, *i.e.,* applications to discontinue low-speed legacy services having no customers for the prior 30-day period. Specifically, we adopt a 15-day auto-grant period for applications to discontinue legacy voice and data services below 1.544 Mbps for which the carrier has had no customers and no request for service for at least a 30-day period prior to filing the application. Consistent with the streamline processing measures we adopt for other categories of low-speed legacy service applications today, because demand for these services is falling it makes no sense to prevent carriers from eliminating these services and any associated costs from their business processes as rapidly as possible.

109. Under the current rules, carriers can apply for streamlined processing to discontinue any service if they have no customers taking that service and have had no requests for that service for the previous 180 days. This rule is currently pending OMB approval and is not yet effective. Such applications will be automatically granted 31 days after the Commission places them on public notice unless the Commission has removed the application from streamlined processing. The Notice sought comment on whether to maintain and further streamline the broadly applicable ''no customer'' rule by reducing the 180 day period to 60 days, or even shorter, and whether any other changes to this rule should be made. The record supports adopting a shorter ''no customer'' period, as well as reducing the auto-grant period for ''no customer'' applications. When there are no customers of a service, and no prospective customers have requested a service for 30 days, there is little or no public interest for the section 214 discontinuance process to protect. We are not persuaded by Windstream's argument that a lengthy ''no customer'' period is necessary to demonstrate a lack of demand. There is no evidence in the record to suggest that services with no customers and no demand for 30 days are likely to be in demand sometime in the future. We better meet our public interest obligations when needless regulatory delay is eliminated so as to facilitate discontinuance of services that are no longer demanded, freeing up carrier resources for other, more highly demanded services. We find that a 30-day ''no customer'' period and a 15 day auto-grant period strikes the best balance between providing additional streamlining and ensuring adequate proof of no further demand.

110. As with today's other section 214(a) streamlining reforms, we proceed incrementally, and limit this further streamlined processing to those ''no customer'' applications to discontinue low-speed (*i.e.* below 1.544 Mbps) legacy voice and data services. Demand for these legacy services has declined precipitously in recent years, and competing services utilizing next-generation technologies are readily available to consumers, minimizing the potential for harm to consumers

following the discontinuance of these services. In light of these market forces, we find it appropriate to further streamline the discontinuance process for carriers seeking to discontinue these low-speed legacy services with no customers. However, in the accompanying FNPRM, we seek comment on whether we should adopt this same reduced ''no customer'' 30-day timeframe and 15 day auto-grant period for all, or some other subset, of ''no customer'' discontinuance applications.

111. At the same time, we find that the current record is insufficient to consider AT&T's and CenturyLink's requests that we should forbear entirely from applying section 214 with regard to any service for which there are no customers. We seek comment on AT&T's and CenturyLink's proposal in the accompanying FNPRM.

4. Eliminating Section 214(a) Discontinuance Requirements for Solely Wholesale Services

112. We conclude that a carrier need not seek approval from the Commission to discontinue, reduce, or impair a service pursuant to section 214(a) of the Act when a change in service directly affects only carrier-customers. We address here only changes in wholesale service, such as the discontinuance of one service when others remain available, not the ''severance of physical connection or the termination or suspension of the interchange of traffic with another carrier.'' As used in this section, a carrier-customer is a carrier—typically a competitive LEC—that buys wholesale service from another carrier—typically an incumbent LEC—and repackages that service for retail sale to end user customers. Thus, the carrier-customer is both a ''customer'' (of the incumbent LEC) and a ''carrier'' (to its retail end users). In so doing, we reverse the decision in the *2015 Technology Transitions Order* regarding when carriers must seek approval to discontinue, reduce, or impair wholesale service provided to carrier-customers.'' Our decision today better comports with the text of the Act and Commission precedent, and as the record shows it benefits consumers by eliminating a needless regulatory burden that diverts investment to outdated services. As a result of our decision, we return to the status quo before the *2015 Technology Transitions Order.*

113. As an initial matter, our decision is the best interpretation of the Act and relevant Commission precedent. Our policy decisions must be grounded in the authority the text of the Act grants to the Commission. Section 214(a) states, in pertinent part, ''No carrier shall discontinue, reduce, or impair service to a community, or part of a community, unless and until there shall first have been obtained from the Commission a certificate that neither the present nor future public convenience and necessity will be adversely affected thereby[.]'' When determining whether a carrier needs Commission approval to discontinue service, the Act seeks to protect service provided by a carrier to a ''community.'' The Commission has consistently held that the term ''community'' in the statute means end users, or ''the using public.'' Carrier-customers are not the using public; they are intermediaries who provide service to the using public. Carrier-customers are therefore not part of a ''community'' that section 214(a) seeks to protect from discontinuances. As the Commission noted in Western Union, ''there are some important differences between this type of relationship and the more usual type involving a carrier and its non-carrier customer.''

114. The *2015 Technology Transitions Order* purported to recognize this statutory limitation, but it failed to heed the constraints of the text and made the carrier responsible for its carrier-customers' customers. According to that *Order,* ''under the statute and our precedent it is not enough for a carrier that intends to discontinue a service to look only at its own end-user customers.'' The *Order* said the carrier must also evaluate ''service provided to the community by the discontinuing carrier's carrier-customer.'' Upon further consideration, we conclude that this was an incorrect reading of the statute's plain language.

115. We return to the interpretation dictated by the plain text of the Act, that a carrier must consider only the end-user community it serves. The customers of the carrier-customer are part of a community: They are the retail end users. But they are not part of a community that the carrier is serving; rather, the carrier-customer is their service provider. The upstream carrier is selling *wholesale* service to the carrier-customer, and that wholesale service is merely an input that the carrier-customer repackages into a *retail* service to the end user. It is the carrier-customer, not the carrier, that is providing ''service to a community,'' and therefore it is the carrier-customer, not the carrier, that has an obligation under section 214(a) to seek approval for a discontinuance of the end user's service. And this makes sense given that it is the carrier-customer, not the carrier, that has the relationship with the community through its end-user customers, and it is the carrier-customer, not the carrier, that chooses what facilities to use (its own, the carrier's, or another's) to provide that service to the community. The record strongly supports this interpretation; we disagree with the relatively few commenters who misinterpret section 214 to require carriers to maintain wholesale service for the benefit of someone else's customers.

116. The structure of the Communications Act also supports this interpretation of the duty under 214(a). Congress laid out a carrier's responsibility to its carrier-customers in section 251, and a carrier's duty under section 251(c)(5) complements the carrier-customer's duty under section 214(a). If a carrier makes a network change that would impact the carrier-customer (and correspondingly disrupt retail service to the carrier-customer's end users), it must notify the carrier-customer. This notice gives the carrier-customer adequate time to either find another wholesale supplier or seek approval under section 214(a) to discontinue service to its own end users. Although sections 214(a) and 251(c)(5) are distinct provisions serving distinct purposes (as the former pertains to changes in services and the latter pertains to changes in networks), they nonetheless complement each other to help carriers and carrier-customers protect the using public's ability to obtain and retain service. We therefore disagree with commenters that argue that carriers must both provide network change notifications *and* obtain approval under section 214 for discontinuing wholesale service solely to a carrier-customer; such an interpretation is contrary to the plain language of section 214 and imposes needlessly duplicative burdens on carriers.

117. Agency precedent largely supports this plain reading of the Act. In case after case after case after case after case, the Commission has declined to require a section 214 discontinuance application before allowing a carrier to change the service offerings available to its carrier-customers. In *AT&T Telpak,* the Commission made clear that section 214 ''does not apply'' when a carrier continues to offer ''like'' services to a community, even if carrier-customers would prefer to use a previously offered service. In *Western Union II,* the Commission stated that ''the fact that a carrier's tariff action may increase costs or rates,'' including in that case an action that required a carrier-customer to order different services using different equipment over different

facilities, ''does not give rise to any requirement for Section 214(a) certification.'' In *Lincoln County,* the Commission found that the ''removal'' of particular facilities used by a carrier-customer, as well as the ''reconfiguration of facilities and [] re-routing of traffic'' ''does not fall within 214 and 214 application is not required.'' And in *Graphnet,* the Commission found that ''in situations where one carrier attempts to invoke Section 214(a) against another carrier, concern should be had for the ultimate impact on the community served rather than on any technical or financial impact on the carrier itself.'' Despite the *2015 Technology Transitions Order's* suggestion to the contrary, both the holdings and dicta in those cases support our conclusion that carriers need not seek approval from the Commission to discontinue, reduce, or impair a service pursuant to section 214(a) of the Act when a change in service directly affects only carrier-customers.

118. We conclude that the Commission erred in *BellSouth,* the only case to require a discontinuance application from an upstream carrier in the absence of end users. There, the Commission acknowledged that carriers had previously been able to change their offerings to carrier-customers without seeking section 214 approval and distinguished those instances by noting that the service at issue ''is the subject of a Notice of Proposed Rulemaking in which the Commission tentatively concluded that it is in the public interest to formulate a federal policy to promote the availability of [that] service.'' But section 214 neither mentions Commission rulemakings nor ties its scope to such rulemakings, and to the extent *BellSouth* holds otherwise, we overrule it. We also note that the Commission decided *BellSouth* four years before adoption of the 1996 Act, which adopted a notice-based process for wholesale inputs. Therefore, it is clearer today than in 1992 that the interpretation adopted in *BellSouth* is erroneous in light of the 1996 Act addressing obligations of carriers to competitors through statutory provisions other than the discontinuance requirement of section 214. For the reasons discussed herein we conclude that our interpretation today is more consistent with the statutory text and the public interest, and therefore we overrule any precedent to the contrary.

119. To the extent there is any ambiguity in the statutory text or past Commission precedent interpreting that text, we nevertheless conclude that our reversal of the prior interpretation of section 214(a) in the *2015 Technology Transitions Order* is appropriate because our interpretation better serves the public interest. It fully protects consumers because each carrier is responsible for its own customers. The upstream carrier files 214 applications as needed when its end users are affected, and the carrier-customer files 214 applications as needed when its end users are affected. Moreover, this less burdensome approach to section 214(a) gives full practical effect to section 214(a)'s direction that we ensure that discontinuances do not adversely impact the public interest. In many circumstances the carrier-customer will be able to obtain wholesale service from another source without causing a disruption of service for the end user. As CenturyLink observes, the widespread availability of next-generation substitutes to legacy TDM services makes it unlikely that there will be no available alternative to the discontinued wholesale input. Moreover, this risk of loss of wholesale supply is an incentive for the carrier-customer to itself invest in new infrastructure, which would benefit the public. Insofar as there arise instances in which a community may truly lose a service option (and the upstream carrier would not already be filing a 214 discontinuance application for its own customers), we conclude that the other public benefits to infrastructure investment discussed herein outweigh those costs. Additionally, in circumstances in which the loss of a service input results from a network change by an incumbent LEC, we are able to extend the implementation date for incumbent LEC copper retirements and short-term network changes up to six months from the date of filing where the competitive LEC has made a showing that satisfies our rules. Our network change process under section 251(c)(5) thus provides an additional safety valve that mitigates the likelihood of impact on end-user customers. We thus reject arguments that we should retain the 2015 interpretation predicated on the view that as a practical matter, if a carrier discontinues wholesale service to a carrier-customer, that carrier-customer may be unable to obtain wholesale service from another provider and may have no choice but to discontinue service to its end users, effectively resulting in a downstream discontinuance of retail service.

120. The prior interpretation diverted investment from network improvements in order to maintain outdated services that the carriers would otherwise discontinue. Requiring carriers to accommodate end user customers with which they have no relationship for services that they are not providing would be unduly burdensome and would likely hinder deployment of new advanced networks. We agree with AT&T that ''[i]ntermediating wholesale carriers between carrier-customers and their end users will inevitably lead to wasteful expenditure of wholesale carriers' resources that could otherwise be put toward furthering technology transitions.''

121. Moreover, as a practical matter, upstream carriers cannot consistently know how the carrier-customers' end users are using their retail service. An upstream carrier does not typically have a contractual relationship with its carrier-customer's end users, and it may not know how these customers use their retail service. We disagree with commenters that claim that the upstream carrier can easily ascertain how an end user—with which the carrier has no relationship—uses their service. The consultation process described by the *2015 Technology Transitions Order* was cumbersome and unlikely to adequately inform an upstream carrier absent extraordinary market research expenses. The carrier that provides service directly to end users is in the best position to evaluate the marketplace options available to it and determine the most effective way to provide retail service to its end users. Consequently, it makes the most sense for the carrier that provides service directly to end users to have the responsibility to comply with section 214(a) with regard to the services it provides its customers.

122. We disagree with commenters that argue that we should consider whether discontinuing service to carrier-customers could impede competition or otherwise injure those carrier-customers. The purpose of section 214(a) is not to bolster competition; it is to protect end users. As the Commission has long held, ''concern should be had for the ultimate impact on the community served rather than on any technical or financial impact on the [carrier-customer] itself.'' Congress added other provisions to the Act in 1996 to promote competition. Even if harms to carrier-customers were relevant to our decision, we conclude that any such harms are outweighed by the benefits to the public described herein. In particular, we note that carrier-customers can mitigate any harms associated with this decision by negotiating with carriers for contractual provisions to protect against the sudden or unexpected loss of wholesale service.

We remind carriers that discontinuing a service—whether a section 214 approval is required or not—is not an excuse for abrogating contracts, including contract-tariffs. Further, any costs incurred by carrier-customers under our decision today are the same costs that would have obtained prior to the *2015 Order.*

123. We conclude, based on the text of the statute and the public interest in both spurring deployment of advanced networks and protecting access to existing services, that carriers are not required to seek approval under section 214(a) in order to discontinue, reduce, or impair wholesale service to a carrier-customer.

5. Rejecting Other Modifications to the Discontinuance Process

124. Based on the current record, we reject the proposals by certain commenters to further modify the section 214(a) discontinuance process today. Specifically, we reject NRECA's request to place additional conditions on the discontinuance of DS1 and DS3 services, and Verizon's proposal that we impose ''shot clocks'' for Commission processing of discontinuance applications.

125. *NRECA DS1 and DS3.* We decline NCREA's request to impose specific requirements related to installation, testing, and pricing of replacement services as conditions to granting carriers' section 214(a) discontinuance authority for DS1 and DS3 TDM services. Section 214(a) directs the Commission to ensure that a loss of service does not harm the public convenience or necessity, and applications to discontinue DS1s and DS3s, like discontinuance applications for any service, are subject to the Commission's traditional five-factor test. NCREA has provided no compelling reason why more burdensome requirements should be imposed on this particular category of services. Our rules already require that carriers that file discontinuance applications provide notice of such applications in writing to each affected customer unless we authorize in advance, for good cause shown, another form of notice. Thus, NCREA's request for a requirement that a carrier provide written notice to customers of planned discontinuance dates is already contained in our rules.

126. *Verizon Shot Clocks.* We decline to adopt Verizon's ''shot clock'' proposals. Verizon has failed to demonstrate why the Commission's current processing timeframes warrant adopting such shot clocks. The Commission routinely processes discontinuance applications based on carriers' proposed schedules set forth in their applications, and a 10-day shot clock could preclude the Bureau staff from obtaining a clarification or supplemental information in the case of an incomplete application necessary to issue the public notice. In such cases, the Bureau would be forced to dismiss the application rather than having the flexibility to resolve the issue and process the application but for the shot clock.

127. We further decline to adopt Verizon's proposed 31-day ''deemed granted'' shot clock for applications that have been removed from streamlined treatment after the initial auto-grant period has been suspended. Applications that are removed from automatic-grant are done so for good reason, primarily to resolve an objection that merits further consideration and review. While we strive to resolve such issues as quickly as possible, often resolution depends on the applicant working with the objecting party to achieve some accommodation. Adopting Verizon's proposal would remove any incentive the carrier had to address a legitimate concern raised by a commenter, effectively automatically granting the application in an additional 31 days. Doing so would run counter to our statutory responsibility to ensure that proposed discontinuance applications do not harm the public convenience and necessity.

IV. Final Regulatory Flexibility Analysis

128. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated into the notice of proposed rulemaking, notice of inquiry, and request for comment (*Wireline Infrastructure NPRM*) for the wireline infrastructure proceeding. The Commission sought written public comment on the proposals in the *Wireline Infrastructure NPRM,* including comment on the IRFA. The Commission received no comments on the IRFA. Because the Commission amends its rules in this Order, the Commission has included this Final Regulatory Flexibility Analysis (FRFA). This present FRFA conforms to the RFA.

A. Need for, and Objectives of, the Rules

129. In the *Wireline Infrastructure NPRM,* the Commission proposed to remove regulatory barriers to infrastructure investment at the federal, state, and local level; suggested changes to speed the transition from copper networks and legacy services to next-generation networks and services; and proposed to reform Commission regulations that increase costs and slow broadband deployment. In so doing, the Commission sought to better enable broadband providers to build, maintain, and upgrade their networks, leading to more affordable and available internet access and other broadband services for consumers and businesses alike.

130. Pursuant to these objectives, this Order adopts changes to Commission rules regarding pole attachments, network change notifications, and section 214 discontinuance procedures. The Order adopts changes to the current pole attachment rules that: (1) Codify the elimination from the pole attachment rate formulas those capital costs that already have been paid to the utility via make-ready charges, (2) establish a 180-day shot clock for Enforcement Bureau resolution of pole access complaints, and (3) allow incumbent LECs to request nondiscriminatory pole access from other LECs that own or control poles, ducts, conduits, or rights-of-way. The modifications to our pole attachment rules we adopt today will reduce costs for attachers, reform the pole access complaint procedures to settle access disputes more swiftly, and increase access to infrastructure for certain types of broadband providers. The Order also adopts changes to the Commission's part 51 network change notification rules to expedite the copper retirement process and to more generally reduce regulatory burdens to facilitate more rapid deployment of next-generation networks. Finally, the Order adopts rule changes to the section 214(a) discontinuance process that streamline the review and approval process for three types of section 214(a) discontinuance applications, including applications to: (i) Grandfather low-speed legacy voice and data services; (ii) discontinue previously grandfathered low-speed legacy data services; and (iii) discontinue low-speed services with no customers. The Order also clarifies that solely wholesale services are not subject to discontinuance approval obligations under the Act or our rules. These rules will eliminate unnecessary regulatory process encumbrances when carriers decide to cease offering legacy services that are rapidly and abundantly being replaced with more innovative alternatives, speeding the transition to next-generation network infrastructure and services.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

131. The Commission did not receive comments specifically addressing the rules and policies proposed in the IRFA.

C. Response to Comments by the Chief Counsel for Advocacy of the Small Business Administration

132. The Chief Counsel did not file any comments in response to this proceeding.

D. Description and Estimate of the Number of Small Entities to Which the Rules Will Apply

133. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the final rules adopted pursuant to the *Wireline Infrastructure NPRM.* The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. Pursuant to 5 U.S.C. 601(3), the statutory definition of a small business applies ''unless an agency, after consultation with the Office of Advocacy of the Small Business Administration and after opportunity for public comment, establishes one or more definitions of such term which are appropriate to the activities of the agency and publishes such definition(s) in the **Federal Register**.'' A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

134. The majority of our changes will affect obligations on incumbent LECs and, in some cases, competitive LECs. Certain pole attachment rules also affect obligations on utilities that own poles, telecommunications carriers and cable television systems that seek to attach equipment to utility poles, and other LECs that own poles. Other entities that choose to object to network change notifications for copper retirement or section 214 discontinuance applications may be economically impacted by the rules in the Order.

135. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

136. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS). Data from the Urban Institute, National Center for Charitable Statistics (NCCS) reporting on nonprofit organizations registered with the IRS was used to estimate the number of small organizations. Reports generated using the NCCS online database indicated that as of August 2016 there were 356,494 registered nonprofits with total revenues of less than $100,000. Of this number 326,897 entities filed tax returns with 65,113 registered nonprofits reporting total revenues of $50,000 or less on the IRS Form 990–N for Small Exempt Organizations and 261,784 nonprofits reporting total revenues of $100,000 or less on some other version of the IRS Form 990 within 24 months of the August 2016 data release date.

137. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Local governmental jurisdictions are classified in two categories—General purpose governments (county, municipal and town or township) and Special purpose governments (special districts and independent school districts). The Census of Government is conducted every five (5) years compiling data for years ending with ''2'' and ''7.'' Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

138. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the *majority* of firms in this industry can be considered small.

139. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 138 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

140. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 138 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission

data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. One thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

141. *Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 138 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by the adopted rules.

142. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 138 of this FRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted.

143. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 138 of this FRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers that may be affected by our rules are small.

144. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

145. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

146. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000 are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. The Commission does receive such information on a case-by-case basis if a cable operator appeals a local franchise authority's finding that the operator does not qualify as a small cable operator pursuant to section 76.901(f) of the Commission's rules. Although it seems certain that some of these cable system operators are

affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

147. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

148. *Electric Power Generation, Transmission and Distribution.* The Census Bureau defines this category as follows: ''This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' This category includes electric power distribution, hydroelectric power generation, fossil fuel power generation, nuclear electric power generation, solar power generation, and wind power generation. The SBA has developed a small business size standard for firms in this category based on the number of employees working in a given business. According to Census Bureau data for 2012, there were 1,742 firms in this category that operated for the entire year.

149. *Natural Gas Distribution.* This economic census category comprises: ''(1) Establishments primarily engaged in operating gas distribution systems (*e.g.,* mains, meters); (2) establishments known as gas marketers that buy gas from the well and sell it to a distribution system; (3) establishments known as gas brokers or agents that arrange the sale of gas over gas distribution systems operated by others; and (4) establishments primarily engaged in transmitting and distributing gas to final consumers.'' The SBA has developed a small business size standard for this industry, which is all such firms having 1,000 or fewer employees. According to Census Bureau data for 2012, there were 422 firms in this category that operated for the entire year. Of this total, 399 firms had employment of fewer than 1,000 employees, 23 firms had employment of 1,000 employees or more, and 37 firms were not operational. Thus, the majority of firms in this category can be considered small.

150. *Water Supply and Irrigation Systems.* This economic census category ''comprises establishments primarily engaged in operating water treatment plants and/or operating water supply systems. The water supply system may include pumping stations, aqueducts, and/or distribution mains. The water may be used for drinking, irrigation, or other uses.'' The SBA has developed a small business size standard for this industry, which is all such firms having $27.5 million or less in annual receipts. According to Census Bureau data for 2012, there were 3,261 firms in this category that operated for the entire year. Of this total, 3,035 firms had annual sales of less than $25 million. Thus, the majority of firms in this category can be considered small.

E. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

151. *Pole Attachment Reforms.* The Order adopts the *Wireline Infrastructure NPRM'*s proposal to amend § 1.1409(c) of our rules to exclude capital expenses already recovered via non-recurring make-ready fees from recurring pole attachment rates. It also establishes a 180-day ''shot clock'' for Enforcement Bureau resolution of pole access complaints filed under section 1.1409 of our rules. Finally, the Order interprets sections 224 and 251(b)(4) of the Act in harmony to create a reciprocal system of infrastructure access rules in which incumbent LECs, pursuant to section 251(b)(4) of the Act, are guaranteed access to poles owned or controlled by competitive LECs and *vice versa,* subject to the rates, terms, and conditions for pole attachments described in section 224.

152. *Network Change Notifications.* The Order adopts changes to the Commission's part 51 network change notification rules to expedite the copper retirement process and to more generally reduce regulatory burdens to facilitate more rapid deployment of next-generation networks. First, the Order finds that § 51.325(c)'s prohibition on incumbent LECs communicating with other entities about planned network changes prior to giving the requisite public notice of those changes pursuant to the Commission's rules impedes incumbent LECs' ability to freely communicate, engage, and coordinate with the parties that will ultimately be affected by those changes. The Order thus eliminates this prohibition. Second, the Order finds that the rules adopted by the Commission in 2015 governing the copper retirement notice process imposed far-reaching and burdensome notice obligations on incumbent LECs that frustrate their efforts to modernize their networks. The Order revises these rules and returns to the Commission's longstanding balance to help carriers get more modern networks to more Americans at lower costs.

153. Specifically, the Order: (1) Eliminates *de facto* retirement from the definition of copper retirement; (2) reduces the scope of direct notice by eliminating notice to retail customers and government entities, and returning to direct notice to directly interconnecting ''telephone exchange service providers'' rather than all directly interconnected ''entities''; (3) replaces the detailed certification requirements with a generally-applicable certificate of service; (4) eliminates the requirement that copper retirement notices include ''a description of any changes in prices, terms, or conditions that will accompany the planned changes''; (5) reduces the waiting period from 180 days to 90 days generally but to 15 days where the copper being retired is not used to provision service to any customers; (6) reinstates the pre-2015 objection procedures and eliminates the good faith communication requirement; (7) reinstates the pre-2015 objection resolution ''deemed denied'' provision; and (8) precludes the need to seek a waiver as a result of situations beyond

an incumbent LEC's control by adopting flexible *force majeure* provisions.

154. *Section 214(a) Discontinuances.* The Order adopts the *Wireline Infrastructure NPRM*'s proposal to streamline the approval process for discontinuance applications to grandfather low-speed (*i.e.,* below 1.544 Mbps) legacy voice and data services for existing customers, and applies a uniform reduced public comment period of 10 days and an automatic grant period of 25 days for all carriers making such applications to the Commission. The Order also adopts the *Wireline Infrastructure NPRM*'s proposal to streamline the discontinuance process for applications seeking authorization to discontinue legacy data services below 1.544 Mbps that have previously been grandfathered for a period of at least 180 days, and applies a uniform reduced public comment period of 10 days and an auto-grant period of 31 days to all such applications. Discontinuing carriers that wish to avail themselves of this streamlined process may do so by including a simple certification that they have received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. This certification must reference the file number of the prior Commission authorization to grandfather the services the carrier now seeks to permanently discontinue. The Order also adopts the *Wireline Infrastructure NPRM*'s proposal to streamline the discontinuance process for services that have no customers or have had no requests for the service for a period of time. For low-speed legacy services, the Order therefore reduces the period within which a carrier has had no customers or no requests for the service to be eligible for streamlining from the prior 180 days to 30 days, and further reduces the auto-grant period to 15 days. Finally, the Order clarifies that a carrier must consider only its own end-user customers when determining whether it must seek approval from the Commission to discontinue, reduce, or impair a service pursuant to section 214(a) of the Act.

F. Steps Taken To Minimize the Significant Economic Impact on Small Entities and Significant Alternatives Considered

155. In this Order, the Commission modifies its pole attachment rules to reduce costs for attachers, reform the pole access complaint procedures to settle access disputes more swiftly, and increase access to infrastructure for certain types of broadband providers. It also relaxes or removes regulatory requirements on carriers seeking to replace legacy network infrastructure and legacy services with advanced broadband networks and innovative new services. Overall, we believe the actions in this document will reduce burdens on the affected carriers, including any small entities.

156. *Pole Attachments.* The Order found that codifying the exclusion of capital expenses already recovered via make-ready fees from recurring pole attachment rates would help eliminate any confusion regarding the treatment of capital expenses already recovered by a utility via make-ready fees. As detailed in the Order, the Commission considered arguments that it is unnecessary to codify this exclusion. However, the Order determined that this exclusion will enhance the deployment of broadband services to the extent that codifying the exclusion will keep recurring pole attachment rates low and uniform for attachers. The Order also found broad support in the record for establishing a 180-day shot clock for resolving pole access complaints, finding that establishment of such a shot clock could expedite broadband deployment by resolving pole attachment access disputes in a quicker fashion. As described in the Order, the Commission considered, but rejected, arguments opposing a shot-clock, as well as those requesting a shorter shot clock. Finally, the Order found it reasonable to interpret sections 224 and 251(b)(4) of the Act in harmony to create a reciprocal system of infrastructure access rules in which incumbent LECs, pursuant to section 251(b)(4) of the Act, are guaranteed access to poles owned or controlled by competitive LECs and *vice versa,* subject to the rates, terms, and conditions for pole attachments described in section 224. In making this finding, the Order evaluated arguments that this interpretation will discourage deployment or create additional burdens for competitive LECs. However, the Order found that the disparate treatment of incumbent LECs and competitive LECs prevents incumbent LECs from gaining access to competitive LEC-controlled infrastructure and in doing so dampens the incentives for all LECs to build and deploy the infrastructure necessary for advanced communications services.

157. *Network Change Notifications.* First, for rules pertaining to network changes generally, the Order eliminates the prohibition on incumbent LEC disclosures regarding potential network changes prior to public notice of those changes, but retains the procedures for objecting to short-term notices of network changes. In adopting this change, the Order considered, but rejected, suggestions that the Commission should require incumbent LECs to provide notice of network changes to all interconnecting entities before providing public notice, and arguments that competing service providers might use the objection process to unwarrantedly delay a network change. Second, recognizing the uniqueness of copper retirements, the Order retains the distinction between copper retirements and other types of planned network changes. In making this determination, the Commission evaluated, but discounted, arguments that copper retirements require no special treatment as compared to other types of network changes. Third, the Order reduces the regulatory burdens associated with the copper retirement notice process by (i) narrowing the definition of copper retirement, (ii) reducing the scope of recipients and the required content of direct notice, and (iii) reducing the waiting period before an incumbent LEC can implement a planned copper retirement while reinstating the objection and associated resolution procedures previously applicable to copper retirement notices. As explained in the Order, the Commission considered arguments against these rule changes but found that our rules will afford sufficient time to accommodate planned changes and address parties' needs for adequate information and consumer protection. Finally, the Order adopts streamlined copper retirement notice procedures related to *force majeure* events. In adopting these rules, the Commission considered, but rejected, alternative solutions, including arguments that the Commission should proceed solely via waiver in this context.

158. *Section 214(a) Discontinuance Process.* The Order streamlines the review and approval process for three types of Section 214(a) discontinuance applications, those that: (i) Grandfather low-speed legacy voice and data services; (ii) discontinue previously grandfathered low-speed legacy data services; and (iii) discontinue low-speed legacy services with no customers. The Order streamlines the approval process for discontinuance applications to grandfather low-speed legacy services by adopting a uniform reduced public comment period of 10 days and an automatic grant period of 25 days for all carriers seeking to grandfather legacy low-speed services for existing customers. For applications seeking authorization to discontinue legacy data

services below 1.544 Mbps that have previously been grandfathered for a period of at least 180 days, the Order applies a uniform reduced public comment period of 10 days and an auto-grant period of 31 days to all such applications. For applications to discontinue low-speed legacy voice and data services below 1.544 Mbps for which the carrier has had no customers and no request for service for at least a 30-day period prior to filing, the Order adopts a 15-day auto-grant period. In adopting these rules, the Order evaluated alternative approaches, and found that the adopted streamlining rules strike the appropriate balance to provide relief to carriers who wish to transition away from the provision of legacy services for which there is rapidly decreasing demand, while at the same time ensuring that potential consumers of these services have readily available alternatives. Finally, the Order clarifies that a carrier need not seek approval from the Commission to discontinue, reduce, or impair a service pursuant to section 214(a) of the Act when a change in service directly affects only carrier-customers. In adopting this clarification, the Commission noted that in many circumstances the carrier-customer will be able to obtain wholesale service from another source without causing a disruption of service for the end user, and found that this less burdensome approach better conforms with the text of the Act and Commission precedent. The Order therefore rejects arguments that the Commission should retain the 2015 interpretation predicated on the view that as a practical matter, if a carrier discontinues wholesale service to a carrier-customer, that carrier-customer may be unable to obtain wholesale service from another provider and may have no choice but to discontinue service to its end users, resulting in a downstream discontinuance of retail service.

G. Report to Congress

159. The Commission will send a copy of the Report and Order, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Report and Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

V. Procedural Matters

A. Congressional Review Act

160. The Commission will send a copy of this Report and Order, including a copy of the Final Regulatory Flexibility Certification, in a report to Congress and the Government Accountability Office pursuant to the Congressional Review Act. *See* 5 U.S.C. 801(a)(1)(A). In addition, the Report and Order and this final certification will be sent to the Chief Counsel for Advocacy of the SBA, and will be published in the **Federal Register**.

B. Final Regulatory Flexibility Analysis

161. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Report and Order. The FRFA is contained in Section IV *supra.*

C. Paperwork Reduction Act of 1995 Analysis

162. The Report and Order contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new or modified information collection requirements contained in this proceeding. In addition, we note that pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees.

163. In this document, we have assessed the effects of reforming our pole attachment regulations, network change notification procedures, and section 214(a) discontinuance rules, and find that doing so will serve the public interest and is unlikely to directly affect businesses with fewer than 25 employees.

D. Contact Person

164. For further information about this proceeding, please contact Michele Levy Berlove, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C313, 445 12th Street SW, Washington, DC 20554, at (202) 418–1477, *Michele.Berlove@fcc.gov,* or Michael Ray, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C235, 445 12th Street SW, Washington, DC 20554, (202) 418–0357, *Michael.Ray@fcc.gov.*

VI. Ordering Clauses

165. Accordingly, *it is ordered* that, pursuant to sections 1–4, 201, 202, 214, 224, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 214, 224, 251, and 303(r), this Report and Order *is adopted.*

166. *It is further ordered* that parts 1, 51, and 63 of the Commission's rules *are amended* as set forth in Appendix A of the Report and Order, and that any such rule amendments that contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act *shall be effective* after announcement in the **Federal Register** of Office of Management and Budget approval of the rules, and on the effective date announced therein.

167. *It is further ordered* that this Report and Order *shall be* effective January 29, 2018, except for 47 CFR 1.1424, 51.325(a)(4) and (c) through (e), 51.329(c)(1), 51.332, 51.333(a) through (c), (f), and (g), 63.60(d) through (i), and 63.71(k), which contain information collection requirements that have not been approved by OMB. The Federal Communications Commission will publish a document in the **Federal Register** announcing the effective date.

168. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

169. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this Report and Order, including the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects

47 CFR Part 1

Practice and procedure.

47 CFR Part 51

Interconnection.

47 CFR Part 63

Extension of lines, new lines, and discontinuance, reduction, outage and impairment of service by common carriers; and Grants of recognized private operating agency status.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications

Commission amends 47 CFR parts 1, 51, and 63 as follows:

PART 1—PRACTICE AND PROCEDURE

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

Authority: 47 U.S.C. 151, 154(i) and (j), 155, 157, 160, 201, 224, 225, 227, 303, 309, 310v, 332, 1403, 1404, 1451, 1452, and 1455.

Subpart J—Pole Attachment Complaint Procedures

■ 2. Amend § 1.1409 by revising paragraph (c) to read as follows:

§ 1.1409 Commission consideration of the complaint.

* * * * *

(c) The Commission shall determine whether the rate, term or condition complained of is just and reasonable. For the purposes of this paragraph (c), a rate is just and reasonable if it assures a utility the recovery of not less than the additional costs of providing pole attachments, nor more than an amount determined by multiplying the percentage of the total usable space, or the percentage of the total duct or conduit capacity, which is occupied by the pole attachment by the sum of the operating expenses and actual capital costs of the utility attributable to the entire pole, duct, conduit, or right-of-way. The Commission shall exclude from actual capital costs those reimbursements received by the utility from cable operators and telecommunications carriers for non-recurring costs.

* * * * *

■ 3. Revise § 1.1424 to read as follows:

§ 1.1424 Complaints by incumbent local exchange carriers.

Complaints by an incumbent local exchange carrier (as defined in 47 U.S.C. 251(h)) or an association of incumbent local exchange carriers alleging that it has been denied access to a pole, duct, conduit, or right-of-way owned or controlled by a local exchange carrier or that a rate, term, or condition for a utility pole attachment is not just and reasonable shall follow the same complaint procedures specified for other pole attachment complaints in this part, as relevant. In complaint proceedings where an incumbent local exchange carrier (or an association of incumbent local exchange carriers) claims that it is similarly situated to an attacher that is a telecommunications carrier (as defined in 47 U.S.C. 251(a)(5)) or a cable television system for purposes of obtaining comparable rates, terms or conditions, the incumbent local exchange carrier shall bear the burden of demonstrating that it is similarly situated by reference to any relevant evidence, including pole attachment agreements. If a respondent declines or refuses to provide a complainant with access to agreements or other information upon reasonable request, the complainant may seek to obtain such access through discovery. Confidential information contained in any documents produced may be subject to the terms of an appropriate protective order.

■ 4. Add § 1.1425 to read as follows:

§ 1.1425 Review period for pole access complaints.

(a) Except in extraordinary circumstances, final action on a complaint where a cable television system operator or provider of telecommunications service claims that it has been denied access to a pole, duct, conduit, or right-of-way owned or controlled by a utility should be expected no later than 180 days from the date the complaint is filed with the Commission.

(b) The Enforcement Bureau shall have the discretion to pause the 180-day review period in situations where actions outside the Enforcement Bureau's control are responsible for delaying review of a pole access complaint.

PART 51—INTERCONNECTION

■ 5. The authority for part 51 continues to read as follows:

Authority: 47 U.S.C. 151–55, 201–05, 207–09, 218, 220, 225–27, 251–54, 256, 271, 303(r), 332, 1302.

■ 6. Amend § 51.325 by revising paragraph (a)(4), removing paragraphs (c) and (e), and redesignating paragraph (d) as (c) to read as follows:

§ 51.325 Notice of network changes: Public notice requirement.

(a) * * *

(4) Will result in a copper retirement, which is defined for purposes of this subpart as:

(i) The removal or disabling of copper loops, subloops, or the feeder portion of such loops or subloops; or

(ii) The replacement of such loops with fiber-to-the-home loops or fiber-to-the-curb loops, as those terms are defined in § 51.319(a)(3).

* * * * *

■ 7. Amend § 51.329 by revising paragraph (c)(1) to read as follows:

§ 51.329 Notice of network changes: Methods for providing notice.

* * * * *

(c) * * *

(1) The public notice or certification must be labeled with one of the following titles, as appropriate: "Public Notice of Network Change Under Rule 51.329(a)," "Certification of Public Notice of Network Change Under Rule 51.329(a)," "Short Term Public Notice Under Rule 51.333(a)," "Certification of Short Term Public Notice Under Rule 51.333(a)," "Public Notice of Copper Retirement Under Rule 51.333," or "Certification of Public Notice of Copper Retirement Under Rule 51.333."

* * * * *

§ 51.332 [Removed]

■ 8. Remove § 51.332.

■ 9. Amend § 51.333 by revising the section heading and paragraphs (a) introductory text, (a)(1), (b), and (c) heading and introductory text and adding paragraphs (f) and (g) to read as follows:

§ 51.333 Notice of network changes: Short term notice, objections thereto and objections to copper retirement notices.

(a) *Certificate of service.* If an incumbent LEC wishes to provide less than six months' notice of planned network changes, or provide notice of a planned copper retirement, the public notice or certification that it files with the Commission must include a certificate of service in addition to the information required by § 51.327(a) or § 51.329(a)(2), as applicable. The certificate of service shall include:

(1) A statement that, at least five business days in advance of its filing with the Commission, the incumbent LEC served a copy of its public notice upon each telephone exchange service provider that directly interconnects with the incumbent LEC's network, provided that, with respect to copper retirement notices, such service may be made by postings on the incumbent LEC's website if the directly interconnecting telephone exchange service provider has agreed to receive notice by website postings; and

* * * * *

(b) *Implementation date.* The Commission will release a public notice of filings of such short term notices or copper retirement notices. The effective date of the network changes referenced in those filings shall be subject to the following requirements:

(1) *Short term notice.* Short term notices shall be deemed final on the tenth business day after the release of the Commission's public notice, unless an objection is filed pursuant to paragraph (c) of this section.

(2) *Copper retirement notice.* Notices of copper retirement, as defined in

§ 51.325(a)(4), shall be deemed final on the 90th day after the release of the Commission's public notice of the filing, unless an objection is filed pursuant to paragraph (c) of this section, except that notices of copper retirement involving copper facilities not being used to provision services to any customers shall be deemed final on the 15th day after the release of the Commission's public notice of the filing. Incumbent LEC copper retirement notices shall be subject to the short-term notice provisions of this section, but under no circumstances may an incumbent LEC provide less than 90 days' notice of such a change except where the copper facilities are not being used to provision services to any customers.

(c) *Objection procedures for short term notice and copper retirement notices.* An objection to an incumbent LEC's short term notice or to its copper retirement notice may be filed by an information service provider or telecommunications service provider that directly interconnects with the incumbent LEC's network. Such objections must be filed with the Commission, and served on the incumbent LEC, no later than the ninth business day following the release of the Commission's public notice. All objections filed under this section must:

* * * * *

(f) *Resolution of objections to copper retirement notices.* An objection to a notice that an incumbent LEC intends to retire copper, as defined in § 51.325(a)(4) shall be deemed denied 90 days after the date on which the Commission releases public notice of the incumbent LEC filing, unless the Commission rules otherwise within that time. Until the Commission has either ruled on an objection or the 90-day period for the Commission's consideration has expired, an incumbent LEC may not retire those copper facilities at issue.

(g) *Limited exemption from advance notice and timing requirements for copper retirements*—(1) *Force majeure events.* (i) Notwithstanding the requirements of this section, if in response to a *force majeure* event, an incumbent LEC invokes its disaster recovery plan, the incumbent LEC will be exempted during the period when the plan is invoked (up to a maximum 180 days) from all advanced notice and waiting period requirements associated with copper retirements that result in or are necessitated as a direct result of the *force majeure* event.

(ii) As soon as practicable, during the exemption period, the incumbent LEC must continue to comply with § 51.325(a), include in its public notice the date on which the carrier invoked its disaster recovery plan, and must communicate with other directly interconnected telephone exchange service providers to ensure that such carriers are aware of any changes being made to their networks that may impact those carriers' operations.

(iii) If an incumbent LEC requires relief from the copper retirement notice requirements longer than 180 days after it invokes the disaster recovery plan, the incumbent LEC must request such authority from the Commission. Any such request must be accompanied by a status report describing the incumbent LEC's progress and providing an estimate of when the incumbent LEC expects to be able to resume compliance with the copper retirement notice requirements.

(iv) For purposes of this section, ''force majeure'' means a highly disruptive event beyond the control of the incumbent LEC, such as a natural disaster or a terrorist attack.

(v) For purposes of this section, ''disaster recovery plan'' means a disaster response plan developed by the incumbent LEC for the purpose of responding to a *force majeure* event.

(2) *Other events outside an incumbent LEC's control.* (i) Notwithstanding the requirements of this section, if in response to circumstances outside of its control other than a *force majeure* event addressed in paragraph (g)(1) of this section, an incumbent LEC cannot comply with the timing requirement set forth in paragraph (b)(2) of this section, hereinafter referred to as the waiting period, the incumbent LEC must give notice of the copper retirement as soon as practicable and will be entitled to a reduced waiting period commensurate with the circumstances at issue.

(ii) A copper retirement notice subject to paragraph (g)(2) of this section must include a brief explanation of the circumstances necessitating the reduced waiting period and how the incumbent LEC intends to minimize the impact of the reduced waiting period on directly interconnected telephone exchange service providers.

(iii) For purposes of this section, circumstances outside of the incumbent LEC's control include federal, state, or local municipal mandates and unintentional damage to the incumbent LEC's copper facilities not caused by the incumbent LEC.

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 10. The authority for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 11. Amend § 63.60 by redesignating paragraphs (d) through (h) as (e) through (i) and adding new paragraph (d) to read as follows:

§ 63.60 Definitions.

* * * * *

(d) *Grandfather* means to maintain the provision of a service to existing customers while ceasing to offer that service to new customers.

* * * * *

■ 12. Amend § 63.71 by adding paragraph (k) to read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

* * * * *

(k) The following requirements are applicable to certain legacy services operating at speeds lower than 1.544 Mbps:

(1) Notwithstanding paragraphs (a)(5)(i) and (ii) of this section, if any carrier, dominant or non-dominant, seeks to:

(i) Grandfather legacy voice or data service operating at speeds lower than 1.544 Mbps; or

(ii) Discontinue, reduce, or impair legacy data service operating at speeds lower than 1.544 Mbps that has been grandfathered for a period of no less than 180 days consistent with the criteria established in paragraph (k)(4) of this section, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 10 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(2) For applications to discontinue, reduce, or impair a legacy data service operating at speeds lower than 1.544 Mbps that has been grandfathered for a period of no less than 180 days, in order to be eligible for automatic grant under paragraph (k)(4) of this section, an applicant must include in its application a statement confirming that it received Commission authority to grandfather the service at issue at least 180 days prior to filing the current application.

(3) An application filed by any carrier seeking to grandfather legacy voice or data service operating at speeds lower than 1.544 Mbps for existing customers shall be automatically granted on the 25th day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective.

(4) An application filed by any carrier seeking to discontinue, reduce, or impair a legacy data service operating at speeds lower than 1.544 Mbps that has been grandfathered for 180 days or more preceding the filing of the application, shall be automatically granted on the 31st day after its filing with the Commission without any Commission notification to the applicant, unless the Commission has notified the applicant that the grant will not be automatically effective.

(5) An application seeking to discontinue, reduce, or impair a legacy voice or data service operating at speeds lower than 1.544 Mbps for which the requesting carrier has had no customers and no reasonable requests for service during the 30-day period immediately preceding the filing of the application, shall be automatically granted on the 15th day after its filing with the Commission without any Commission notification to the applicant, unless the Commission has notified the applicant that the grant will not be automatically effective.

[FR Doc. 2017–27198 Filed 12–27–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 17–106, FCC 17–137]

Elimination of Main Studio Rule; Correction

AGENCY: Federal Communications Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Communications Commission (FCC) is correcting an announcement of effective date for a final rule that appeared in the **Federal Register** on December 18, 2017. In the last sentence of the Supplementary Information section of that document, the stated effective date of January 8, 2017 should have been January 8, 2018.

DATES: Effective January 8, 2018.

FOR FURTHER INFORMATION CONTACT: Diana Sokolow, Policy Division, Media Bureau, at (202) 418–2120, or email: *diana.sokolow@fcc.gov.*

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–27197 appearing on page 59987 of the **Federal Register** on Monday, December 18, 2017, the last sentence of the ''Supplementary Information'' section is corrected to read as follows:

''Because we received OMB approval for the non-substantive change request in advance of the effective date for the rule changes that did not require OMB approval, all of the rule changes contained in the Commission's Order, FCC 17–137, will share the same effective date of January 8, 2018.''

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2017–27981 Filed 12–27–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252

[Docket DARS–2017–0022]

Defense Federal Acquisition Regulation Supplement: Technical Amendments

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is making technical amendments to the Defense Federal Acquisition Regulation Supplement (DFARS) to provide needed editorial changes.

DATES: Effective December 28, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer L. Hawes, Defense Acquisition Regulations System, OUSD(AT&L)DPAP(DARS), Room 3B941, 3060 Defense Pentagon, Washington, DC 20301–3060. Telephone 571–372–6115; facsimile 571–372–6094.

SUPPLEMENTARY INFORMATION: This final rule amends the DFARS as follows—

1. Corrects the title of DFARS clause 252.204–7009 at 204.7304(b) and 212.301(f)(ii)(B) to add the missing words ''Reported Cyber Incident'' to the clause title.

2. Revises the following DFARS sections to reflect updated references and cite the applicable volumes of DoD Manual 4140.01, which replaced DoD 4140.1–R. The updated references are cited at: DFARS 211.275–2(a)(1), 217.7001(b), 217.7002(b), 217.7003(a), 217.7506, 217.7601(b), 239.7001, 242.1105(1)(i), and 252.211–7006(b)(1)(i).

3. Corrects cross references at DFARS 218.271(d), 225.7501(a)(2)(i), 227.7103–10(a)(1), 237.102–75, and 252.247–7020 introductory text.

4. Provides guidance at DFARS 219.705–4(d) that contracting officers may use the checklist at DFARS Procedures, Guidance, and Information (PGI) 219.705–4 when reviewing subcontracting plans, and to see PGI 219.705–6(f) for guidance on reviewing subcontracting reports.

5. Revises DFARS 222.406–9(c)(3) to state that the Department of Labor will retain withheld funds pending completion of an investigation or other administrative proceedings in lieu of the Comptroller General. On November 25,

2014, Federal Acquisition Regulation (FAR) final rule 2014–011 was published in the **Federal Register** (79 FR 70342) to implement the Streamlining Claims Processing for Federal Contractor Employees Act, which transferred certain functions from the Government Accountability Office to the Department of Labor. This update aligns DFARS 222.406–9(c)(3) with FAR 22.406–9(c)(3).

6. Corrects, at DFARS 225.870–4(c)(3), the titles of DFARS clauses 252.215–7003 and 252.215–7004 by adding the missing words ''Submission of'' to each clause title.

7. Corrects a reference at DFARS 242.7301(b).

8. Makes a minor editorial change to DFARS 242.7503 by adding ''or'' after the semicolon in paragraph (a).

9. Corrects a typographical error at DFARS 243.204–70–3(b) by correcting the spelling of ''contracting''.

10. Renumbers DFARS section 245.103–73 as 245.103–74. Provides new guidance at DFARS 245.103–73 for contracting officers to see DFARS Procedures, Guidance, and Information (PGI) 245.103–73 for information on reporting Government property under sustainment contracts.

11. Makes an editorial correction to DFARS clause 252.246–7008, by adding a comma in paragraph (e).

12. Provide updated internet links at DFARS 252.245–7002(b)(1) and 252.245–7004(b) and (b)(1)(iv).

List of Subjects in 48 CFR Parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer Defense Acquisition Regulations System.

Therefore, 48 CFR parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 204, 211, 212, 217, 218, 219, 222, 225, 227, 237, 239, 242, 243, 245, and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 204—ADMINISTRATIVE MATTERS

204.7304 [Amended]

■ 2. Amend section 204.7304(b) by removing ''Limitations on the Use or Disclosure of Third-Party Contractor Information'' and adding ''Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information'' in its place.

PART 211—DESCRIBING AGENCY NEEDS

211.275–2 [Amended]

■ 3. Amend section 211.275–2(a)(1) introductory text by removing ''DoD 4140.1–R, DoD Supply Chain Materiel Management Regulation, AP1.1.11'' and adding ''DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition'' in its place.

PART 212—ACQUISITION OF COMMERCIAL ITEMS

212.301 [Amended]

■ 4. Amend section 212.301(f)(ii)(B) by removing ''Limitations on the Use or Disclosure of Third-Party Contractor Information'' and adding ''Limitations on the Use or Disclosure of Third-Party Contractor Reported Cyber Incident Information'' in its place.

PART 217—SPECIAL CONTRACTING METHODS

217.7001 [Amended]

■ 5. Amend section 217.7001(b) by removing ''DoD 4140.1–R, DoD Materiel Management Regulation, Chapter 9.5, Exchange or Sale of Nonexcess Personal Property'' and adding ''DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs'' in its place.

217.7002 [Amended]

■ 6. Amend section 217.7002(b) by removing ''DoD 4140.1–R, Chapter 9.5'' and adding ''DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs'' in its place.

217.7003 [Amended]

■ 7. Amend section 217.7003(a) by removing ''DoD 4140.1–R, Chapter 9.5'' and adding ''DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs'' in its place.

217.7506 [Amended]

■ 8. Amend section 217.7506 by removing ''DoD 4140.1–R, DoD Supply Chain Materiel Management Regulation, Chapter 8, Section C8.3'' and adding ''DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs'' in its place.

217.7601 [Amended]

■ 9. Amend section 217.7601(b) by removing ''DoD 4140.1–R, DoD Supply Chain Materiel Management Regulation, Chapter 2, Section C2.2'' and adding ''DoD Manual 4140.01, Volume 2, DoD Supply Chain Materiel Management Procedures: Demand and Supply Planning'' in its place.

PART 218—EMERGENCY ACQUISITIONS

218.271 [Amended]

■ 10. Amend 218.271(d) by removing ''FAR 13.500(e)'' and adding ''FAR 13.500(c)(1)'' in its place.

PART 219—SMALL BUSINESS PROGRAMS

■ 11. Revise section 219.705–4 to read as follows:

219.705–4 Reviewing the subcontracting plan.

(d)(i) Challenge any subcontracting plan that does not contain positive goals. A small disadvantaged business goal of less than five percent must be approved one level above the contracting officer.

(ii) The contracting officer may use the checklist at PGI 219.705–4 when reviewing subcontracting plans in accordance with FAR 19.705–4.

■ 12. Add section 219.705–6 to read as follows:

219.705–6 Postaward responsibilities of the contracting officer.

(f) See PGI 219.705–6(f) for guidance on reviewing subcontracting reports.

PART 222—APPLICATION OF LABOR LAWS TO GOVERNMENT ACQUISITIONS

222.406–9 [Amended]

■ 13. Amend section 222.406–9(c)(3) by removing ''Department of Labor has given blanket approval to forward withheld funds to the Comptroller General'' and adding ''Department of Labor will retain withheld funds'' in its place.

PART 225—FOREIGN ACQUISITION

■ 14. Revise section 225.870–4(c)(3) to read as follows:

225.870–4 Contracting procedures.

* * * * *

(c) * * *

(3) The contracting officer shall use the provision at 252.215–7003, Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Canadian Commercial Corporation, and the clause at 252.215–7004, Requirement for Submission of Data Other Than Certified Cost or Pricing Data—Modifications—Canadian

Commercial Corporation, as prescribed at 215.408(3)(i) and (ii), respectively.

* * * * *

225.7501 [Amended]

■ 15. Amend section 225.7501(a)(2)(i) by removing ''or 225.104(a)''.

PART 227—PATENTS, DATA, AND COPYRIGHTS

227.7103–10 [Amended]

■ 16. Amend section 227.7103–10(a)(1) by removing ''15.607'' and adding ''15.306'' in its place.

PART 237—SERVICE CONTRACTING

237.102–75 [Amended]

■ 17. Amend section 237.102–75 by removing ''Chapter 14'' and adding ''Chapter 10'' in its place.

PART 239—ACQUISITION OF INFORMATION TECHNOLOGY

239.7001 [Amended]

■ 18. Amend section 239.7001 by removing ''DoD 4140.1–R, DoD Supply Chain Materiel Management Regulation, Chapter 9, Section C9.5'' and adding ''DoD Manual 4140.01, Volume 9, DoD Supply Chain Materiel Management Procedures: Materiel Programs'' in its place.

PART 242—CONTRACT ADMINISTRATION AND AUDIT SERVICES

242.1105 [Amended]

■ 19. Amend section 242.1105(1)(i) by removing ''DoD 4140.1–R, DoD Materiel Management Regulation'' and adding ''DoD Manual 4140.01, Volume 5, DoD Supply Chain Materiel Management Procedures: Delivery of Materiel'' in its place.

242.7301 [Amended]

■ 20. Amend section 242.7301(b) by removing ''Agency'' and adding ''Agent'' in its place.

242.7503 [Amended]

■ 21. Amend section 242.7503 by—

■ a. In paragraph (a) adding ''or'' after the semicolon; and

■ b. In paragraph (b) removing '']'' at the end of the sentence.

PART 243—CONTRACT MODIFICATIONS

243.204–70–3 [Amended]

■ 22. Amend section 243.204–70–3(b) by removing ''contacting'' and adding ''contracting'' in its place.

PART 245—GOVERNMENT PROPERTY

245.103–73 [REDESIGNATED AS 245.103–74]

■ 23. Redesignate section 245.103–73 as 245.103–74.

■ 24. Add new section 245.103–73 to read as follows:

245.103–73 Government property under sustainment contracts.

See PGI 245.103–73 for information on the reporting requirements for Government inventory held by contractors under sustainment contracts in accordance with DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.211–7006 [Amended]

■ 25. Amend section 252.211–7006 by—

■ a. Removing the clause date ''(JUN 2016)'' and adding ''(DEC 2017)'' in its place; and

■ b. In paragraph (b)(1)(i), removing ''DoD 4140.1–R, DoD Supply Chain Material Management Regulation, AP1.1.11'' and adding ''DoD Manual 4140.01, Volume 6, DoD Supply Chain Materiel Management Procedures: Materiel Returns, Retention, and Disposition'' in its place.

252.245–7002 [Amended]

■ 26. Amend section 252.245–7002 by—

■ a. Removing the clause date ''(APR 2012)'' and adding ''(DEC 2017)'' in its place; and

■ b. In paragraph (b)(1), removing ''*http://www.dcma.mil/aboutetools.cfm*'' and adding ''*http://www.dcma.mil/WBT/propertyloss/*'' in its place.

252.245–7004 [Amended]

■ 27. Amend section 252.245–7004 by—

■ a. Removing the clause date ''(SEP 2016)'' and adding ''(DEC 2017)'' in its place;

■ b. In paragraph (b), introductory text, removing ''*http://www.dcma.mil/DCMAIT/cbt/PCARSS/index.cfm*'' and adding ''*http://www.dcma.mil/WBT/PCARSS/*'' in its place; and

■ c. In paragraph (b)(1)(iv), removing ''*http://www2.dla.mil/j-6/dlmso/elibrary/manuals/dlm/dlm_pubs.asp#*'' and adding ''*http://www.dla.mil/HQ/InformationOperations/DLMS/elibrary/manuals/MILSTRAP/*'' in its place.

252.246–7008 [Amended]

■ 28. Amend section 252.246–7008 by—

■ a. Removing the clause date ''(OCT 2016)'' and adding ''(DEC 2017)'' in its place; and

■ b. In paragraph (e), adding a comma after the word ''items''.

252.247–7020 [Amended]

■ 29. Amend the section's introductory text by removing ''247.270–3(o)'' and adding ''247.271–3(n)'' in its place.

[FR Doc. 2017–27782 Filed 12–27–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2017–0017]

RIN 0750–AJ65

Defense Federal Acquisition Regulation Supplement: Trade Agreements Thresholds (DFARS Case 2018–D001)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to incorporate revised thresholds for application of the World Trade Organization Government Procurement Agreement and the Free Trade Agreements, as determined by the United States Trade Representative.

DATES: Effective: January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ms. Amy G. Williams, 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

This rule adjusts thresholds for application of the World Trade Organization (WTO) Government Procurement Agreement (GPA) and Free Trade Agreements (FTA) as determined by the United States Trade Representative (USTR). The trade agreements thresholds are adjusted every two years according to predetermined formulae set forth in the agreements. The USTR has specified the following new thresholds in the **Federal Register** (82 FR 58248, December 11, 2017):

Trade Agreement	Supply Contract (equal to or exceeding)	Construction Contract (equal to or exceeding)
WTO GPA	$180,000	$6,932,000
FTAs:		
Australia FTA	80,317	6,932,000
Bahrain FTA	180,000	10,441,216
CAFTA–DR (Costa Rica, Dominican Republic, El Salvador, Guatemala, Honduras, and Nicaragua)	80,317	6,932,000
Chile FTA	80,317	6,932,000
Columbia	80,317	6,932,000
Korea	100,000	6,932,000
Morocco FTA	180,000	6,932,000
NAFTA:		
—Canada	25,000	10,441,216
—Mexico	80,317	10,441,216
Panama FTA	180,000	6,932,000
Peru FTA	180,000	6,932,000
Singapore FTA	80,317	6,932,000

II. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707 entitled ''Publication of Proposed Regulations.'' Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure, or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and does not have a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it only adjusts the thresholds according to predetermined formulae to adjust for changes in economic conditions, thus maintaining the status quo, without significant effect beyond the internal operating procedures of the Government.

III. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule amends the DFARS to revise thresholds for application of the WTO GPA and the FTA. The revisions do not add any new burdens or impact applicability of clauses and provisions at or below the simplified acquisition threshold, or to commercial items.

IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. The Office of Management and Budget, Office of Information and Regulatory Affairs (OIRA), has determined that this is not a significant regulatory action as defined under section 3(f) of E.O. 12866 and, therefore, was not subject to review under section 6(b). This rule is not a major rule as defined at 5 U.S.C. 804(2).

V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule because this final rule does not constitute a significant FAR revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 and does not require publication for public comment.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C chapter 35) does apply, because the final rule affects the prescriptions for use of the certification and information collection requirements in the provision at DFARS 252.225–7035, Buy American-Free Trade Agreements-Balance of Payments Program Certificate, and the certification and information collection requirements in the provision at DFARS 252.225–7018, Photovoltaic Devices—Certificate. The changes to these DFARS clauses do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0229, entitled ''DFARS Part 225, Foreign Acquisition and related clauses,'' because the threshold changes are in line with inflation and maintain the status quo.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.1101 [Amended]

■ 2. Amend section 225.1101 by—

■ a. In paragraph (6) introductory text, removing ''$191,000'' and adding ''$180,000'' in its place;

■ b. In paragraph (10)(i) introductory text, removing ''$191,000'' and adding ''$180,000'' in its place;

■ c. In paragraph (10)(i)(A), removing ''$191,000'' and adding ''$180,000'' in its place;

■ d. In paragraph (10)(i)(B), removing ''$77,533'' and adding ''$80,317'' in its place;

■ e. In paragraph (10)(i)(C), removing ''$191,000'' and adding ''$180,000'' in its place; and
■ f. In paragraphs (10)(i)(D) through (F), removing ''$77,533'' wherever it appears and adding ''$80,317'' in its place.

225.7017–3 [Amended]

■ 3. Amend section 225.7017–3, in paragraph (b), by removing ''$191,000'' and adding ''$180,000'' in its place.

225.7017–4 [Amended]

■ 4. Amend section 225.7017–4, in paragraphs (a)(1) and (b)(1), by removing ''$191,000'' and adding ''$180,000'' in both places.

225.7503 [Amended]

■ 5. Amend section 225.7503 by—
■ a. In paragraphs (a) and (b) introductory text, removing ''$7,358,000'' and adding ''$6,932,000'' in both places;
■ b. In paragraph (b)(1), removing ''$10,079,365'' and adding ''$10,441,216'' in its place;
■ c. In paragraph (b)(2), removing ''$7,358,000'' and adding ''$6,932,000'' in its place, and removing ''$10,079,365'' and adding ''$10,441,216'' in its place;
■ d. In paragraph (b)(3), removing ''$10,079,365'' and adding ''$10,441,216'' in its place; and
■ e. In paragraph (b)(4), removing ''$7,358,000'' and adding ''$6,932,000'' in its place, and removing ''$10,079,365'' and adding ''$10,441,216'' in its place.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7017 [Amended]

■ 6. Amend section 252.225–7017 by—
■ a. Removing clause date ''(DEC 2016)'' and adding ''(JAN 2018)'' in its place;
■ b. In paragraphs (c)(2) and (3), removing ''$77,533'' and adding ''$80,317'' in its place; and
■ c. In paragraphs (c)(4) and (5), removing ''$191,000'' and adding ''$180,000'' in its place.

252.225–7018 [Amended]

■ 7. Amend section 252.225–7018 by—
■ a. Removing clause date ''(JAN 2016)'' and adding ''(JAN 2018)'' in its place;
■ b. In paragraph (b)(1) introductory text, removing ''$191,000'' and adding ''$180,000'' in its place;
■ c. In paragraph (b)(2), removing ''$191,000'' and adding ''$180,000'' in its place;
■ d. In paragraphs (d)(3) and (4) introductory text, removing ''$77,533'' and adding ''$80,317'' in both places; and
■ e. In paragraphs (d)(5) and (6) introductory text, removing ''$191,000'' and adding ''$180,000'' in its place.

[FR Doc. 2017–27781 Filed 12–27–17; 8:45 am]
BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Defense Acquisition Regulations System

48 CFR Parts 225 and 252

[Docket DARS–2017–0020]

RIN 0750–AJ47

Defense Federal Acquisition Regulation Supplement: New Qualifying Country-Latvia (DFARS Case 2017–D037)

AGENCY: Defense Acquisition Regulations System, Department of Defense (DoD).

ACTION: Final rule.

SUMMARY: DoD is issuing a final rule amending the Defense Federal Acquisition Regulation Supplement (DFARS) to add Latvia as a qualifying country.

DATES: Effective December 28, 2017.

FOR FURTHER INFORMATION CONTACT: Ms. Amy Williams, telephone 571–372–6106.

SUPPLEMENTARY INFORMATION:

I. Background

DoD is amending the DFARS to add Latvia as a qualifying country. On April 10, 2017, the Secretary of Defense and the Minister of Defense of the Republic of Latvia signed a Reciprocal Defense Procurement Agreement. The Secretary of Defense also signed, on that day, a determination and findings that it is inconsistent with the public interest to apply the restrictions of the Buy American Act to the acquisition of articles, materials, and supplies, produced or manufactured in the Republic of Latvia. The agreement removes discriminatory barriers to procurements of supplies and services produced by industrial enterprises of the other country to the extent mutually beneficial and consistent with national laws, regulations, policies, and international obligations. This agreement does not cover construction or construction material. Latvia is already a designated country under the World Trade Organization Government Procurement Agreement.

II. Applicability to Contracts at or Below the Simplified Acquisition Threshold and for Commercial Items, Including Commercially Available Off-the-Shelf Items

This rule only updates the list of qualifying countries in the DFARS by adding the newly qualifying country of Latvia. The definition of ''qualifying country'' is updated in each of the following clauses; however, this revision does not impact the clause prescriptions for use, or applicability at or below the simplified acquisition threshold, or applicability to commercial items. The clauses are: DFARS 252.225–7001, Buy American and Balance of Payments Program; DFARS 252.225–7002, Qualifying Country Sources as Subcontractors; DFARS 252.225–7012, Preference for Certain Domestic Commodities; DFARS 252.225–7017, Photovoltaic Devices; DFARS 252.225–7021, Trade Agreements; and DFARS 252.225–7036, Buy American—Trade Agreements—Balance of Payments Program.

III. Publication of This Final Rule for Public Comment Is Not Required by Statute

The statute that applies to the publication of the Federal Acquisition Regulation (FAR) is 41 U.S.C. 1707 entitled ''Publication of Proposed Regulations.'' Paragraph (a)(1) of the statute requires that a procurement policy, regulation, procedure or form (including an amendment or modification thereof) must be published for public comment if it relates to the expenditure of appropriated funds, and has either a significant effect beyond the internal operating procedures of the agency issuing the policy, regulation, procedure or form, or has a significant cost or administrative impact on contractors or offerors. This final rule is not required to be published for public comment, because it does not constitute a significant DFARS revision within the meaning of FAR 1.501–1 and does not have a significant cost or administrative impact on contractors or offerors. Latvia is added to the list of 26 other countries that have similar reciprocal defense procurement agreements with DoD. These requirements affect only the internal operating procedures of the Government.

IV. Executive Orders 12866 and 13563

Executive Order (E.O.) 12866, Regulatory Planning and Review, and E.O. 13563, Improving Regulation and Regulatory Review, direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). E.O. 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. This is not a significant regulatory action and, therefore, was not subject to review under section 6(b) of E.O. 12866, Regulatory Planning and Review, dated September 30, 1993. This rule is not a major rule under 5 U.S.C. 804.

V. Executive Order 13771

This rule is not subject to E.O. 13771, Reducing Regulation and Controlling Regulatory Costs, because this rule is not a significant regulatory action under E.O. 12866.

VI. Regulatory Flexibility Act

The Regulatory Flexibility Act does not apply to this rule, because this final rule does not constitute a significant DFARS revision within the meaning of FAR 1.501–1, and 41 U.S.C. 1707 does not require publication for public comment.

VII. Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) does apply, because the final rule affects the definition of ''qualifying country'' in each of the following clauses: DFARS 252.225–7001, Buy American and Balance of Payments Program; DFARS 252.225–7002, Qualifying Country Sources as Subcontractors; DFARS 252.225–7012, Preference for Certain Domestic Commodities; DFARS 252.225–7017, Photovoltaic Devices; DFARS 252.225–7021, Trade Agreements; and DFARS 252.225–7036, Buy American—Trade Agreements—Balance of Payments Program. The changes to these DFARS clauses do not impose additional information collection requirements to the paperwork burden previously approved under OMB Control Number 0704–0229, entitled ''DFARS Part 225, Foreign Acquisition and related clauses,'' because the rule merely shifts the category under which items from Latvia must be listed.

List of Subjects in 48 CFR Parts 225 and 252

Government procurement.

Jennifer L. Hawes,

Regulatory Control Officer, Defense Acquisition Regulations System.

Therefore, 48 CFR parts 225 and 252 are amended as follows:

■ 1. The authority citation for 48 CFR parts 225 and 252 continues to read as follows:

Authority: 41 U.S.C. 1303 and 48 CFR chapter 1.

PART 225—FOREIGN ACQUISITION

225.003 [Amended]

■ 2. Section 225.003 is amended in paragraph (10), the definition of ''Qualifying country'', by adding, in alphabetical order, the country of ''Latvia''.

225.872–1 [Amended]

■ 3. Section 225.872–1 is amended in paragraph (a) by adding, in alphabetical order, the country of ''Latvia''.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

252.225–7001 [Amended]

■ 4. Section 252.225–7001 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place;
■ b. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''; and
■ c. In Alternate I—
■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''.

252.225–7002 [Amended]

■ 5. Section 252.225–7002 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ b. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''.

252.225–7012 [Amended]

■ 6. Section 252.225–7012 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ b. In paragraph (a), the definition of ''Qualifying country'', adding in alphabetical order, the country of ''Latvia''.

252.225–7017 [Amended]

■ 7. Section 252.225–7017 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ b. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''.

252.225–7021 [Amended]

■ 8. Section 252.225–7021 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place;
■ b. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''; and
■ c. In Alternate II—
■ i. In the clause heading, removing the date of ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''.

252.225–7036 [Amended]

■ 9. Section 252.225–7036 is amended by—
■ a. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place;
■ b. In paragraph (a), the definition of ''Qualifying country'', adding in alphabetical order, the country of ''Latvia'';
■ c. In Alternate I—
■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia'';
■ d. In Alternate II—
■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia'';
■ e. In Alternate III—
■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia'';
■ f. In Alternate IV—
■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and
■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''; and

■ g. In Alternate V—

■ i. In the clause heading, removing the date ''(DEC 2016)'' and adding ''(DEC 2017)'' in its place; and

■ ii. In paragraph (a), the definition of ''Qualifying country'', adding, in alphabetical order, the country of ''Latvia''.

[FR Doc. 2017–27780 Filed 12–27–17; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Part 219

[Docket No. FRA–2001–11213, Notice No. 22]

Drug and Alcohol Testing: Determination of Minimum Random Testing Rates for 2018

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notification of determination.

SUMMARY: This notification of determination announces the FRA Administrator's minimum annual random drug and alcohol testing rates for calendar year 2018.

DATES: This notification of determination is effective December 28, 2017.

FOR FURTHER INFORMATION CONTACT: Jerry Powers, FRA Drug and Alcohol Program Manager, W33–310, Federal Railroad Administration, 1200 New Jersey Avenue SE, Washington, DC 20590 (telephone 202–493–6313); or Sam Noe, FRA Drug and Alcohol Program Specialist (telephone 615–719–2951).

SUPPLEMENTARY INFORMATION: For the next calendar year, FRA determines the minimum annual random drug testing rate and the minimum annual random alcohol testing rate for railroad employees covered by hours of service laws and regulations (covered service employees) based on the railroad industry data available for the two previous calendar years (for this document, calendar years 2015 and 2016). Railroad industry data submitted to FRA's Management Information System (MIS) shows the rail industry's random drug testing positive rate for covered service employees has continued to be below 1.0 percent for the applicable two calendar years. FRA's Administrator has therefore determined the minimum annual random drug testing rate from January 1, 2018 through December 31, 2018, will remain at 25 percent of covered service employees under § 219.602 of FRA's drug and alcohol rule (49 CFR part 219). In addition, because the industry-wide random alcohol testing violation rate for covered service employees has continued to be below 0.5 percent for the applicable two calendar years, the Administrator has determined the minimum annual random alcohol testing rate will remain at 10 percent of covered service employees from January 1, 2018 through December 31, 2018, under § 219.608. Because these rates represent minimums, railroads may conduct FRA random testing of covered service employees at higher rates.

On June 12, 2017, maintenance-of-way (MOW) employees became subject to FRA random drug and alcohol testing. In the final rule which expanded the scope of part 219 to include MOW employees (81 FR 37894, June 10, 2016), FRA had set the initial minimum annual random testing rates for MOW employees at 50 percent of MOW employees for drugs and 25 percent of MOW employees for alcohol; FRA had set identical initial minimum random testing rates for covered employees when they first became subject to random testing. Unlike covered employees, however, FRA does not yet have two full years of MIS data to gauge the industry-wide random drug and random alcohol positive rates for MOW employees. For this reason, FRA's Administrator has determined that for MOW employees, from January 1, 2018 through December 31, 2018, the minimum annual random drug testing rate will remain at 50 percent of MOW employees, and the minimum annual random alcohol testing rate will remain at 25 percent of MOW employees. As with covered service employees, because these rates represent minimums, railroads may conduct FRA random testing of MOW employees at higher rates.

Issued in Washington, DC, on December 21, 2017.

Juan D. Reyes, III,

Chief Counsel.

[FR Doc. 2017–27976 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170816768–7999–02]

RIN 0648–BH14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Modifications to Greater Amberjack Allowable Harvest and Rebuilding Plan

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

ACTION: Final rule.

SUMMARY: NMFS issues regulations to implement management measures described in a framework action to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP), as prepared by the Gulf of Mexico Fishery Management Council (Council). This final rule revises the commercial and recreational annual catch limits (ACLs) and annual catch targets (ACTs), and modifies the recreational fixed closed season for greater amberjack in the Gulf of Mexico (Gulf) exclusive economic zone (EEZ). The purpose of this final rule and the framework action is to adjust the rebuilding time period and to revise the sector ACLs and ACTs consistent with updated stock status information to end overfishing and rebuild the greater amberjack stock in the Gulf.

DATES: This final rule is effective January 27, 2018.

ADDRESSES: Electronic copies of the framework action, which includes an environmental assessment, a regulatory impact review, and a Regulatory Flexibility Act (RFA) analysis may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/gulf_fisheries/reef_fish/2017/GAJ_Framework/gaj_framework.pdf*.

FOR FURTHER INFORMATION CONTACT: Kelli O'Donnell, Southeast Regional Office, NMFS, telephone: 727–824–5305, email: *Kelli.ODonnell@noaa.gov.*

SUPPLEMENTARY INFORMATION: The Gulf reef fish fishery, which includes greater amberjack, is managed under the FMP. The Council prepared the FMP, and NMFS implements the FMP under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Steven Act) through regulations at 50 CFR part 622.

On November 20, 2017, NMFS published a proposed rule for the framework action and requested public comment (82 FR 55074). The proposed rule and framework action outline the rationale for the actions contained in this final rule. A summary of the management measures described in the framework action and implemented by this final rule is provided below.

Management Measures Contained in This Final Rule

This final rule revises the commercial and recreational ACLs and ACTs (which are expressed as quotas in the regulatory text), and revises the recreational fixed closed season for greater amberjack in the Gulf.

Commercial and Recreational ACLs and ACTs

The current commercial ACL is 464,400 lb (210,648 kg), and the commercial ACT is 394,740 lb (179,051 kg). The current recreational ACL is 1,255,600 lb (569,530 kg), and the recreational ACT is 1,092,372 lb (495,492 kg). All weights described in this final rule are given in round weight.

This final rule revises the commercial and recreational ACLs and ACTs for Gulf greater amberjack based on the results of the SEDAR 33 Update (2016) and the acceptable biological catch (ABC) recommendations from the Council's Scientific and Statistical Committee (SSC). This final rule sets the commercial ACL at 319,140 lb (144,759 kg) for 2018, 402,030 lb (182,357 kg) for 2019, and 484,380 lb (219,711 kg) for 2020 and subsequent years. The commercial ACT is set at 277,651 lb (125,940 kg) for 2018, 349,766 lb (158,651 kg) for 2019, and 421,411 lb (191,148 kg) for 2020 and subsequent years. The recreational ACL is set at 862,860 lb (391,386 kg) for 2018, 1,086,970 lb (493,041 kg) for 2019, and 1,309,620 lb (594,033 kg) for 2020 and subsequent years. The recreational ACT is set at 716,173 lb (354,850 kg) for 2018, 902,185 lb (409,223 kg) for 2019, and 1,086,985 lb (493,047 kg) for 2020 and subsequent years. These revisions to the ACLs and ACTs are projected to rebuild the stock by 2027.

Recreational Fixed Closed Season

This final rule revises the greater amberjack recreational fixed closed season from June 1 through July 31, which was established in the final rule for Amendment 35 to the FMP (77 FR 67574; November 13, 2012). That closed season was implemented to restrict harvest during times of peak fishing effort in order to prevent a recreational in-season closure as a result of the quota being met, and therefore provide for a longer fishing season for the recreational sector. The June 1 through July 31 recreational fixed closed season also was intended to allow for the harvest of one highly targeted species (red snapper) when the fishing season for the other species (greater amberjack) was closed. However, in-season closures of greater amberjack have continued to occur since the implementation of Amendment 35, and the reduction of the recreational red snapper season, which opens on June 1 each year, has resulted in closures for both of these species simultaneously. This final rule changes the recreational fixed closed season for greater amberjack to January 1 through June 30. The Council determined that extending the length of the recreational fixed closed season to the 6-month period of January 1 through June 30 will protect greater amberjack during peak spawning months (March through April) in the majority of the Gulf, thereby contributing to the rebuilding of the greater amberjack stock. The Council also determined that the 6-month fixed closed season will reduce the likelihood that the recreational sector will meet its quota and trigger an in-season quota closure, or exceed its ACL, which would require a subsequent ACL and ACT payback in the following year because of an ACL overage.

The Council intends the new 6-month fixed closed season established by this final rule to be a short-term measure; it recently submitted another greater amberjack framework action to NMFS for review. Implementation of that framework action would modify this 6-month recreational closed season to create two separate fishing seasons: one open from May 1 through May 31, and a second open from August 1 through October 31. NMFS expects to publish a proposed rule in early 2018 and to solicit public comments on this change.

Comments and Responses

NMFS received a total of 12 comments on the proposed rule for the framework action. Two comments supported the changes to the commercial and recreational ACLs and ACTs and the recreational seasonal closure, and six comments disagreed with the proposed rule, although some of the comments were similar in reasons for disagreement.

Other comments that were outside the scope of the proposed rule and therefore not addressed here, stated that charter vessel and headboat harvest should be considered commercial and that the use of longlines in the Gulf should be eliminated. Specific comments related to the framework action and the proposed rule are grouped as appropriate and summarized below, followed by NMFS' respective responses.

Comment 1: Recreational fishing for greater amberjack should not be open during the summer when effort is highest and other species, such as red snapper, are available for harvest.

Response: NMFS and the Council intend the January 1 through June 30 closure implemented through this final rule to be a short-term measure. As noted above, the Council recently submitted a framework action to NMFS that would change the January 1 through June 30 closure by establishing two separate annual recreational fishing seasons: one open from May 1 through May 31, and a second open from August 1 through October 31. However, even if the January through June closure remains in place, this final rule is expected to extend the fishing season into October, when fishing for other species, such as red snapper, have closed.

Comment 2: There needs to be at least one species that is important to recreational anglers available for harvest at the beginning of the calendar year.

Response: NMFS agrees that it is important to have species targeted by the recreational sector available early in the calendar year. Although this final rule would make greater amberjack unavailable at the beginning of the calendar year, there are many other Gulf reef fish species, such as red grouper, deep water groupers, snappers, and hogfish, which are generally available for recreational harvest beginning annually on January 1.

NMFS recently approved an FMP amendment that establishes a new recreational fixed closed season for gray triggerfish from January 1 through the end of February. This new closed season was implemented through a final rule issued on December 15, 2017 (82 FR 59523), and, as a result, gray triggerfish are no longer available for recreational harvest during the first two months of the calendar year. However, the gray triggerfish fishery will be open starting March 1, while greater amberjack harvest remains closed.

Comment 3: There should be a recreational vessel limit instead of a longer recreational fixed closed season.

Response: The Council did not consider establishing a vessel limit in this framework action. However, in response to public comment at its October 2017 meeting, the Council began working on another framework action and will consider including vessel limits in that framework action.

NMFS expects the Council to review a draft of this framework action at its January 2018 meeting.

Comment 4: The greater amberjack stock is healthy and therefore not in need of rebuilding efforts.

Response: NMFS disagrees. The most recent Gulf greater amberjack population assessment, completed in 2016, indicated greater amberjack are experiencing overfishing and are overfished. The current rebuilding plan time period ends in 2019, but new scientific information indicates the stock will not be rebuilt by that time. Therefore, consistent with the framework action approved by the Council, this final rule establishes a new rebuilding time period ending in 2027 and revises the harvest limits as necessary to end overfishing and rebuild the stock.

Actions Contained in the Framework Action Not Codified Through This Final Rule

In addition to the measures in this final rule, the framework action revises the greater amberjack ABC and overfishing limits (OFLs) based upon the results of the SEDAR 33 Update and the Council's SSC recommendations. The current greater amberjack ABC is 1,720,000 lb (780,179 kg), and the OFL is 3,420,000 lb (1,551,286 kg), which were established in the final rule implementing the 2015 framework action (80 FR 75432; December 2, 2015). This framework action revises the ABC and OFL for 3 years, beginning in 2018. The ABC, which is equal to the stock ACL, is set at 1,182,000 lb (536,146 kg) for 2018, 1,489,000 lb (675,399 kg) for 2019, and 1,794,000 lb (813,744 kg) for 2020 and subsequent years. The OFL is set at 1,500,000 lb (680,388 kg) for 2018, 1,836,000 lb (832,795 kg) for 2019, and 2,167,000 lb (982,934 kg) for 2020 and subsequent years.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final rule is consistent with the framework action, the FMP, the Magnuson-Stevens Act, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

The Magnuson-Stevens Act provides the statutory basis for this final rule. No duplicative, overlapping, or conflicting Federal rules have been identified. In addition, no new reporting, record-keeping, or other compliance requirements are introduced by this final rule.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration (SBA) during the proposed rule stage that this rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this determination was published in the proposed rule and is not repeated here. No comments from the public or the SBA's Chief Counsel for Advocacy were received regarding the certification, and NMFS has not received any new information that would affect its determination. As a result, a final regulatory flexibility analysis is not required and none has been prepared.

List of Subjects in 50 CFR Part 622

Commercial, Fisheries, Fishing, Greater amberjack, Gulf, Recreational, Reef fish.

Dated: December 22, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 622 is amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF OF MEXICO, AND SOUTH ATLANTIC

■ 1. The authority citation for part 622 continues to read as follows:

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

■ 2. In § 622.34, revise paragraph (c) to read as follows:

§ 622.34 Seasonal and area closures designed to protect Gulf reef fish.

* * * * *

(c) *Seasonal closure of the recreational sector for greater amberjack.* The recreational sector for greater amberjack in or from the Gulf EEZ is closed from January 1 through June 30, each year. During the closure, the bag and possession limits for greater amberjack in or from the Gulf EEZ are zero.

* * * * *

■ 3. In § 622.39, revise paragraphs (a)(1)(v) and (a)(2)(ii) to read as follows:

§ 622.39 Quotas.

* * * * *

(a) * * *

(1) * * *

(v) Greater amberjack—(A) For fishing year 2018—277,651 lb (125,940.38 kg), round weight.

(B) For fishing year 2019—349,766 lb (158,651 kg), round weight.

(C) For fishing year 2020 and subsequent years—421,411 lb (191,149 kg), round weight.

* * * * *

(2) * * *

(ii) *Recreational quota for greater amberjack.* The recreational quota for greater amberjack, in round weight, is 716,173 lb (324,851 kg), for 2018, 902,185 lb (409,224 kg), for 2019, 1,086,985 lb (493,048 kg), for 2020 and subsequent fishing years.

* * * * *

■ 4. In § 622.41, revise paragraphs (a)(1)(iii) and (a)(2)(iii) to read as follows:

§ 622.41 Annual catch limits (ACLs), annual catch targets (ACTs), and accountability measures (AMs).

(a) * * *

(1) * * *

(iii) The commercial ACL for greater amberjack, in round weight, is 319,140 lb (144,759 kg), for 2018, 402,030 lb (182,358 kg), for 2019, and 484,380 lb (219,711 kg), for 2020 and subsequent fishing years.

(2) * * *

(iii) The recreational ACL for greater amberjack, in round weight, is 862,860 lb (391,387 kg), for 2018, 1,086,970 lb (493,041 kg), for 2019, and 1,309,620 (594,034 kg), for 2020 and subsequent fishing years.

* * * * *

[FR Doc. 2017–28047 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

RIN 0648–XF539

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 44

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

ACTION: Notification of Agency decision.

SUMMARY: NMFS announces the approval of Amendment 44 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP) as submitted by the Gulf of Mexico (Gulf) Fishery Management Council (Council). Amendment 44 revises minimum stock size thresholds (MSST) for seven stocks in the Gulf of Mexico (Gulf) reef fish fishery

management unit. The MSST is revised for the gag, red grouper, red snapper, vermilion snapper, gray triggerfish, greater amberjack, and hogfish stocks. The need for Amendment 44 is to provide a sufficient buffer between spawning stock biomass at maximum sustainable yield (B_{MSY}) and MSST to reduce the likelihood that stock status changes frequently between overfished and not overfished as a result of scientific uncertainty or natural fluctuations in biomass levels.

DATES: The amendment was approved December 21, 2017.

ADDRESSES: Electronic copies of Amendment 44 may be obtained from *www.regulations.gov* or the Southeast Regional Office website at *http://sero.nmfs.noaa.gov.* Amendment 44 includes an environmental assessment and a fishery impact statement.

FOR FURTHER INFORMATION CONTACT: Peter Hood, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *peter.hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: NMFS and the Council manage the Gulf reef fish fishery, which includes gray triggerfish, under the FMP. The Council prepared the FMP and NMFS implements the FMP through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) (16 U.S.C 1801 *et seq.*). Amendment 44 was prepared by the Council and will be incorporated into the management of Gulf reef fish through the FMP.

On September 25, 2017, NMFS published a notice of availability (NOA) for Amendment 44 and requested public comment (82 FR 44582).

In 1999, the Council submitted the Generic Sustainable Fisheries Act Amendment to comply with status determination criteria (SDC) requirements of the Sustainable Fisheries Act of 1996. NMFS approved most of the fishing mortality threshold (MFMT) criteria, but disapproved all of the definitions for maximum sustainable yield (MSY), optimum yield (OY), and MSST. The Council subsequently began establishing these reference points and SDC on a species-specific basis as stock assessments were later conducted, and is currently preparing a plan amendment to address all of the unassessed reef fish stocks. Amendment 44 focuses on those assessed stocks with MSSTs, which are gag, red grouper, red snapper, vermilion snapper, gray triggerfish, greater amberjack, and hogfish. Red snapper, gray triggerfish, and greater amberjack are currently considered overfished because their stock size is below MSST and are under rebuilding plans. The other four stocks are not considered overfished (gag, red grouper, vermilion snapper, and hogfish) because their stock size is above MSST.

For most of the assessed federally managed reef fish stocks in the Gulf with defined MSSTs, the overfished status, when applied, has been evaluated using the formula: (1–M) * B_{MSY} (M is the natural mortality rate and B is a measure of stock biomass). For some stocks that have a very low natural mortality rate, the formula (1–M) * B_{MSY} results in an MSST that is very close to the B_{MSY}. For example, red snapper is a moderately long-lived fish that has a natural mortality rate of about 0.1. The above formula results in an MSST of 90 percent of B_{MSY}. In such situations it can be difficult to determine if a stock is actually less than MSST due to the imprecision and accuracy of the data used in stock assessments. In addition, natural fluctuations in stock biomass levels around the B_{MSY} level may temporarily reduce the stock biomass to be less than MSST. Setting a greater buffer between B_{MSY} and MSST can reduce the risk of mistakenly declaring a stock overfished.

In Amendment 44, the Council evaluated MSSTs ranging from 0.85 * B_{MSY} (or proxy) to 0.50 * B_{MSY} (or proxy), and selected 0.50 * B_{MSY} (or proxy) as its preferred alternative. This is consistent with the National Standard 1 (NS1) guidelines and reduces the likelihood of a stock being declared overfished as a result of scientific uncertainty or natural fluctuations in biomass levels. Setting the MSST at this level could result in a very restrictive rebuilding plan if the biomass level of a stock drops below the MSST and NMFS declares that the stock is overfished. However, the Council determined that the requirements for overfishing limits (OFLs), annual catch limits (ACLs), and accountability measures (AMs), reduce the probability that sustained overfishing would occur and cause a stock to fall below the MSST.

NMFS expects that with the approval of Amendment 44, the Gulf red snapper and gray triggerfish stocks will be reclassified as not overfished, but rebuilding, because the biomass for these two stocks is currently estimated to be greater than 50 percent of B_{MSY}. The greater amberjack stock will remain classified as overfished.

Procedural Aspects of Amendment 44

Because none of the measures included in the amendment involve regulatory changes, no proposed or final rule was prepared. The provisions of Amendment 44 are not specified in regulations but are considered an amendment to the FMP.

Comments and Responses

NMFS received 23 comments on the NOA. Twelve comments were in favor of approving the amendment and four were in opposition. Other comments received were not relevant to Amendment 44, expressing frustration with fishing regulations and their implementation in general. Comments specific to the action in Amendment 44 and NMFS' responses to those comments are summarized below.

Comment 1: NMFS should disapprove Amendment 44 for several reasons. First, the current MSST definitions appear to be working well and are not likely to cause stocks from being unnecessarily declared overfished due to natural variability in fish populations. Second, reducing the MSST to 0.5 * B_{MSY} will allow these stocks to be further depleted before they are declared overfished, which will increase the economic severity of rebuilding and put the stocks at a greater risk of collapse. Third, there is too much uncertainty in the stock assessments to lower the MSST and continue to ensure the protection of these stocks.

Response: NMFS disagrees that Amendment 44 should be disapproved. Amendment 44 revises the MSST for seven stocks from either 0.75 * B_{MSY} (hogfish) or (1–M) * B_{MSY} (the other six species) to 0.5 * B_{MSY}. The National Standard 1 Guidelines allow the Council to consider a variety of factors is determining the appropriate MSST (50 CFR 622.310(e)(2)(ii)(B)). In Amendment 44, the Council considered natural variability in fish populations, the time it would take a stock to recover from various MSST levels, and the risk of stock biomass declining below the MSST due to overfishing. The Southeast Fisheries Science Center (SEFSC) evaluated the likelihood of stock biomass falling below the MSST due to natural fluctuations. This evaluation, which is included in Appendix C of Amendment 44, found that when recruitment and natural mortality estimates are varied, stock biomass levels declining below MSST at the (1–M) * B B_{MSY} level for reasons other than overfishing ranged from 5 to 30 percent depending on a species' life history characteristics. This likelihood of a stock declining below MSST increases as the as natural mortality rate decreases. Therefore, the Council determined, and NMFS agrees, that there is concern that some stocks with low natural mortality rates could be determined to be overfished because of natural variations in the population and the small buffers between MSST and B_{MSY}.

The SEFSC also analyzed how long it would take stocks with various life history characteristics to recover from various MSST levels. This analysis is included in Appendix D of Amendment 44 and found that for all species analyzed (including red snapper and gray triggerfish), recovery would occur in the absence of fishing mortality in 10 years or less under any of the MSST levels, including the MSST of 0.5 * B_{MSY}. The Council understood that specifying an MSST of 0.5 * B_{MSY} could result in the need for a restrictive rebuilding plan if a stock was determined to be overfished. However, the Council determined, and NMFS agrees, that the risk of sustained overfishing causing a stock to become overfished is minimal given the requirement to prevent overfishing and use of OFLs, ACLs, and AMs, to achieve this objective.

With respect to stock assessments, there is a level of uncertainty in the data used. However, consistent with National Standard 2, these assessments use the best scientific information available to provide information on stock status. In addition, for the reasons stated above, the Council determined that the revised MSSTs, when used in combination with OFLs, ACLs, and AMs, will continue to provide the appropriate level of protection for these stocks. Thus, it is not appropriate to disapprove Amendment 44 based on uncertainty in the stock assessments.

Comment 2: This action to revise the MSST will result in a decrease in the allowable catch for these stocks.

Response: Revising the MSST will not directly affect catch levels for the seven stocks in Amendment 44. The MSST is the threshold used to determine whether a stock is overfished. If the stock biomass falls below MSST, the stock is considered to be overfished and a rebuilding plan is required. Therefore, the MSST may indirectly affect catch levels for a stock if harvest needs to be restricted for some period of time so the stock can recover. However, of the seven stocks included in Amendment 44, four are not overfished (gag, red grouper, vermilion snapper, and hogfish) and that determination will not change with the revision to the MSSTs for these stocks. The remaining three stocks (red snapper, gray triggerfish, and greater amberjack) are currently classified as overfished but, with the approval of Amendment 44, NMFS expects that red snapper and gray triggerfish stocks will be reclassified as not overfished. However, they will still be subject to their respective rebuilding plans until B_{MSY} is reached. The greater amberjack stock would continue to be classified as overfished until that stock's biomass exceeds the MSST of 0.5 * B_{MSY}.

Comment 3: NMFS must revisit the previous rulemaking that implemented the quota overage adjustment (payback) for the red snapper recreational sector to correct an error in the regulations that links the recreational payback to ''overfished'' status as opposed to ''rebuilding status.''

Response: NMFS disagrees that it is necessary to revisit the rulemaking that implemented the red snapper recreational AMs (80 FR 14328, March 19, 2015). The reference to overfished status in the red snapper recreational AM in 50 CFR 622.41(q)(2)(ii) was not an error. This provision was added to the regulations through a framework action in 2015. Although the framework action referred to ''rebuilding,'' the codified text for the framework that was reviewed and deemed necessary by the Council linked the quota payback provision to overfished status, which was consistent with the other payback provisions for Gulf-managed species that were already in effect prior to that time, such as those for gray triggerfish (50 CFR 622.41(b)(2)(ii)), gag (50 CFR 622.41(d)(2)(iii)), and red grouper (50 CFR 622.41(e)(2)(iii)).

Although the approval of Amendment 44 may result in the red snapper stock no longer being classified as overfished because the biomass for this stock is currently estimated to be greater than 50 percent of B_{MSY}, the stock continues to be subject to the rebuilding plan established in Amendment 27 to the FMP (73 FR 5117, January 29, 2008). NMFS is required to review the rebuilding progress at routine intervals and notify the Council if there has been inadequate progress toward rebuilding. If notified, the Council would be required to take action consistent with the rebuilding plan requirements in section 305(e) of the Magnuson-Stevens Act.

In addition, NMFS and the Council have reduced the likelihood of the red snapper recreational ACL being exceeded by the use of recreational annual catch targets (ACTs) to set the Federal charter vessel/headboat (for-hire) and the private angling component recreational season lengths. However, if an overage of the recreational ACL does occur more than once in the last 4 years, the National Standard 1 Guidelines advise the Council to reevaluate the system of ACLs and AMs, and if necessary, modify the system to improve its performance and effectiveness (50 CFR 600.310(e)(7)). If the ACL is exceeded to such an extent that overfishing occurs, the Guidelines state that the Secretary of Commerce will immediately notify the Council and the Council should evaluate the cause of overfishing, address the issue that caused overfishing, and reevaluate the ACLs and AMs to make sure they are adequate (50 CFR 600.310(j)). All of these safeguards will help ensure that the ACLs and AMs continue to function effectively to prevent overfishing and rebuild the stock consistent with the established rebuilding plan.

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

Dated: December 21, 2017.

Samuel D. Rauch, III,

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

[FR Doc. 2017–28058 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 170823804–7999–02]

RIN 0648–BH17

Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Accountability for Bluefin Tuna Catch

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

ACTION: Final rule.

SUMMARY: NMFS modifies the Atlantic highly migratory species (HMS) regulations to require vessels in the pelagic longline fishery to account for bycatch of bluefin tuna (bluefin) using Individual Bluefin Quota (IBQ) on a quarterly basis instead of on a trip-level basis. Previously, vessel owners had to account for quota debt or IBQ balances less than the minimum required before commencing any fishing trip with pelagic longline gear. With this rulemaking, vessels may fish during a given calendar quarter if they have an IBQ balance below the minimum amount required to depart on a fishing trip or with quota debt incurred by exceeding their IBQ balance; however, vessels are required to reconcile quota debt and satisfy the minimum IBQ requirement prior to departing on their first pelagic longline fishing trip in each calendar quarter. The action optimizes

fishing opportunity in the directed pelagic longline fishery for target species such as tuna and swordfish and improves the functionality of the IBQ Program and its accounting provisions, consistent with the objectives of Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan (FMP).

DATES: Effective on January 27, 2018.

ADDRESSES: Supporting documents, including the Regulatory Impact Review and Final Regulatory Flexibility Analysis, may be downloaded from the HMS website at *www.nmfs.noaa.gov/sfa/hms/.*

FOR FURTHER INFORMATION CONTACT: Thomas Warren, 978–281–9260; or Carrie Soltanoff, 301–427–8503.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*) and the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act; 16 U.S.C. 1801 *et seq.*) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas (ICCAT) among the various domestic fishing categories, per the allocations established in the 2006 Consolidated Atlantic Highly Migratory Species Fishery Management Plan (2006 Consolidated HMS FMP) (71 FR 58058, October 2, 2006), as amended by Amendment 7 to the 2006 Consolidated HMS FMP (Amendment 7) (79 FR 71510, December 2, 2014), and in accordance with implementing regulations. The current baseline U.S. BFT quota and subquotas were established and analyzed in the BFT quota final rule (80 FR 52198, August 28, 2015). NMFS is required under ATCA and the Magnuson-Stevens Act to provide U.S. fishing vessels with a reasonable opportunity to harvest the ICCAT-recommended quota.

Background

Bluefin tuna fishing is managed domestically through a quota system (on a calendar-year basis), in conjunction with other management measures including permitting, reporting, gear restrictions, minimum fish sizes, closed areas, trip limits, and catch shares. NMFS implements the ICCAT U.S. quota recommendation, and divides the quota among U.S. fishing categories (*i.e.,* the General, Angling, Harpoon, Purse Seine, Longline, and Trap categories) and the Reserve category on an annual basis. Vessels fishing with pelagic longline gear, which catch bluefin incidentally while fishing for target species (primarily swordfish and yellowfin tuna), hold limited access Atlantic Tunas Longline permits and utilize Longline category quota. Through Amendment 7, NMFS established the IBQ Program, a catch share program that identified 136 permit holders as IBQ share recipients based on specified criteria, including historical target species landings and the bluefin catch-to-target species ratios from 2006 through 2012. The objectives of the IBQ Program include limiting the amount of BFT landings and dead discards in the pelagic longline fishery; providing strong incentives for the vessel owner and operator to avoid bluefin interactions and thus reduce bluefin dead discards; and balancing the objective of limiting bluefin landings and dead discards with the objective of optimizing fishing opportunities and maintaining profitability.

IBQ share recipients receive an annual allocation of the Longline category quota based on the percentage share they received through Amendment 7, but only if their permit is associated with a vessel in the subject year (*i.e.,* only ‘‘qualified IBQ share recipients’’ receive annual allocations). Through rulemaking, NMFS later modified the regulations to optimize quota transferred inseason by allowing NMFS to distribute inseason transfers of quota to all permitted Atlantic Tunas Longline vessels with recent fishing activity whether they have IBQ shares or not (81 FR 95903; December 29, 2016). Permit holders that did not receive IBQ shares through shares in Amendment 7 or allocation through inseason distribution of bluefin quota to active vessels under the later regulatory provision may still fish, but they are required to lease IBQ through the IBQ electronic system. Every vessel must individually account for its bluefin bycatch (landings and dead discards) with IBQ allocation through the IBQ electronic system.

Delayed effective dates for some of the regulations implemented through Amendment 7 assisted in the transition to measures adopted in Amendment 7, which substantially increased individual vessel accountability for bluefin bycatchin the Longline fishery. During 2015, the first year of implementation of the IBQ Program, a pelagic longline vessel that had insufficient IBQ to account for its landings and dead discards (*i.e.,* went into ‘‘quota debt’’) was allowed to continue to fish; however, any additional landings and dead discards continued to accrue, and the cumulative quota debt needed to be accounted for no later than December 31, 2015. A vessel that did not resolve its quota debt by December 31 would retain the quota debt into 2016, and its quota debt would be deducted from its annual IBQ allocation (allocated January 1 to shareholders associated with permitted vessels) or the vessel would be required to lease quota to resolve the outstanding quota balance before taking any trips with pelagic longline gear. As of January 1, 2016, a vessel fishing with pelagic longline gear onboard was required to have a minimum IBQ allocation to embark on a trip. A minimum allocation required to fish was 0.25 mt (551 lb) whole weight (ww) for each trip in the Gulf of Mexico and 0.125 mt ww (276 lb ww) for each trip in the Atlantic. Pelagic longline vessels could lease IBQ allocation from other such vessels or from Purse Seine fishery participants in the IBQ Program to obtain sufficient allocation for each trip and to account for quota debt where necessary. Pelagic longline vessel owners have been accounting for bluefin catch using the IBQ Program since its implementation and leasing quota among themselves (and from Purse Seine fishery participants) as needed to fully account for bluefin catch using IBQ. Notably, estimates of 2015 and 2016 dead discards of bluefin (17.1 mt and 22.6 mt, respectively) by the pelagic longline fishery indicate substantial reductions of greater than 85 percent compared to the pre-2015 levels (159.6 mt on average for 2006 through 2014). However, since implementation, pelagic longline fishery participants have consistently requested additional operational flexibility to address the costs and availability of leased IBQ, which they are concerned may affect the profitability of target species catch and causes uncertainty in a vessel owner’s short-term and long-term plans. Vessel owners stated that their ability to account for bluefin using allocated IBQ or IBQ leased at an affordable price is key to the success of the IBQ Program. A vessel that has below the minimum amount of IBQ to fish or is in quota debt is uncertain about their ability to depart on a subsequent fishing trip. Specifically, vessels have been concerned that the IBQ Program, including the trip-level accountability requirements, could negatively impact vessel operations and finances given the timing restrictions, lease pricing of IBQ, the distribution of quota among permit holders as implemented by Amendment 7, and the behavior of some permit holders who, for example, do not appear to be actively fishing nor engaged in any leasing activities. They also say that the expense of leasing IBQ allocation when needed can impact other operational costs such as crew pay. If availability of IBQ is limited, or costs are prohibitive, the operational impacts increase. IBQ Program data generally reflect that, for leasing transactions that occurred, sales revenue received per pound approximated the cost per pound of leasing IBQ. However, IBQ Program participants (which include any permit holder or vessel that leases quota to facilitate pelagic longline operations) and potential lessees have communicated that there were instances where the cost at which lessors were willing to lease their IBQ was prohibitive and leasing did not occur, and this information would not be reflected in NMFS data. Furthermore, expanded opportunities to fish with pelagic longline gear within the available swordfish quota are contingent on access to additional quota to account for bluefin bycatch and discards. Longline fishery participants requested that NMFS take further steps to provide more flexibility regarding timing for vessel owners to lease IBQ needed to cover bluefin catchdue to the dynamics and costs associated with leasing IBQ described above, which can affect profitability of target species catch, increase uncertainty, and negatively affect the ability to plan their business. Such effects may be compounded by the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements, as well as non-Amendment 7 related constraints (*e.g.,* market demands etc.).

In light of these challenges facing the fishery, as well as the Amendment 7 objectives—which include ''minimizing constraints on fishing for target species,'' as well as ''optimizing fishing opportunities and maintaining profitability''—NMFS has utilized its authority to transfer quota inseason to the Longline category (80 FR 45098; July 29, 2015; 81 FR 19; January 4, 2106; 82 FR 12296; March 2, 2017) to foster conditions in which vessel owners become more willing to lease IBQ, optimize fishing opportunity, and reduce uncertainty in the fishery. NMFS modified the IBQ Program in 2017 (81 FR 95903, December 29, 2016) to provide additional flexibility regarding the distribution of inseason Atlantic bluefin tuna (BFT) quota transfers to the Longline category. That rulemaking provided NMFS the flexibility to distribute quota inseason either to all qualified IBQ share recipients (*i.e.,* share recipients who have associated their permit with a vessel) or only to those permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares.

During its May 2017 Advisory Panel Meeting, pelagic longline vessel owners acknowledged the effectiveness of NMFS' actions in support of the IBQ Program objectives, but reiterated the need for additional flexibility and offered suggestions for high priority regulatory changes to achieve such flexibility.

NMFS received requests, among other suggestions about the IBQ Program and management of the pelagic longline fishery, to allow more time for vessel owners to resolve quota debt and achieve a minimum balance of IBQ, rather than require vessels to have a minimum balance of IBQ as a prerequisite of every longline trip. In light of past fishery dynamics under the IBQ Program and public input regarding the need for additional flexibility, NMFS published a proposed rule on October 25, 2017 (82 FR 49303), that proposed modifying the accountability provisions of the IBQ Program to provide some additional flexibility for individual vessel owners, while achieving a balance among the IBQ Program objectives. Public comments on the proposed rule were accepted through November 24, 2017.

The pelagic longline fishery is a diverse fishing fleet, with a variety of vessel sizes and types of operations distributed from the waters off Nova Scotia to the Gulf of Mexico, Caribbean, and South America. Timing of fishing trips are typically based on the availability of target species, weather, moon phase, markets, crew and bait availability, and other factors. Quarterly accountability may achieve a better balance between minimizing constraints on fishing for target species and ensuring accountability for incidental bluefin catch, due to the fact that it allows a vessel owner to determine the timing of lease transactions or level of quota debt they are comfortable maintaining over a longer period. Alleviation of the timing constraint associated with trip-level accountability would provide additional flexibility. A vessel owner may need flexibility to pay costs associated with fishing (fuel, bait, ice, labor, repairs, etc.), including the cost of leasing IBQ, on a timeline unique to their operation and finances. The opportunity to fish with a low IBQ balance or with quota debt may enable a vessel owner to continue to obtain revenue during the time period when they are looking for quota to lease and accommodate different types of fishing operations and financial obligations. Quarterly accountability requires vessel owners to resolve quota debt and obtain the minimum amount of IBQ prior to fishing for the first time in a subsequent calendar quarter.

Response to Comments

NMFS received nine written comments on the proposed rule during the comment period. Five commenters expressed support for the rule as proposed; one expressed qualified support; two commenters did not support the proposed changes; and one commenter did not address topics included in the proposed rule. All written comments can be found at *http://www.regulations.gov/.* The comments are summarized below by topic together with NMFS' responses.

Comment 1: Two commenters noted the IBQ system was implemented without an established trading system in place and that vessels have had difficulty finding quota to lease in a diverse, widely dispersed fishery. Three commenters stated that under quarterly accountability, lessors and lessees, as well as NMFS, will develop a better understanding of the IBQ market. One commenter stated that participants in the IBQ market would have a better understanding of the market value of available IBQ with quarterly accountability.

Response: NMFS agrees that upon inception of the IBQ program (January 2015), the leasing market for IBQ was not yet established, there was not yet an operative understanding of the dynamics and pricing of IBQ in the Atlantic bluefin tuna fishery, and some vessels reported having a difficult time finding IBQ to lease and/or leasing IBQ at an affordable price. When implementing Amendment 7, NMFS acknowledged that the novelty of the IBQ system (as well as other Amendment 7 requirements) could create uncertainty in the fishery, and therefore delayed implementation of trip-level accountability during the first year of the IBQ Program, instead requiring annual accountability during 2015. During 2016 and 2017, both the pelagic longline fishery and NMFS gained a better understanding of the IBQ market. NMFS anticipates that understanding of the IBQ market will continue to improve with time and agrees with the commenters that such understanding will be augmented by quarterly accountability.

Comment 2: The five commenters that fully supported the proposed measures anticipated improvements to the IBQ leasing market, including aspects of the cost and logistics of leasing. Regarding costs and logistics, five commenters noted the importance of quarterly accountability in providing additional time to lease IBQ and that quarterly accountability would allow more time to obtain IBQ when prices are low. One commenter stated that leasing is highly compromised when a lessee is bidding for IBQ on short notice, even if the lessee knows a vessel owner from whom to lease quota, stating that bids under time pressure favor lessors, in terms of price. Under quarterly accountability, the commenter stated, leasing prices would be more reasonable, and reflect the ''ample supply'' of IBQ, instead of the lease pricing being ''inflated and unreasonable.'' One commenter stated that lessors tend to have different levels of participation in the fishery, or less of a need for IBQ than lessees, which tends to provide an advantage to the lessor under trip-level accountability (that may be reduced under quarterly accountability). For example, the commenter stated that lessors may not be actively fishing in the pelagic longline fishery or, if fishing, may be fishing in locations and times where they do not expect to catch bluefin. One commenter stated that quarterly accountability would be beneficial because it can be difficult to contact people when searching for available IBQ to lease, and even after negotiation, the lessor may not have access to the online system in a timely manner. The commenter stated that the time constraint of trip-level accountability is particularly difficult for vessel operators who are looking for IBQ to lease in a short window of time between two fishing trips. One commenter stated that quarterly accountability would enhance the ability for vessel owners to plan their businesses.

Response: NMFS agrees that quarterly accountability will improve the IBQ market by providing lessees more time to shop for IBQ and lease at reasonable prices, which more accurately reflect supply. NMFS agrees that the flexibility associated with quarterly accountability will help facilitate successive fishing trips consistent with typical longline vessel practice (*i.e.,* without extended wait time between trips), reduce uncertainty in planning, and provide more time to conduct the logistics associated with IBQ leasing.

Comment 3: Several commenters stated that quarterly accountability would improve the IBQ market at the end of the year because IBQ would be leased as needed rather than on a speculative basis and would increase the availability of IBQ for lease to those that need it during the end of the year time period. One commenter stated that the perceived need to ''hoard'' IBQ by vessels would be reduced. Furthermore, the commenter stated, under quarterly accountability (and removal of the minimum amount of IBQ to fish), vessels would not lose the value of IBQ during the latter part of the year by maintaining the minimum amount of quota, whether or not they anticipate needing the quota to account for bluefin catch.

Response: NMFS agrees that quarterly accountability may improve the end-of-the year IBQ market. At the end of a year, if a vessel has quota debt remaining at, the quota debt will carry forward to the subsequent year, whereas available IBQ balance does not carry forward. This creates increased incentives to resolve quota debt immediately at a time when there may not be as much quota in the IBQ market. Under trip-level accounatability, a vessel that is fishing during December in the Atlantic may not be willing to lease to another vessel due to the minimum quota requirement (276 lb) and the desire to retain some quota in case the vessel encounters a bluefin tuna. This final rule removes the minimum quota requirement after the first trip of the quarter, thus vessel owners may be willing to lease more at year's end without concern about interfering with their ability to fish during that quarter.

Comment 4: The five commenters that fully supported the proposed measures anticipated ancillary benefits from quarterly accountability that are less directly related to IBQ leasing per se, but that are related to flexibility in their fishing operations, resulting in benefits to the fishery as a whole. One commenter stated that U.S. pelagic longline operators would have peace of mind as they leave the dock fishing for target species, due to the flexibility associated with quarterly accountability. Another commenter stated that, under quarterly accountability, captains would be able to fish more confidently in search of target species without fear of immediate shutdown because of interactions with BFT that went beyond their available IBQ balance at the time. One commenter stated that trip-level accountability was burdensome to vessels and hurt their ability to get back on the water if they were unfortunate and had an interaction with bluefin and that active vessels will gain additional economic and operational flexibility because they will no longer have to 'stockpile' IBQ. One commenter stated that the flexibility affects operations in multiple ways that have the net effect of more effectively fishing for target species and that quarterly accountability would reduce the chances the pelagic longline vessels would be tied to the dock while attempting to acquire IBQ, especially for those vessels that received little or no IBQ shares under Amendment 7. Several commenters stated the fishery would have a better opportunity to fully utilize U.S. ICCAT quotas for target species such as swordfish. One commenter noted that the proposed measure would add revenue to help the ''dwindling'' American fleet, as well as reduce the U.S. seafood trade deficit.

Response: NMFS agrees that the additional flexibility for fishing operations resulting from quarterly accountability would result in social benefits for the portion of the fleet that is constrained by quota debt or low IBQ balances. The social benefits include a decrease in some vessel owner/operator stress and uncertainty in addition to economic benefits described below and under Responses to Comments 3 and 4. NMFS agrees that quarterly accountability will reduce the chances that vessels with quota debt or low IBQ balance will not be able to depart on fishing trips and to earn fishing revenue due to a lack of IBQ, will support increased revenue for some of the pelagic longline fleet and contribute towards full utilization of the U.S. ICCAT quotas for target species, and may contribute to the reduction of the U.S. seafood trade deficit.

Comment 5: One commenter supported providing additional flexibility to the pelagic longline fishery through quarterly accountability because they were encouraged by the results of the IBQ program, specifically by the reduction in dead discards by the pelagic longline fishery during 2015 and 2016 (compared to 2014, prior to the implementation of Amendment 7). The commenter stated that the dead discard data suggests the IBQ Program is achieving the goals of limiting dead discards and providing strong incentives to avoid bluefin interactions. The commenter stated that in order to be fully successful, the IBQ Program must also balance those objectives with the objective of optimizing fishing opportunities and maintaining profitability. Another commenter acknowledged the success of the IBQ Program to date, but was concerned that quarterly accountability would undermine its success.

Response: NMFS agrees that based on available information to date, the IBQ Program has reduced the amount of dead discards in the pelagic longline fishery, and appears to be meeting the objectives of the IBQ Program. A full evaluation of the IBQ Program during its first 3 years of operation (2015 through 2017) will occur during the 3-year review, completion of which is anticipated in 2019. The 3-year review will evaluate all the objectives of the IBQ Program, including limiting bluefin tuna interactions, reducing bluefin dead discards, optimizing fishing opportunities, and maintaining profitability. The response to the commenter's concerns about undermining the success of the IBQ Program is addressed in the response to Comment 6.

Comment 6: One commenter did not support quarterly accountability, stating that it would encourage a ''debt mindset'' in which vessel operators fish more in the present with only the hope of future leasing to 'pay for' the bluefin catch, that a quarter is too long before requiring full accounting, and that they were concerned about a lack of IBQ to account for the bluefin caught by all pelagic longline fishers. The commenter was concerned about weakening the IBQ restrictions and undermining the past success of the IBQ program in minimizing bluefin bycatch and reducing dead discards, while minimizing reductions in target catch. Specifically the commenter was concerned that quarterly accountability could result in exceeding the overall pelagic longline quota at the end of the calendar year, especially with the occurrence of a 'disaster set'. The commenter also stated that the proposed change to the IBQ regulations is premature, in light of the upcoming formal review of the IBQ Program (''3-year review'') by NMFS, as well as the fact that NMFS already made a modification to the IBQ to increase flexibility (81 FR 95903, December 29, 2016). The commenter stated that multiple changes to the IBQ Program prior to the 3-year review will make it difficult to evaluate the IBQ Program, and that any changes to the IBQ Program should only occur after the 3-year review.

Response: NMFS disagrees with the conclusions of the commenters that quarterly accountability will increase the potential for bluefin catch (landings and dead discards) to exceed the pelagic longline quota and the concern that the measures will undermine the success of the IBQ Program to date. Although quarterly accountability will modify the timing of IBQ accountability, full accountability for bluefin tuna catch will be maintained and will not affect the overall limits set on bluefin tuna catch through quotas and other measures. The regulatory change is relatively minor with respect to the full scope of Amendment 7 regulations associated with the IBQ Program, affecting only the timing of full accountability. Quarterly accountability will require vessel owners to resolve quota debt and obtain the minimum amount of IBQ prior to fishing for the first time in a calendar year quarter. NMFS believes that vessel owners will not forget that they must fully account for bluefin tuna retained or discarded dead, even if on a quarterly basis. Quarterly accountability will not result in a generalized ''quota debt mindset,'' but will provide vessel owners some additional flexibility to carry an amount of quota debt commensurate with their unique business operations. Vessel owners will have more flexibility in their fishing operations, but no less incentive to avoid bluefin, given that all bluefin must be accounted for using IBQ, IBQ is allocated to vessels in limited amounts, and leasing additional IBQ comes at a price. It should be noted the amount of bluefin retained or discarded dead will continue to be tracked on a trip-level basis and the appropriate balance of IBQ (either a positive balance or negative balance/ 'quota debt') will be maintained. At the end of a trip on which bluefin tuna are retained or discarded dead, a vessel's IBQ balance will be reduced by the appropriate amount. If the trip catch exceeds the vessel's available quota, the vessel will incur quota debt.

Current landings and dead discard data do not support the commenter's concern that there will not be enough IBQ to account for all bluefin caught by the pelagic longline fleet. During 2015, the first year of the IBQ Program, there was annual accountability (*i.e.,* vessels could fish in quota debt and there was no minimum amount of IBQ to fish, but quota debt accumulated during the full year). Trip-level accountability was not implemented until 2016. During 2015 and 2016, 35 percent and 50 percent (respectively) of the adjusted Longline Category quota was caught (not including the distinct Northeast Distant Area quota that has different IBQ accountability rules for the first 25 mt). In the unlikely event that the Longline Category quota were approached, NMFS has the authority under § 635.28(a)(3) to close the fishery when the Atlantic Tunas Longline category quota is reached, projected to be reached, or exceeded, or when there is high uncertainty regarding the estimated or documented levels of bluefin tuna catch. Lastly, the extensive vessel reporting and monitoring requirements applicable to vessels fishing with pelagic longline gear will remain in effect, including Vessel Monitoring Systems (satellite tracking) and Electronic Monitoring Systems (video cameras as associated equipment).

Additionally, NMFS has determined that the 3-year review will be able to effectively evaluate the IBQ Program including consideration of two minor regulatory changes to the program since its inception (this final rule, and previous rule regarding the distribution of inseason quota transfers to the Longline category; 81 FR 95903, December 29, 2016). The pelagic longline fishery is a highly diverse and dynamic fishery, and NMFS believes it is important to incorporate operational flexibility into management of the fishery where possible. Analyzing the pelagic longline fishery under varying conditions may in fact enhance NMFS' ability to understand and evaluate the IBQ Program.

Quarterly accountability will achieve a better balance between minimizing some operational constraints on fishing for target species and ensuring accountability for incidental bluefin catch by allowing a vessel owner more flexibility to determine the timing of lease transactions or level of quota debt they are comfortable maintaining over a longer period. Alleviation of the timing constraint associated with trip-level accountability will provide additional flexibility. A vessel owner may need flexibility to pay costs associated with fishing (fuel, bait, ice, labor, repairs, etc.), including the cost of leasing IBQ, on a timeline unique to their operation and finances. The opportunity to fish with a low IBQ balance or with quota debt may enable a vessel owner to continue to obtain revenue during the time period when they are looking for quota to lease and accommodate different types of fishing operations and financial obligations.

Comment 7: One commenter was unsure of the intent of the proposed measures with respect to the balance of impacts on the operation of the fishery and the impacts on bluefin bycatch. Specifically, the commenter supported quarterly accountability, provided the primary intent is to address the economic objectives of the 2006 Consolidated HMS FMP. If the intent of the action is also to further reduce bycatch of bluefin, the commenter did not think quarterly accountability would achieve that objective.

Response: This action, as an adjustment to Amendment 7, is consistent with all of the objectives in Amendment 7 and with all 10 national standards of the Magnuson-Stevens Act. This final rule is not anticipated to impact the overall level of bluefin bycatch by the pelagic longline fishery or the overall level of accountability, which is managed through the IBQ Program consistent with Amendment 7.

Changes From the Proposed Rule

Changes to regulatory text from those in the proposed rule were made to correct cross-references that were incorrect at the proposed rule stage and to improve clarity of the proposed regulations. The proposed regulatory text at § 635.15(b)(3)(i) specified that a vessel owner or operator must have ''the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.'' This same language was added to § 635.15(b)(3)(ii) and (b)(5)(i) to improve clarity. Incorrect cross-references in § 635.15(b)(5)(i) and (ii) were corrected to refer to § 635.15(b)(9) rather than § 635.15(f).

Classification

The NMFS Assistant Administrator has determined that the final rule is consistent with the 2006 Consolidated HMS FMP and its amendments, the Magnuson-Stevens Act, ATCA, and other applicable law.

This final rule has been determined to be not significant for purposes of Executive Order 12866.

This action is categorically excluded from the requirement to prepare an environmental assessment in accordance with NOAA Administrative Order (NAO) 216–6A. This action may appropriately be categorically excluded from the requirement to prepare either an environmental assessment or environmental impact statement in accordance with CE A1 of the Companion Manual for NAO 216–6A for an action that is a technical correction or a change to a fishery management action or regulation, which does not result in a substantial change in any of the following: Fishing location, timing, effort, authorized gear types, access to fishery resources or harvest levels. By somewhat altering the timing of the accounting for bluefin tuna by individual pelagic longline vessels, the changes in this action could also be expected to alter some fishing timing, and this is the intent of the additional flexibility offered by this action. NMFS expects this to result in some minor alterations in fishing trip timing by individual vessel owners. Timing would not, however, be altered in a way that would constitute a substantial change. In practice, this action provides some individual vessels flexibility to alter the timing of some of their fishing trips within a three-month period. Given the size of the fleet and the number of fishing trips taken, such minor variations in individual fishing trips will not result in substantial changes to fishing timing overall. Moreover, the level of fishing remains capped by the U.S. bluefin tuna quota; the timing of the fishing is substantively managed by the various subquota categories, inseason actions (*e.g.,* regarding retention limits), and seasons. Minor modifications in individual vessel practice related to the timing of certain trips will not increase or decrease the quota nor the fishing mortality associated with that quota or have any other environmental effects. The annual U.S. bluefin tuna quota and subquota allocations to the Longline category will not be affected by this action.

NMFS has prepared a Regulatory Impact Review (RIR) and a Final Regulatory Flexibility Analysis (FRFA), which present and analyze anticipated social and economic impacts of the alternatives contained in this final rule. The list of alternatives and their analyses are provided in the RIR and are not repeated here in their entirety. A copy of the RIR prepared for this final rule is available from NMFS (see **ADDRESSES**).

A FRFA was prepared, as required by section 604 of the Regulatory Flexibility Act (RFA, 5 U.S.C. 604 *et seq.*), and is included below. The FRFA describes the economic impact this rule will have on small entities. A description of the action, why it is being implemented, and the legal basis for this action are contained in the **SUMMARY** section of the preamble.

The goal of the RFA is to minimize the economic burden of federal regulations on small entities. To that end, the RFA directs federal agencies to assess whether the regulation is likely to result in significant economic impacts to a substantial number of small entities, and identify and analyze any significant alternatives to the rule that accomplish the objectives of applicable statutes and minimizes any significant effects on small entities.

Statement of the Need for and Objectives of This Final Rule

In compliance with section 604(b)(1) of the RFA, this action is needed is to provide some additional flexibility regarding the timing of accounting for bluefin tuna catch with the IBQ Program in a manner that maintains accountability for bluefin tuna bycatch and a strong incentive for pelagic longline vessels to avoid interactions with bluefin tuna, while minimizing constraints on fishing for target species and, to the greatest extent possible, the socioeconomic impacts on affected fisheries.

Current regulations require permitted Atlantic Tunas Longline vessels to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna catch (fish retained or discarded dead) using IBQ (0.25 mt for a trip in the Gulf of Mexico and 0.125 mt for a trip in the Atlantic). At the end of a trip on which bluefin tuna are caught, a vessel's IBQ balance is reduced by the amount caught. If the trip catch exceeds the vessel's available quota, the vessel will incur quota debt (*i.e.,* exceeding its available IBQ balance). In this case, the regulations required the vessel to obtain additional IBQ through leasing to resolve that quota debt and to acquire the minimum IBQ amount before departing on a subsequent trip using pelagic longline gear. Thus, a pelagic longline vessel owner who took consecutive trips had to account for bluefin tuna catch in almost real time, effectively creating a system of ''trip-level accountability'' for those vessels.

This action modifies these rules to require vessels to resolve quota debt on a quarterly basis (*i.e.,* they must balance the debt and obtain the minimum amount required to depart on a fishing trip before going on a trip in the next quarter). Vessels will be allowed to fish with a low IBQ balance or with quota debt during a calendar quarter. Vessels will still be required to report bluefin tuna catch at the end of each trip (and account for it with IBQ), but this regulatory change would provide the flexibility to fish even if the vessel has less than the minimum amount of IBQ, including quota debt, until the first fishing trip in each calendar quarter. For example, under the new measure, after the initial trip, if a vessel has a low balance or quota debt in January 2018, the vessel will be allowed to fish without first resolving that low balance or quota debt through March 31, 2018. In order to depart on a pelagic longline fishing trip in the following quarter, starting April 1, 2018, that vessel will need to lease additional IBQ resolve the quota debt and acquire the minimum amount of IBQ required to fish.

The rule will provide flexibility for two important operational business decisions made by vessel owners: Decisions regarding quota balance and quota debt (subject to full accounting quarterly) and decisions regarding the timing and price at which they lease additional quota. Importantly, this regulatory change will maintain vessel accountability for bluefin tuna catch and the associated incentives for vessel operators to minimize catch of bluefin tuna. By changing the timing of the accountability, however, the proposed rule will provide some additional flexibility in vessel operations and thus provide vessel owners more of a reasonable opportunity to catch available quota for target species (*i.e.,* swordfish and yellowfin tuna).

A Summary of the Significant Issues Raised by the Public Comments in Response to the Initial Regulatory Flexibility Analysis, a Summary of the Agency's Assessment of Such Issues, and a Statement of Any Changes Made in the Rule as a Result of Such Comments

In compliance with section 604(a)(2) of the RFA, NMFS reviewed the public comments in response to the proposed rule and the Initial Regulatory Flexibility Analysis (IRFA). While NFMS received several comments regarding the proposed rule, none of those comments was specific to the IRFA. In addition, no comments were received by the Chief Counsel for Advocacy of the Small Business Administration in response to the proposed rule. The Agency did not make any changes as a result of comments.

Description and Estimate of the Number of Small Entities to Which the Final Rule Will Apply

Section 604(b)(4) of the RFA requires agencies to provide an estimate of the number of small entities to which the rule will apply. The SBA has established size criteria for all major industry sectors in the United States, including fish harvesters. Provision is made under SBA's regulations for an agency to develop its own industry-specific size standards after consultation with the SBA Office of Advocacy and an opportunity for public comment (see 13 CFR 121.903(c)). Under this provision, NMFS may establish size standards that differ from those established by the SBA Office of Size Standards, but only for use by NMFS and only for the purpose of conducting an analysis of economic effects in fulfillment of the agency's obligations under the RFA. To utilize this provision, NMFS must publish such size standards in the **Federal Register**, which NMFS did on December 29, 2015 (80 FR 81194, December 29, 2015).

In this final rule effective on July 1, 2016, NMFS established a small business size standard of $11 million in annual gross receipts for all businesses in the commercial fishing industry (NAICS 11411) for RFA compliance purposes. NMFS considers all HMS Atlantic Tunas Longline permit holders (280 as of October 2016) to be small entities because these vessels have reported annual gross receipts of less than $11 million for commercial fishing. The average annual gross revenue per active pelagic longline vessel was estimated to be $187,000 based on the 170 active vessels between 2006 and 2012 that produced an estimated $31.8 million in revenue annually. The maximum annual revenue for any pelagic longline vessel between 2006 and 2015 was $1.9 million, well below the NMFS small business size threshold of $11 million in gross receipts for commercial fishing. Therefore, NMFS considers all Atlantic Tunas Longline permit holders to be small entities.

NMFS has determined that this rule will apply to the small businesses associated with the 136 Atlantic Tunas Longline permits with IBQ shares and the additional permitted Atlantic Tunas Longline vessels that fish with quota leased through the IBQ Program. NMFS has determined that this action will not likely directly affect any small organizations or small government jurisdictions defined under the RFA.

Description of the Projected Reporting, Record-Keeping, and Other Compliance Requirements of the Rule, Including an Estimate of the Classes of Small Entities That Would Be Subject to the Requirements of the Report or Record

Section 604(a)(5) of the RFA requires agencies to describe any new reporting, record-keeping and other compliance requirements. This rule does not contain any new collection of information, reporting, or record-keeping requirements but only modifies existing requirements.

Description of the Steps the Agency Has Taken To Minimize the Significant Economic Impact on Small Entities Consistent With the States Objectives of Applicable Statues, Including a Statement of the Factual, Policy, and Legal Reasons for Selecting the Alternative Adopted in the Final Rule and the Reason That Each One of the Other Significant Alternatives to the Rule Considered by the Agency Which Affect Small Entities Was Rejected

One of the requirements of a FRFA is to describe 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 analysis shall discuss significant alternatives such as:

1. Establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities;

2. Clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities;

3. Use of performance rather than design standards; and

4. Exemptions from coverage of the rule, or any part thereof, for small entities.

These categories of alternatives are described at 5 U.S.C. 603 (c)(1)–(4). NMFS examined each of these categories of alternatives. Regarding the first and fourth categories, NMFS cannot establish differing compliance or reporting requirements for small entities or exempt small entities from coverage of the rule or parts of it because all of the businesses impacted by this rule are considered small entities and thus the requirements are already designed for small entities. NMFS examined alternatives that fall under the second category, which requires agencies to consider whether they can clarify, consolidate, or simplify compliance and reporting requirements under the rule for small entities. The quarterly and annual accountability alternatives in the rule would reduce the burden of complying with the existing trip level accountability requirement and thus would fall into this category of alternatives by simplifying compliance and reporting requirements for small entities. The IBQ Program was designed to adhere to performance standards, the third category above; modifications to the regulations implementing the IBQ Program simply make adjustments to the administration of those underlying performance standards. Thus, NMFS has considered the significant alternatives to the rule and focused on simplifying compliance and reporting requirements associated with IBQ accountability in order to minimize any significant economic impact of the rule on small entities.

NMFS analyzed several different alternatives in this rulemaking, and the rationale that NMFS used to determine the alternative for achieving the desired objectives is described below.

The first alternative is the ''no action'' (status quo) alternative. The second alternative, the preferred alternative, would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before embarking on a trip after incurring quota debt. The third alternative would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on an annual basis instead of before embarking on a trip after incurring quota debt. The economic impacts of these three alternatives are detailed below. Under all three alternatives, a vessel's IBQ balance would be reduced to account for bluefin tuna discarded dead or retained immediately after the catch is reported in the IBQ system. The difference among the alternatives is the timing of when quota debt or a low balance of IBQ precludes fishing and must be resolved prior to departing on a subsequent trip using pelagic longline gear (trip level, quarterly, or annually).

Under the ''no action'' alternative, NMFS would maintain the current regulations regarding accounting for bluefin tuna catch and prerequisites for departing on a fishing trip with pelagic longline gear on board. Current regulations require permitted Atlantic Tunas Longline vessel owners (or vessel operators, where applicable) to possess a minimum amount of IBQ to depart on a fishing trip with pelagic longline gear and account for bluefin tuna caught (retained or discarded dead) using IBQ at the end of the trip. Therefore, at the end of a trip on which bluefin tuna are caught, a vessel owner's balance of IBQ would be reduced, possibly below the minimum amount needed for a subsequent trip, or the vessel owner may incur quota debt by exceeding their IBQ balance. In either of these cases, the vessel owner must obtain additional IBQ through leasing in order to satisfy the minimum requirement (and resolve any quota debt they may have) prior to departing on another trip using pelagic longline gear. The net effect of these rules is that a pelagic longline vessel owner that takes multiple sequential trips must account for bluefin tuna in real-time, which NMFS refers to as ''trip-level accountability.''

This approach was implemented by Amendment 7, but effectiveness was delayed until January 1, 2016, in contrast to most of the other Amendment 7 measures that were effective on January 1, 2015. During 2016, there were 1,025 pelagic longline trips by 85 vessels, which deployed 6,885 sets and 5,217,547 hooks. During 2016, there were 81 IBQ lease transactions with a total of 141,183 lb IBQ leased and an average price of $2.52 per pound (weighted average). There were a total of 17 vessels that incurred quota debt at some time during the year, with a total amount of 40,237 lb of debt incurred and resolved. Mean revenue per trip during 2016 based on logbook, dealer, and weigh out data was $24,707.

During 2016, pelagic longline vessel owners successfully accounted for bluefin tuna catch using the IBQ Program and leasing quota among themselves (and from Purse Seine fishery participants) as needed in order to fully account for bluefin tuna catch using IBQ. However, since implementation, pelagic longline fishery participants have consistently requested some additional flexibility due to the costs associated with leasing IBQ, which can affect profitability of target species catch, as well as the concern that vessel owners appear to be unwilling to lease IBQ at certain times, uncertainties regarding the availability of IBQ to lease, and the impacts of other constraints associated with Amendment 7, including additional gear restricted areas and VMS and electronic monitoring requirements. The ability of vessel owners to account for bluefin tuna using allocated quota or IBQ leased at an affordable price is key to the success of the IBQ Program. A trend that may in part reflect the uncertainties and constraints associated with trip-level accountability is the lower amount of fishing effort in 2016 compared to 2015 (despite the active IBQ leasing market in 2016). For example, the number of trips, active vessels, longline sets and hooks fished were all lower in 2016 than they were in 2015. The No Action alternative would not, however, provide the timing flexibility benefits that could facilitate better operational and economic decisions and options for individual vessel owners who need to lease IBQ, and NMFS therefore does not prefer the no action alternative.

Under the second alternative (preferred), NMFS would adjust the Atlantic HMS regulations to require the pelagic longline fishery to account for bycatch of bluefin tuna using IBQ on a quarterly basis instead of before commencing any fishing trip while in quota debt or with less than the minimum required IBQ balance. The preferred alternative would provide flexibility for two important operational business decisions made by vessel owners. First, decisions regarding quota balance and quota debt (subject to full accounting quarterly); and second, decisions regarding the timing and price at which they lease additional quota. It is likely that the vessels would take advantage of increased operational flexibility as a result of removal of the constraints associated with the trip-level accountability. Specifically, operational flexibility associated with the preferred alternative may enable vessels to fish at more optimal times and avoid delay in the timing of a trip due to a low IBQ balance and issues related to availability of quota to lease; lease IBQ at a lower price by providing the flexibility for a vessel owner to 'shop around'; reduce uncertainty in the IBQ market such that vessels are willing to plan and undertake fishing trips they previously may not have; and improve their cash flow by allowing fishing while in quota debt (*i.e.,* accrual of revenue with which to lease additional IBQ). In 2016, each additional trip earned vessels on average $24,707 in revenue.

NMFS used the available data on the IBQ lease markets to estimate the potential reduction in transaction costs (mainly labor costs) associated with moving from trip-level accountability to quarterly accountability. There were 33 vessels that leased quota in 2016 and they were involved in 81 transactions. On average, that is almost 2.5 transactions per vessel that entered the IBQ lease market. Under the quarterly accountability requirement of Alternative 2, these vessels might be able to reduce their number of lease transactions to one lease per quarter, which would reduce business costs and have economic and operational benefits. Based on data from 2016 and the first-half of 2017, quarterly accountability could lead to 51 fewer lease transactions if vessel owners reduced their number of lease transaction to one per quarter under this alternative. Each lease transaction costs vessel owners additional labor time to search for available IBQ, contact potential lessors, negotiate prices, and complete the transactions. NMFS estimates that could involve approximately four hours per transaction. Using the Bureau of Labor Statistics mean hourly wage rate for first-line supervisors of farming, fishing and forestry workers of $23 per hour in 2016 (***https://www.bls.gov/oes/current/oes451011.htm***), NMFS estimates the value of the time involved in these additional 51 leases to be approximately worth $4,692 (51 transactions × 4 hours × $23/hr). Since this amount is based on six quarters, the annual estimated savings in the time associated with these leases is approximately $3,128 per year ($4,692/1.5 years). Given that 33 vessels were involved in leasing in 2016, the per vessel savings per year would be approximately $95 per vessel.

Although it is not possible to precisely quantify the economic impacts of the preferred alternative, the no action alternative with trip-level accountability (*i.e.,* the regulations implemented in 2016) and the third alternative with annual accountability (*i.e.,* the regulations implemented in 2015) may be informative about the likely impacts of the alternatives. The amount of flexibility to account for bluefin tuna catch afforded by the preferred alternative is likely somewhere in between the two other alternatives: Trip-level accountability (no action alternative) and annual accountability (third alternative).

Under the third alternative, there would be no minimum amount of IBQ required to fish and vessels would only be required to account for their catch at the end of the year. The third alternative is the same as the IBQ accounting regulations that were in effect during 2015. During 2015, there were 1,124 pelagic longline trips, by 104 vessels, which deployed 7,769 sets and 5,549,451 hooks. During 2015, there were 49 IBQ lease transactions from 24 distinct vessels with a total of 126,407 lb IBQ leased, and an average price of $3.46 per pound (weighted average). There were a total of 16 vessels that incurred quota debt, with a total amount of 42,746 lb. The mean revenue per trip during 2015 based on dealer data was $17,603 (not including bluefin tuna or dolphin revenue). Although it is possible to glean some insights from data from 2015 as the basis for evaluating potential economic impacts of the third alternative, the fishing behavior of the pelagic longline fleet during 2015, the first year of Amendment 7 regulations, was likely heavily influenced by the newness of the regulations and the relatively high amount of uncertainty in 2015.

There were approximately 2.0 lease transactions per vessel in 2015 versus 2.5 leases per vessel in 2016. Assuming the 33 vessels that leased in 2016 only leased 2 times per year under annual accountability, the number of leases would be reduced from 81 to 66, a reduction of 15 transactions. This reduction in 15 transactions taking approximately 4 hours of an owner's time would be worth $1,380 in labor costs per year (15 × 4 hours × $23/hr). Given the 33 vessels that leased in 2016, the per vessel cost savings would be approximately $42 per vessel per year. Alternatively, if vessel owners could reduce the number of leases to one per year, the number of lease transactions could be reduced down to 33 transactions based on 2016 lease activity. This would result in 48 fewer transactions, and would result in a savings of up to $4,416 per year for the whole fleet or $134 per vessel that leased. However, based on the 2015 IBQ lease data under annual accountability that year, it is unlikely that the number of lease transactions would be reduced by this much. It is likely that there would be more leasing activity associated with this alternative than occurred during 2015, since 2015 was the initial implementation of the IBQ Program and participants were just learning how the IBQ lease market worked and which IBQ Program participants were interested in leasing IBQ, as well as a lower average price per pound for leased IBQ.

There is uncertainty as to the full impact of moving from trip-level accountability to annual accountability. Annual accountability might cause vessel owners to wait until December to try to lease quota. Quota available for lease in December might become scarcer and this holiday period might cause fewer IBQ shareholders to participate in the market. This increased scarcity of IBQ available for lease and the tight end of the year timeframe might result in spikes in the price for IBQ, thus driving up costs and potentially leaving some vessel owners unable to resolve their quota debt at the last minute as the year ends. NMFS prefers to incrementally move to quarterly accountability under Alternative 2 to avoid some of the risks associated with Alternative 3.

List of Subjects in 50 CFR Part 635

Fisheries, Fishing, Fishing vessels, Foreign relations, Imports, Penalties, Reporting and recordkeeping requirements, Treaties.

Dated: December 22, 2017.

Samuel D. Rauch III,

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

For the reasons set out in the preamble, 50 CFR part 635 is amended as follows:

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

■ 1. The authority citation for part 635 continues to read as follows:

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

■ 2. In § 635.15, revise paragraphs (b)(3), (b)(4)(i) and (ii), (b)(5)(i) and (ii), and (b)(8)(i) to read as follows:

§ 635.15 Individual bluefin tuna quotas.

* * * * *

(b) * * *

(3) *Minimum IBQ allocation.* For purposes of this paragraph (b), calendar year quarters start on January 1, April 1, July 1, and October 1.

(i) *First fishing trip in a calendar year quarter.* Before departing on the first fishing trip in a calendar year quarter, a vessel with an eligible Atlantic Tunas Longline category permit that fishes with or has pelagic longline gear onboard must have the minimum IBQ allocation for either the Gulf of Mexico or Atlantic, depending on fishing location. The minimum IBQ allocation for a vessel fishing in the Gulf of Mexico, or departing for a fishing trip in the Gulf of Mexico, is 0.25 mt ww (551 lb ww). The minimum IBQ allocation for a vessel fishing in the Atlantic or departing for a fishing trip in the Atlantic is 0.125 mt ww (276 lb ww). A vessel owner or operator may not declare into or depart on the first fishing trip in a calendar year quarter with pelagic longline gear onboard unless it has the relevant required minimum IBQ allocation for the region in which the fishing activity will occur.

(ii) *Subsequent fishing trips in a calendar year quarter.* Subsequent to the first fishing trip in a calendar year quarter, a vessel owner or operator may declare into or depart on other fishing trips with pelagic longline gear onboard with less than the relevant minimum IBQ allocation for the region in which the fishing activity will occur, but only within that same calendar year quarter.

(4) *Accounting for bluefin tuna caught.* (i) With the exception of vessels fishing in the NED, in compliance with the requirements of paragraph (b)(8) of this section, all bluefin tuna catch (dead discards and landings) must be deducted from the vessel's IBQ allocation at the end of each pelagic longline trip.

(ii) If the amount of bluefin tuna catch on a particular trip exceeds the amount of the vessel's IBQ allocation or results in an IBQ balance less than the minimum amount described in paragraph (b)(3) of this section, the vessel may continue to fish, complete the trip, and depart on subsequent trips within the same calendar year quarter. The vessel must resolve any quota debt (see paragraph (b)(5) of this section) before declaring into or departing on a fishing trip with pelagic longline gear onboard in a subsequent calendar year quarter by acquiring adequate IBQ allocation to resolve the debt and acquire the needed minimum allocation through leasing, as described in paragraph (c) of this section.

* * * * *

(5) * * *

(i) *Quarter level quota debt.* A vessel with quota debt incurred in a given calendar year quarter cannot depart on a trip with pelagic longline gear onboard in a subsequent calendar year quarter until the vessel leases allocation or receives additional allocation (see paragraphs (c) and (b)(9) of this section), and applies allocation for the appropriate region to settle the quota debt such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur (see paragraph (b)(3) of this section). For example, a vessel with quota debt incurred during January through March may not depart on a trip with pelagic longline gear onboard during April through June (or subsequent quarters) until the quota debt has been resolved such that the vessel has the relevant minimum quota allocation required to fish for the region in which the fishing activity will occur.

(ii) *Annual level quota debt.* If, by the end of the fishing year, a permit holder does not have adequate allocation to settle its vessel's quota debt through leasing or additional allocation (see paragraphs (c) and (b)(9) of this section), the vessel's allocation will be reduced in the amount equal to the quota debt in the subsequent year or years until the quota debt is fully accounted for. A vessel may not depart on any pelagic longline trips if it has outstanding quota debt from a previous fishing year.

* * * * *

(8) * * *

(i) *When NED bluefin quota is available.* Permitted vessels fishing with pelagic longline gear may fish in the NED, and any bluefin catch will count toward the ICCAT-allocated separate NED quota until the NED quota has been filled. Permitted vessels fishing in the NED must still fish in accordance with the relevant minimum IBQ allocation requirements specified under paragraph (b)(3) of this section to depart on a trip using pelagic longline gear.

* * * * *

■ 3. In § 635.71, revise paragraphs (b)(48) and (56) to read as follows:

§ 635.71 Prohibitions.

* * * * *

(b) * * *

(48) Depart on a fishing trip or deploy or fish with any fishing gear from a vessel with a pelagic longline on board without accounting for bluefin caught as specified in § 635.15(b)(4).

* * * * *

(56) Fish with or have pelagic longline gear on board if any quota debt associated with the permit from a preceding calendar year quarter has not been settled as specified in § 635.15(b)(5)(i).

* * * * *

[FR Doc. 2017–28046 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 82, No. 248
Thursday, December 28, 2017

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 40

[Docket Nos. RM18–2–000 and AD17–9–000]

Cyber Security Incident Reporting Reliability Standards

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to direct the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization, to develop and submit modifications to the NERC Reliability Standards to improve mandatory reporting of Cyber Security Incidents, including incidents that might facilitate subsequent efforts to harm the reliable operation of the bulk electric system.

DATES: Comments are due February 26, 2018.

ADDRESSES: Comments, identified by docket number, may be filed in the following ways:

• Electronic Filing through *http://www.ferc.gov.* Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format.

• Mail/Hand Delivery: Those unable to file electronically may mail or hand-deliver comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see the Comment Procedures Section of this document.

FOR FURTHER INFORMATION CONTACT:

Margaret Scott (Technical Information), Office of Electric Reliability, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6704, *margaret.scott@ferc.gov.*

Kevin Ryan (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, (202) 502–6840, *kevin.ryan@ferc.gov.*

SUPPLEMENTARY INFORMATION:

1. The Foundation for Resilient Societies filed a petition asking the Commission to require additional measures for malware detection, mitigation, removal and reporting. We decline to propose additional Reliability Standard measures at this time for malware detection, mitigation and removal, based on the scope of existing Reliability Standards, Commission-directed improvements already being developed and other ongoing efforts. However, we propose to direct broader reporting requirements. Currently, incidents must be reported only if they have ''compromised or disrupted one or more reliability tasks,'' and we propose to require reporting of certain incidents even before they have caused such harm or if they did not themselves cause any harm.

2. Specifically, pursuant to section 215(d)(5) of the Federal Power Act (FPA),[1] the Commission proposes to direct the North American Electric Reliability Corporation (NERC), the Commission-certified Electric Reliability Organization (ERO), to develop and submit modifications to the Critical Infrastructure Protection (CIP) Reliability Standards to improve the reporting of Cyber Security Incidents, including incidents that might facilitate subsequent efforts to harm the reliable operation of the bulk electric system. The proposed development of modified mandatory reporting requirements is intended to improve awareness of existing and future cyber security threats and potential vulnerabilities. We propose to continue having the reports go to the Electricity Information Sharing and Analysis Center (E–ISAC) instead of the Commission, but we propose to require that reports also be sent to the Industrial Control Systems Cyber Emergency Response Team (ICS–CERT) and that NERC file an annual, public, and anonymized summary of the reports.

3. The current reporting threshold for Cyber Security Incidents, as set forth in Reliability Standard CIP–008–5 (Cyber Security—Incident Reporting and Response Planning) together with the definition of Reportable Cyber Security Incident, may understate the true scope of cyber-related threats facing the Bulk-Power System. The reporting of cyber-related incidents, in particular the lack of any reported incidents in 2015 and 2016, suggests a gap in the current mandatory reporting requirements. This reporting gap may result in a lack of timely awareness for responsible entities subject to compliance with the CIP Reliability Standards, NERC, and the Commission. As discussed below, NERC's 2017 State of Reliability report echoed this concern in stating that the ''mandatory reporting process does not create an accurate picture of cyber security risk . . .''[2]

4. To address this gap, pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct NERC to develop modifications to the CIP Reliability Standards to include the mandatory reporting of Cyber Security Incidents that compromise, or attempt to compromise, a responsible entity's Electronic Security Perimeter (ESP) or associated Electronic Access Control or Monitoring Systems (EACMS).[3] Such modifications will enhance awareness for NERC, industry, the Commission, other federal and state entities, and interested stakeholders regarding existing or developing cyber security threats. In addition, we propose to direct NERC to modify the CIP Reliability Standards to specify the required information in Cyber Security Incident reports to improve the quality of reporting and allow for ease of comparison by ensuring that each report includes specified fields of information. Finally, we propose to direct NERC to

[1] 16 U.S.C. 824o(d)(5).

[2] NERC, 2017 State of Reliability Report at 4 (June 2017), *http://www.nerc.com/pa/RAPA/PA/Performance%20Analysis%20DL/SOR_2017_MASTER_20170613.pdf.*

[3] The NERC Glossary of Terms Used in NERC Reliability Standards (October 6, 2017) (NERC Glossary) defines ''ESP'' as ''[t]he logical border surrounding a network to which BES Cyber Systems are connected using a routable protocol.'' The NERC Glossary defines ''EACMS'' as ''Cyber Assets that perform electronic access control or electronic access monitoring of the Electronic Security Perimeter(s) or BES Cyber Systems. This includes Intermediate Systems.''

modify the CIP Reliability Standards to establish a deadline for filing a report once a compromise or disruption to reliable bulk electric system operation, or an attempted compromise or disruption, is identified by a responsible entity.

I. Background

A. Section 215 and Mandatory Reliability Standards

5. Section 215 of the FPA requires a Commission-certified ERO to develop mandatory and enforceable Reliability Standards, subject to Commission review and approval. Reliability Standards may be enforced by the ERO, subject to Commission oversight, or by the Commission independently.[4] Pursuant to section 215 of the FPA, the Commission established a process to select and certify an ERO,[5] and subsequently certified NERC.[6]

B. Foundation for Resilient Societies' Petition

6. On January 13, 2017, the Foundation for Resilient Societies (Resilient Societies) filed a petition requesting that the Commission initiate a rulemaking to require an enhanced Reliability Standard for malware detection, reporting, mitigation and removal from the Bulk-Power System.[7] Resilient Societies stated that the Bulk-Power System is increasingly at risk from malware. Resilient Societies also maintained that current mandatory and voluntary reporting methods underreport the actual annual rate of occurrence of cybersecurity incidents in the U.S. electric grid.

7. In support of its petition, Resilient Societies asserted that evidence in the public domain shows that electric grids in the U.S. and critical infrastructure that depends upon reliable power are increasingly at risk from malware, resulting in a threat of widespread, long-term blackouts. Resilient Societies asserted that Bulk-Power System assets are interconnected with the public internet, which could allow foreign adversaries to implant malware in electric utility computer systems. Resilient Societies stated that malware can infect high, medium, and low impact BES Cyber Systems,[8] and, once inserted, can be a pathway for cyber-attackers.[9] Resilient Societies further stated that an infected low impact BES Cyber System can serve as an entry point from where an adversary can attack medium and high impact BES Cyber Systems. Resilient Societies asserted that a ''simultaneous cyberattack on many low impact assets may cause greater impact than an attack on a single high impact asset.'' [10]

8. Resilient Societies alleged that it has found gaps relating to malware protection requirements in the current Commission-approved CIP Reliability Standards. In particular, Resilient Societies maintained that the ESP concept, used in the CIP Reliability Standards, suffers from several fundamental flaws. Specifically, Resilient Societies asserted that: (1) Cyber attacks on systems outside the ESP can take down systems within it; (2) passwords and other user credentials associated with BES Cyber Systems may be stored on systems outside the ESP; and (3) Electronic Access Points that control access to systems within the ESP may be breached. Resilient Societies also raised a concern that there is currently no required reporting of malware infections, both inside and outside the ESP.[11]

9. Based on its analysis, Resilient Societies offered several suggestions for the essential components of an enhanced malware Reliability Standard and what the technical elements of an enhanced malware standard might include. The essentials identified by Resilient Societies include: (1) Malware detection; (2) malware reporting (regardless of whether reliability tasks of a functional entity have been compromised or disrupted); (3) malware mitigation; and (4) mandatory malware removal. Resilient Societies also provided a list of possible technical elements for an enhanced malware Reliability Standard.[12]

10. In support of its request for an enhanced Reliability Standard for malware reporting, Resilient Societies asserted that current mandatory and voluntary cybersecurity incident reporting methodologies are not representative of the actual annual rate of occurrence of cybersecurity incidents in the U.S. electric grid. Resilient Societies cited NERC's State of Reliability Reports for 2014 and 2015, noting that NERC identified only three Reportable Cyber Security Incidents in 2014 and zero Reportable Cyber Security Incidents in 2015. In addition, Resilient Societies observed that according to Department of Energy (DOE) Disturbance Reports (OE–417), there were three reported cybersecurity incidents in 2014, zero in 2015, and two in 2016. Finally, Resilient Societies stated that in contrast to the number of cybersecurity incidents reported through NERC and DOE Form OE–417, ICS–CERT responded to 79 cybersecurity incidents in 2014 and 46 cybersecurity incidents in 2015.[13]

11. On February 17, 2017, Resilient Societies filed supplemental comments that included an appendix containing a February 10, 2017 Department of Homeland Security (DHS) Report, ''Enhanced Analysis of GRIZZLY STEPPE Activity,'' which, Resilient Societies alleged, ''provides independent validation of the need for a mandatory standard to detect, report, mitigate, and remove identified malware from the Bulk Power System.'' [14]

Comments on Petition

12. The Commission received five sets of comments in response to Resilient Societies' petition. Among the commenters, NERC, Trade Associations [15] and International Transmission Company (ITC) stated that the Commission should not act on Resilient Societies' petition, claiming that the issues raised therein are adequately addressed in the currently-effective CIP Reliability Standards or are, in response to outstanding Commission directives, the subject of ongoing standards projects. The other two commenters, Kaspersky Lab, and David Bardin, supported Resilient Societies' petition to better address the detection, reporting and mitigation of malware.

13. NERC opposed Resilient Societies' petition because, NERC asserted,

[4] 16 U.S.C. 824o(e).

[5] *Rules Concerning Certification of the Electric Reliability Organization; and Procedures for the Establishment, Approval, and Enforcement of Electric Reliability Standards,* Order No. 672, FERC Stats. & Regs. ¶ 31,204 (cross-referenced at 114 FERC ¶ 61,104), *order on reh'g,* Order No. 672–A, FERC Stats. & Regs. ¶ 31,212 (cross-referenced at 114 FERC ¶ 61,328) (2006).

[6] *North American Electric Reliability Corp.,* 116 FERC ¶ 61,062, *order on reh'g and compliance,* 117 FERC ¶ 61,126 (2006), *aff'd sub nom. Alcoa, Inc.* v. *FERC,* 564 F.3d 1342 (DC Cir. 2009).

[7] Resilient Societies' filings and responsive comments are available on the Commission's eLibrary document retrieval system in Docket No. AD17–9–000.

[8] Reliability Standard CIP–002–5.1a (Cyber Security System Categorization) provides a ''tiered'' approach to cybersecurity requirements, based on classifications of high, medium and low impact BES Cyber Systems.

[9] BES Cyber System is defined by NERC as ''[o]ne or more BES Cyber Assets logically grouped by a responsible entity to perform one or more reliability tasks for a functional entity.'' NERC Glossary. The acronym BES refers to the bulk electric system.

[10] Resilient Societies Petition at 2–3.

[11] *Id.* at 10–12.

[12] *Id.* at 14–15.

[13] *Id.* at 8–9.

[14] Resilient Societies Supplemental Comments at 4.

[15] American Public Power Association, Edison Electric Institute, Electricity Consumers Resource Council, Electric Power Supply Association, Large Public Power Council, National Rural Electric Cooperative Association, and Transmission Access Policy Study Group.

existing CIP Reliability Standards, current standard development activity and other cyber security efforts adequately address the threats, vulnerabilities and risks associated with malware detailed in the Resilient Societies' petition. Accordingly, NERC concluded that a new Reliability Standard to address malware detection, reporting, mitigation and removal is not necessary at this time.[16] With regard to the Commission-approved CIP Reliability Standards, NERC stated that several existing requirements require responsible entities to implement protections to address the threat of malware.[17] NERC identified seven currently-effective CIP requirements that it alleged address the risks associated with malware.[18]

14. With regard to current standard development activity, NERC observed that modifications to the CIP Reliability Standards being developed in response to Commission Order Nos. 822 and 829 will further mitigate the risks posed by malware.[19] Specifically, NERC stated that the modifications under development in response to Order No. 822 address malware protections for assets containing low impact BES Cyber Systems and protections for communication links and sensitive data communicated between bulk electric system control centers. In particular, NERC identified proposed Reliability Standard CIP–003–7 and stated that the proposed Reliability Standard clarifies electronic access controls and mitigates the introduction of malicious code from transient devices for assets containing low impact BES Cyber Systems.[20]

15. NERC stated that proposed Reliability Standard CIP–013–1 (Cyber Security—Supply Chain Risk Management), developed in response to Order No. 829, requires responsible entities to, among other things, implement at least one process to verify the integrity and authenticity of certain software and firmware and implement at least one process to control vendor remote access to high and medium impact BES Cyber Systems.[21] For low impact BES Cyber Systems, NERC explained that the proposed Reliability Standard requires responsible entities to have at least one cyber security policy that addresses integrity and authenticity of software and hardware and to adopt controls for vendor-initiated remote access. NERC states that this proposed Reliability Standard shows NERC and industry ''are taking significant steps in addressing the risks posed by malware campaigns targeting supply chain vendors.'' [22]

16. With regard to other ongoing cyber security efforts, NERC noted the activities of the E–ISAC. Specifically, NERC stated that, through the E–ISAC, NERC has ''fostered an information sharing culture that promotes a proactive approach towards identification of malware, pooling of resources to combat malware, and sharing of best practices based on lessons learned, among other things.'' [23] In addition, NERC maintained that it facilitates industry information sharing in two other ways: NERC Alerts and the activities of the Critical Infrastructure Protection Committee (CIPC). NERC concluded that these activities promote necessary information sharing of cyber security threats and help foster the type of incident reporting requested in Resilient Societies' petition.[24]

17. While acknowledging the validity of concerns regarding the threat malware poses to the bulk electric system, ITC asserted that Resilient Societies' conclusion that existing CIP Reliability Standards contain gaps with respect to malware defense is inaccurate. ITC stated that, contrary to Resilient Societies' conclusions, the lack of specific malware-related controls in the CIP Reliability Standards ''reflects a critically important objectives-based approach which the Commission has intentionally adopted.'' [25] ITC explained that the existing CIP Reliability Standards ''collectively mandate robust and effective malware security measures, through both direct security measures that thwart malware attacks, and through complementary measures, such as personnel training against social engineering attacks.'' [26] ITC concluded that the specific controls in Resilient Societies' requests that the Commission mandate are duplicative, unnecessary and/or overly and unreasonably burdensome, and would make the bulk electric system less reliable and more vulnerable compared to the existing protections.[27]

18. Trade Associations stated that the risks raised in Resilient Societies' petition are addressed under the current CIP Reliability Standards and in ongoing Commission dockets and standards development efforts. Trade Associations observed that Reliability Standard CIP–007–6, Requirement R3 is the primary existing Reliability Standard addressing the risks posed by malware. Trade Associations explained that the Reliability Standard requires responsible entities to deter, detect, or prevent malicious code; mitigate the threat of detected malicious code; and have a process to update signatures or patterns associated with malicious code. Trade Associations asserted that other relevant requirements are spread throughout the currently-effective CIP Reliability Standards, including Reliability Standards CIP–005–5, Requirement R1 (Electronic Security Perimeter); CIP–005–5, Requirement R2 (Protections for Interactive Remote Access); CIP–007–6, Requirement R1 (limiting and protecting accessible ports); and CIP–007–6, Requirement R2 (patch management required to detect software vulnerabilities).[28]

19. In addition, Trade Associations noted recently-approved new CIP Reliability Standards addressing transient devices associated with high and medium impact BES Cyber Systems, as well as the Commission's directive in Order No. 822 for the development of similar protections for low impact BES Cyber Systems. Trade Associations also identified the Commission's directives in Order No. 829 relating to cybersecurity risks posed by vendors as open initiatives that will help protect against the introduction of malware into BES Cyber Systems.[29]

20. Kaspersky Lab supported the development of an enhanced Reliability Standard for malware detection, reporting, mitigation and removal. Kaspersky Lab stated that the current CIP Reliability Standards ''do not sufficiently address malware protection as a critical component in securing BES Cyber Assets and Systems.'' [30] Kaspersky Lab offered a list of reasons why it believes that electric utilities face

[16] NERC Comments at 1–2.

[17] *Id.* at 2.

[18] *Id.* at 5–6.

[19] *Revised Critical Infrastructure Protection Reliability Standards,* Order No. 822, 154 FERC ¶ 61,037, *reh'g denied,* Order No. 822–A, 156 FERC ¶ 61,052 (2016); *Revised Critical Infrastructure Protection Reliability Standards,* Order No. 829, 156 FERC ¶ 61,050 (2016).

[20] NERC Comments at 8. On October 19, 2017, the Commission issued a notice of proposed rulemaking proposing to approve proposed Reliability Standard CIP–003–7. *See Revised Critical Infrastructure Protection Reliability Standard CIP–003–7—Cyber Security—Security Management Controls,* Notice of Proposed Rulemaking, 82 FR 49,541 (October 26, 2017), 161 FERC ¶ 61,047 (2017).

[21] On September 26, 2017, NERC submitted proposed Reliability Standards CIP–013–1, CIP–005–6 and CIP–010–3 for Commission approval. NERC's filing is available on the Commission's eLibrary document retrieval system in Docket No. RM17–13–000 and on the NERC website, *www.nerc.com.*

[22] NERC Comments at 9.

[23] *Id.*

[24] *Id.* at 12–13.

[25] ITC Comments at 2–3.

[26] *Id.* at 3.

[27] *Id.* at 2–3.

[28] Trade Associations Comments at 5–6.

[29] *Id.* at 7.

[30] Kaspersky Lab Comments at 1.

an increased risk of being infiltrated by malware, highlighting, among other issues, that information concerning exploitable vulnerabilities is increasingly becoming public. Kaspersky Lab noted that it recognizes that the CIP Reliability Standards ''strive to address the complex cyber and physical security needs of the [bulk electric system]'' and that cybersecurity standards ''must be flexible and not overly prescriptive to address threats as they evolve,'' but it states that the current CIP Reliability Standards only address malware protection ''in a cursory fashion.'' [31]

21. David Bardin supported the goals in Resilient Societies' petition and suggested that the Commission initiate one or more proceedings to facilitate a conversation on malware protections. In support of his position, Bardin presented a list of questions that could be raised in such discussions.[32]

C. NERC 2017 State of Reliability Report

22. In June 2017, NERC published the 2017 NERC State of Reliability Report which, among other things, indicates that there were no Reportable Cyber Security Incidents in 2016. The report also lists ''key findings'' regarding reliability performance observed over the previous year and recommendations for improvements. Key Finding 4 of the report addresses the reporting of Cyber Security Incidents. In particular, NERC states that the current ''mandatory reporting process does not create an accurate picture of cyber security risk since most of the cyber threats detected by the electricity industry manifest themselves in . . . email, websites, smart phone applications . . . rather than the control system environment where impacts could cause loss of load and result in a mandatory report.'' [33] Based on that finding, the report includes a recommendation that NERC and industry should ''redefine reportable incidents to be more granular and include zero-consequence incidents that might be precursors to something more serious.'' [34]

II. Discussion

23. Pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct NERC to develop modifications to the CIP Reliability Standards to address the Commission's concerns regarding mandatory reporting requirements. Based on our review of the comments received in response to Resilient Societies' petition, however, we conclude that the current Commission-approved CIP Reliability Standards, ongoing NERC efforts to address open Commission directives, and other industry efforts have addressed or will address the malware detection and mitigation issues raised by Resilient Societies. For example, provisions of currently effective Reliability Standards, including CIP–005–5 and CIP–007–6, address malware detection and mitigation. Ongoing efforts described by NERC and other commenters, such as the development of a supply chain risk management standard, should also address malware concerns. Thus, the Commission declines to act on this aspect of the petition.[35]

24. We believe that the current reporting threshold for Cyber Security Incidents, as set forth in the current definition of Reportable Cyber Security Incident, may not reflect the true scope of cyber-related threats facing the Bulk-Power System, consistent with NERC's view. Accordingly, pursuant to section 215(d)(5) of the FPA, the Commission proposes to direct that NERC develop modifications to the CIP Reliability Standards to improve the mandatory reporting of Cyber Security Incidents, including incidents that might facilitate subsequent efforts to harm the reliable operation of the bulk electric system, to improve awareness of existing and future cyber security threats and potential vulnerabilities.

25. Below, we discuss the following elements of the proposed directive: (A) Cyber Security Incident reporting threshold; (B) information in Cyber Security Incident reports; and (C) timing of Cyber Security Incident reports.

A. Cyber Security Incident Reporting Threshold

26. Cyber-related event reporting is currently addressed in Reliability Standard CIP–008–5, Requirement R1, Part 1.2, which requires that each responsible entity shall document one or more Cyber Security Incident Plan(s) with one or more processes to determine if an identified Cyber Security Incident is a Reportable Cyber Security Incident. Where a cyber-related event is determined to qualify as a Reportable Cyber Security Incident, responsible entities are required to notify the E–ISAC with initial notification to be made within one hour from the determination of a Reportable Cyber Security Incident.[36]

27. A Cyber Security Incident is defined in the NERC Glossary as:

A malicious act or suspicious event that:

- Compromises, or was an attempt to compromise, the Electronic Security Perimeter or Physical Security Perimeter or,
- Disrupts, or was an attempt to disrupt, the operation of a BES Cyber System.

This is similar, but not identical, to the definition of a cybersecurity incident in FPA section 215, which is ''a malicious act or suspicious event that disrupts, or was an attempt to disrupt, the operation of those programmable electronic devices and communication networks including hardware, software and data that are essential to the reliable operation of the bulk power system.'' [37] A Reportable Cyber Security Incident, however, is defined more narrowly in the NERC Glossary as ''[a] Cyber Security Incident that has compromised or disrupted one or more reliability tasks of a functional entity.'' Therefore, in order for a cyber-related event to be considered reportable under the existing CIP Reliability Standards, it must compromise or disrupt a core activity (*e.g.,* a reliability task) of a responsible entity that is intended to maintain bulk electric system reliability.[38] Under these definitions, unsuccessful attempts to compromise or disrupt a responsible entity's core activities are not subject to the current reporting requirements in Reliability Standard CIP–008–5.

28. As discussed above, recent NERC State of Reliability Reports indicate that there were no Reportable Cyber Security Incidents in 2015 and 2016. As noted by NERC, ''[w]hile there were no reportable cyber security incidents during 2016 and therefore none that caused a loss of load, this does not necessarily suggest that the risk of a cyber security incident

[31] *Id.* at 2.

[32] Bardin Comments at 1.

[33] 2017 NERC State of Reliability Report at 4.

[34] *Id.*

[35] While the Commission proposes that NERC develop modifications to the NERC Reliability Standards under section 215(d)(5) of the FPA in Docket No. RM18–2–000, we exercise our discretion to terminate the proceeding in Docket No. AD17–9–000.

[36] *See* Reliability Standard CIP–008–5 (Cyber Security—Incident Reporting and Response Planning), Requirement R1, Part 1.2. This requirement pertains to high impact BES Cyber Systems and medium impact BES Cyber Systems.

[37] 16 U.S.C. 824o(a)(8).

[38] The NERC Functional Model ''describes a set of Functions that are performed to ensure the reliability of the Bulk Electric System. Each Function consists of a set of related reliability Tasks. The Model assigns each Function to a functional entity, that is, the entity that performs the function. The Model also describes the interrelationships between that functional entity and other functional entities (that perform other Functions).'' NERC, Reliability Functional Model: Function Definitions and Functional Entities, Version 5 at 7 (November 2009), *http://www.nerc.com/pa/Stand/Functional%20Model%20Archive%201/Functional_Model_V5_Final_2009Dec1.pdf.*

is low.'' [39] In contrast, the 2016 annual summary of DOE's Electric Disturbance Reporting Form OE–417 contained four cybersecurity incidents reported in 2016: Two suspected cyber attacks and two actual cyber attacks.[40] Moreover, ICS–CERT responded to fifty-nine cybersecurity incidents within the Energy Sector in 2016.[41]

29. Based on this comparison, the current reporting threshold in Reliability Standard CIP–008–5 may not reflect the true scope and scale of cyber-related threats facing responsible entities. The disparity in the reporting of cyber-related incidents under existing reporting requirements, in particular the lack of any incidents reported to NERC in 2015 and 2016, suggests a gap in the current reporting requirements. We are concerned that this apparent reporting gap results in a lack of awareness for NERC, responsible entities, and the Commission. This concern is echoed in the 2017 NERC State of Reliability Report, which includes a recommendation that NERC and industry should ''redefine reportable incidents to be more granular and include zero-consequence incidents that might be precursors to something more serious.'' [42] We agree with NERC's recommendation. The disparity highlights the need to improve the reporting obligation under the CIP Reliability Standards.

30. The Commission proposes to direct NERC to address the gap in cyber-related incident reporting. Specifically, we propose to direct NERC to modify the CIP Reliability Standards to include the mandatory reporting of Cyber Security Incidents that compromise, or attempt to compromise, a responsible entity's ESP or associated EACMS. Enhanced mandatory reporting of cyber-related incidents will provide better awareness to NERC, industry and the Commission regarding existing or developing cyber security threats.

31. Reporting of attempts to compromise, instead of only successful compromises, is consistent with current monitoring requirements. For example, Reliability Standard CIP–007–6, Requirement R4.1, mandates logging of detected successful login attempts, detected failed access attempts, and failed login attempts. Also, the Guidelines and Technical Basis for this requirement state that events should be logged even if access attempts were blocked or otherwise unsuccessful.[43]

32. Similarly, DHS defines a ''cyber incident'' as ''attempts (either failed or successful) to gain unauthorized access to a system or its data . . . .'' [44] The E–ISAC defines a ''cyber incident'' as including unauthorized access through the electronic perimeter as well as ''a detected effort . . . without obvious success.'' [45] Also, ICS–CERT defines a ''cyber incident'' as an ''occurrence that actually or potentially results in adverse consequences . . . .'' [46]

33. We propose to establish a compromise or an attempt to compromise a responsible entity's ESP or associated EACMS, due to their close association with ESPs, as the boundary point for a reportable Cyber Security Incident. An ESP is defined in the NERC Glossary as the ''logical border surrounding a network to which BES Cyber Systems are connected using a routable protocol.'' The purpose of an ESP is to manage electronic access to BES Cyber Systems to support the protection of the BES Cyber Systems against compromise that could lead to misoperation or instability in the bulk electric system.[47] EACMS are defined in the NERC Glossary as ''Cyber Assets that perform electronic access control or electronic access monitoring of the Electronic Security Perimeter(s) or BES Cyber Systems. This includes Intermediate Systems.'' More specifically, EACMS include, for example, firewalls, authentication servers, security event monitoring systems, intrusion detection systems and alerting systems.[48] Therefore, EACMS control electronic access into the ESP and play a significant role in the protection of high and medium impact BES Cyber Systems.[49] Once an EACMS is compromised, an attacker could more easily enter the ESP and effectively control the BES Cyber System or Protected Cyber Asset.

34. Since an ESP is intended to protect BES Cyber Systems and EACMS are intended to control electronic access into an ESP, we believe it is reasonable to establish the compromise of, or attempt to compromise, an ESP or its associated EACMS as the minimum reporting threshold.

35. In sum, pursuant to section 215(d)(5) of the FPA, we propose to direct NERC to develop modifications to the CIP Reliability Standards described above to improve the reporting of Cyber Security Incidents, including incidents that did not cause any harm but could facilitate subsequent efforts to harm the reliable operation of the bulk electric system. The Commission seeks comment on this proposal.

36. In addition, the Commission seeks comment on whether to exclude EACMS from any Commission directive and, instead, establish the compromise, or attempt to compromise, an ESP as the minimum reporting threshold. The Commission also seeks comment on potential alternatives to modifying the mandatory reporting requirements in the NERC Reliability Standards. Specifically, we seek comment on whether a request for data or information pursuant to Section 1600 of the NERC Rules of Procedure would effectively address the reporting gap and current lack of awareness of cyber-related incidents, discussed above, among NERC, responsible entities and the Commission, and satisfy the goals of the proposed directive.

B. Content of Cyber Security Incident Reports

37. Currently-effective Reliability Standard CIP–008–5, Requirement R1, Part 1.2 requires that a responsible entity provide an initial notification of a Reportable Cyber Security Incident to the E–ISAC within one hour of the determination that a Cyber Security Incident is reportable, unless prohibited by law. The initial notification may be made by phone call, email, or through

[39] 2017 NERC State of Reliability Report at 4.

[40] 2016 DOE Electric Disturbance Events (OE–417) Annual Summary Archives, *https://www.oe.netl.doe.gov/OE417_annual_summary.aspx*.

[41] ICS–CERT cybersecurity incident statistics for the Energy Sector combine statistics from the electric subsector and the oil and natural gas subsector. ICS–CERT does not break out the cybersecurity incidents that only impact the electric subsector. 2016 ICS–CERT Year in Review, *https://ics-cert.us-cert.gov/Year-Review-2016*.

[42] 2017 NERC State of Reliability Report at 4.

[43] *See* Reliability Standard CIP–007–6 (Cyber Security—Systems Security Management), Requirement R4, Part 1.

[44] *See* United States Computer Emergency Readiness Team (US–CERT) Incident Definition: *https://www.us-cert.gov/government-users/compliance-and-reporting/incident-definition*.

[45] *See* E–ISAC Incident Reporting Fact Sheet document: *http://www.nerc.com/files/Incident-Reporting.pdf*.

[46] *See* ICS–CERT Published ''Common Cyber Security Language'' document: *https://ics-cert.us-cert.gov/About-Industrial-Control-Systems-Cyber-Emergency-Response-Team*.

[47] *See* Reliability Standard CIP–005–5 (Cyber Security—Electronic Security Perimeter(s)).

[48] *See* Reliability Standard CIP–002–5.1 (Cyber Security—BES Cyber System Categorization), Background at 6; Reliability Standard CIP–007–6 (Cyber Security—System Security Management), Background at 4.

[49] *See* Reliability Standard CIP–002–5.1a (Cyber Security—BES Cyber System Categorization), Background at 5–6 (''BES Cyber Systems have associated Cyber Assets, which, if compromised, pose a threat to the BES Cyber System by virtue of: (a) Their location within the Electronic Security Perimeter (Protected Cyber Assets), or (b) the security control function they perform (Electronic Access Control or Monitoring Systems and Physical Access Control Systems'').

a Web-based notice.[50] Reliability Standard CIP–008–5 does not specify the content of a report.

38. The Commission proposes to direct that NERC modify the CIP Reliability Standards to specify the required content in a Cyber Security Incident report. We propose that the minimum set of attributes to be reported should include: (1) The functional impact, when identifiable, that the Cyber Security Incident achieved or attempted to achieve; (2) the attack vector that was used to achieve or attempted to achieve the Cyber Security Incident; and (3) the level of intrusion that was achieved or attempted as a result of the Cyber Security Incident. Knowledge of these attributes regarding a specific Cyber Security Incident will improve awareness of cyber threats to bulk electric system reliability. These attributes are the same as attributes already used by DHS for its multi-sector reporting and summarized by DHS in an annual report.[51] Specifying the required content should improve the quality of reporting by ensuring that basic information is provided and allows for ease of comparison across reports by ensuring that each report includes specified fields of information.

39. Functional impact is a measure of the actual, ongoing impact to the organization, the affected BES Cyber System(s), and the responsible entity's ability to protect and/or operate the affected BES Cyber System(s) to ensure reliable bulk electric system operations. In many cases, such as scans and probes by attackers or a successfully defended attack, there is little or no impact on the responsible entity as a result of the incident. The attack vector is the method used by the attacker to exploit a vulnerability, such as a phishing attack for user credentials or a virus designed to exploit a known vulnerability. The level of intrusion reflects the extent of the penetration into a responsible entity's ESP, EACMS as applicable, or BES Cyber Systems within the ESP, that was achieved as a result of the Cyber Security Incident.

40. The Commission seeks comment on this proposal and, more generally, the appropriate content for Cyber Security Incident reporting to improve awareness of existing and future cyber security threats and potential vulnerabilities.

C. Timing of Cyber Security Incident Reports

41. In addition to addressing the specific content for Cyber Security Incident reports, the Commission proposes that NERC establish requirements outlining deadlines for filing a report once a compromise or disruption to reliable bulk electric system operation, or an attempted compromise or disruption, is identified by a responsible entity. While currently-effective Reliability Standard CIP–008–5, Requirement R1, Part 1.2 requires that a responsible entity provide an initial notification of a Reportable Cyber Security Incident to the E–ISAC within one hour of the determination that a Cyber Security Incident is reportable, unless prohibited by law, the Reliability Standard ''does not require a specific timeframe for completing the full report.'' [52] The reporting timeline should reflect the actual or potential threat to reliability, with more serious incidents reported in a more timely fashion. A reporting timeline that takes into consideration the severity of a Cyber Security Incident should minimize potential burdens on responsible entities. The intent of this directive is to provide NERC with the information necessary to maintain awareness regarding cyber threats to bulk electric system reliability. We propose that the reports submitted under the enhanced mandatory reporting requirements would be provided to E–ISAC, similar to the current reporting scheme, as well as ICS–CERT. The detailed incident reporting would not be submitted to the Commission.

42. The Commission and others will also benefit from enhanced Cyber Security Incident reporting as we continue to evaluate the effectiveness of the CIP Reliability Standards. Currently, NERC identifies the number of Reportable Cyber Security Incidents in its annual State of Reliability report. In that regard, however, we propose to direct NERC to file publicly an annual report reflecting the Cyber Security Incidents reported to NERC during the previous year. Specifically, we propose to direct NERC to file annually an anonymized report providing an aggregated summary of the reported information. We believe that the ICS–CERT annual report, which includes pie charts reflecting the energy sector's cybersecurity incidents by level of intrusion, threat vector and functional impact, would be a reasonable model for what NERC reports to the Commission.[53]

43. The Commission seeks comment on the appropriate timing for Cyber Security Incident reporting to better ensure timely sharing of information and thereby enhance situational awareness. In addition, the Commission seeks comment on the proposal to direct NERC to file an annual report with the Commission.

III. Information Collection Statement

44. The Paperwork Reduction Act (PRA) requires each federal agency to seek and obtain approval from the Office of Management and Budget (OMB) before undertaking a collection of information directed to ten or more persons, or contained in a rule of general applicability. OMB's implementing regulations require approval of certain information collection requirements imposed by agency rules.[54] Upon approval of a collection(s) of information, OMB will assign an OMB control number and an expiration date. Respondents subject to the filing requirements of an agency rule will not be penalized for failing to respond to these collections of information unless the collections of information display a valid OMB control number.

45. The Commission is submitting these proposed reporting requirements to OMB for its review and approval under section 3507(d) of the PRA. Comments are solicited on the Commission's need for the information proposed to be reported, whether the information will have practical utility, ways to enhance the quality, utility, and clarity of the information to be collected, and any suggested methods for minimizing the respondent's burden, including the use of automated information techniques.

46. The Public Reporting Burden and cost related to the proposed rule in Docket No. RM18–2–000 are covered by, and already included in, the existing FERC–725, Certification of Electric Reliability Organization; Procedures for Electric Reliability Standards (OMB Control No. 1902–0225). FERC–725 includes the ERO's overall responsibility for developing Reliability Standards, such as any Reliability Standards that relate to Cyber Security Incident reporting.

47. Internal review: The Commission has reviewed the proposed changes and has determined that the changes are

[50] *See* Reliability Standard CIP–008–5 (Cyber Security—Incident Reporting and Response Planning), Guidelines and Technical Basis at 19.

[51] 2016 ICS–CERT Year in Review, *https://ics-cert.us-cert.gov/Year-Review-2016.*

[52] *See* Reliability Standard CIP–008–5 (Cyber Security—Incident Reporting and Response Planning), Guidelines and Technical Basis at 19.

[53] ICS–CERT, *https://ics-cert.us-cert.gov/sites/default/files/FactSheets/ICS-CERT_FactSheet_IR_Pie_Chart_FY2016_S508C.pdf.*

[54] *See* 5 CFR 1320.

necessary to ensure the reliability and integrity of the Nation's Bulk-Power System.

48. Interested persons may obtain information on the reporting requirements by contacting: Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426 [Attention: Ellen Brown, Office of the Executive Director, email: *DataClearance@ferc.gov,* Phone: (202) 502–8663, fax: (202) 273–0873]. Comments on the requirements of this rule may also be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503 [Attention: Desk Officer for the Federal Energy Regulatory Commission]. For security reasons, comments should be sent by email to OMB at *oira_submission@omb.eop.gov.* Please refer to OMB Control No. 1902–0225 and FERC–725 in your submission.

IV. Environmental Analysis

49. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant adverse effect on the human environment.[55] The Commission has categorically excluded certain actions from this requirement as not having a significant effect on the human environment. Included in the exclusion are rules that are clarifying, corrective, or procedural or that do not substantially change the effect of the regulations being amended.[56] The actions proposed herein fall within this categorical exclusion in the Commission's regulations.

V. Regulatory Flexibility Act Analysis

50. The Regulatory Flexibility Act of 1980 (RFA) [57] generally requires a description and analysis of proposed rules that will have significant economic impact on a substantial number of small entities.

51. By only proposing to direct NERC, the Commission-certified ERO, to develop modified Reliability Standards for Cyber Security Incident reporting, this Notice of Proposed Rulemaking will not have a significant or substantial impact on entities other than NERC. Therefore, the Commission certifies that this Notice of Proposed Rulemaking will not have a significant economic impact on a substantial number of small entities.

52. Any Reliability Standards proposed by NERC in compliance with this rulemaking will be considered by the Commission in future proceedings. As part of any future proceedings, the Commission will make determinations pertaining to the Regulatory Flexibility Act based on the content of the Reliability Standards proposed by NERC.

VI. Comment Procedures

53. The Commission invites interested persons to submit comments on the matters and issues proposed in this notice to be adopted, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due February 26, 2018. Comments must refer to Docket No. RM18–2–000, and must include the commenter's name, the organization they represent, if applicable, and address.

54. The Commission encourages comments to be filed electronically via the eFiling link on the Commission's website at *http://www.ferc.gov.* The Commission accepts most standard word processing formats. Documents created electronically using word processing software should be filed in native applications or print-to-PDF format and not in a scanned format. Commenters filing electronically do not need to make a paper filing.

55. Commenters that are not able to file comments electronically must send an original of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street NE, Washington, DC 20426.

56. All comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments on other commenters.

VII. Document Availability

57. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5:00 p.m. Eastern time) at 888 First Street NE, Room 2A, Washington, DC 20426.

58. From the Commission's Home Page on the internet, this information is available on eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number of this document, excluding the last three digits, in the docket number field.

59. User assistance is available for eLibrary and the Commission's website during normal business hours from the Commission's Online Support at 202–502–6652 (toll free at 1–866–208–3676) or email at *ferconlinesupport@ferc.gov,* or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659. Email the Public Reference Room at *public.referenceroom@ferc.gov.*

By direction of the Commission.

Issued: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28083 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

[55] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987) (cross-referenced at 41 FERC ¶ 61,284).

[56] 18 CFR 380.4(a)(2)(ii).

[57] 5 U.S.C. 601–612.

DEPARTMENT OF THE TREASURY

31 CFR Part 148

RIN 1505–AC57

Qualified Financial Contracts Recordkeeping Related to Orderly Liquidation Authority

AGENCY: Department of the Treasury.

ACTION: Proposed rule.

SUMMARY: The Secretary of the Treasury (the ''Secretary''), as Chairperson of the Financial Stability Oversight Council, is proposing, in consultation with the Federal Deposit Insurance Corporation (the ''FDIC''), an amendment to the regulation implementing the qualified financial contract (''QFC'') recordkeeping requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the ''Dodd-Frank Act'' or the ''Act'') that would extend the compliance dates of the regulation.

DATES: Written comments must be received by January 29, 2018.

ADDRESSES: Submit comments electronically through the Federal eRulemaking Portal: *http://www.regulations.gov,* or by mail (if hard copy, preferably an original and two copies) to: The Treasury Department, Attn: Qualified Financial Contracts Recordkeeping Comments, 1500 Pennsylvania Avenue NW, Washington, DC 20220. Because paper mail in the Washington, DC area may be subject to delay, it is recommended that comments be submitted electronically. Please include your name, affiliation, address, email address, and telephone number in your comment. Comments will be available for public inspection on *www.regulations.gov.* In general, comments received, including attachments and other supporting materials, are part of the public record and are available to the public. Do not submit any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

FOR FURTHER INFORMATION CONTACT: Brian Smith, Director, Office of Capital Markets, (202) 622–0157; Peter Nickoloff, Financial Economist, Office of Capital Markets, (202) 622–1692; Steven D. Laughton, Assistant General Counsel (Banking & Finance), (202) 622–8413; or Stephen T. Milligan, Attorney-Advisor, (202) 622–4051.

SUPPLEMENTARY INFORMATION: On October 31, 2016, the Secretary published a final regulation pursuant to section 210(c)(8)(H) of the Dodd-Frank Act requiring certain financial companies to maintain records with respect to their QFC positions, counterparties, legal documentation, and collateral that would assist the FDIC as receiver in exercising its rights and fulfilling its obligations under Title II of the Act.[1]

The regulation provides for staggered compliance dates for the bulk of the recordkeeping requirements as follows. The regulation generally provides that records entities with $1 trillion or more in total consolidated assets have 540 days (approximately 18 months) after the effective date to comply with the regulation; that records entities with total assets equal to or greater than $500 billion (but less than $1 trillion) have two years from the effective date to comply with the regulation; that records entities with total assets equal to or greater than $250 billion (but less than $500 billion) have three years from the effective date to comply with the regulation; and that all other records entities have four years from the effective date to comply with the regulation.[2] Given that the effective date is December 30, 2016, the first of these compliance dates is currently June 23, 2018.

Separately, the regulation provides that the Secretary may grant conditional or unconditional exemptions from the regulation's requirements after receiving a recommendation from the FDIC, prepared in consultation with the relevant primary financial regulatory agencies (as defined in the regulation).[3] Since the regulation became effective, the Secretary, the FDIC, and the primary financial regulatory agencies have received requests for exemptions from the requirements of the regulation for certain types of records entities within a corporate group and certain types of QFCs. These exemption requests are currently subject to review by the Secretary, the FDIC, and the primary financial regulatory agencies.

In light of the pending exemption requests and the Administration's general policy of alleviating unnecessary regulatory burdens,[4] the Secretary, in consultation with the FDIC, is proposing a six month extension of the compliance dates in the regulation. Although the Secretary recognizes the importance of the QFC recordkeeping requirements, the Secretary has concluded that it would impose an unnecessary burden on records entities to require their compliance with the regulation before the scope of their recordkeeping responsibilities is determined. A short extension of the compliance dates is appropriate pending the Secretary's decisions whether to grant, in whole or in part, conditional or unconditional exemptions based on the exemption requests received to date, and to allow adequate time for records entities to prepare for compliance once the exemption requests are resolved.

Specifically, the Secretary is proposing that all records entities be given approximately an additional six months to comply with the regulation. The Secretary estimates that this will allow sufficient time for the FDIC, in consultation with the primary financial regulatory agencies, to formulate recommendations to the Secretary and for the Secretary to make a determination as to the exemption requests. The Secretary requests comment on whether the compliance date should be extended and, if so, whether six months is the proper length for the extension and whether the compliance date should only be extended with respect to records entities in the first tier, *i.e.,* those records entities with a June 23, 2018 compliance date.

Administrative Law Matters

1. Regulatory Flexibility Act

This proposed rule would not impose any additional burden on any records entities; rather, it would reduce the existing regulatory burden by extending the periods in which records entities have to comply with the regulation's requirements. For these reasons and as discussed further in the release of the 2016 final regulation, the Secretary certifies, pursuant to 5 U.S.C. 605(b), that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Small Business Administration's most recently revised standards for small entities, which went into effect on October 1, 2017.

2. Executive Order 12866

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

List of Subjects in 31 CFR Part 148

Reporting and recordkeeping requirements.

Authority and Issuance

For the reasons set forth in the preamble, the Department of the Treasury proposes to revise part 148 to 31 CFR to read as follows:

PART 148—QUALIFIED FINANCIAL CONTRACTS RECORDKEEPING RELATED TO THE FDIC ORDERLY LIQUIDATION AUTHORITY

■ 1. The authority citation for part 148 continues to read as follows:

Authority: 31 U.S.C. 321(b) and 12 U.S.C 5390(c)(8)(H).

■ 2. Amend 31 CFR 148.1(d) by revising the introductory text to paragraphs (d)(1)(i), (d)(1)(i)(A), (d)(1)(i)(B), (d)(1)(i)(C), and (d)(1)(i)(D) as follows:

§ 148.1 Scope, purpose, effective date, and compliance dates.

* * * * *

(d) Compliance. (1) Initial compliance dates. (i) A records entity subject to this part on the effective date must comply with § 148.3(a)(2) on the date that is 90 days after the effective date and with all other applicable requirements of this part on:

(A) December 31, 2018 for a records entity that:

* * * * *

(B) June 30, 2019 for any records entity that is not subject to the compliance date set forth in paragraph (d)(1)(i)(A) of this section and:

* * * * *

(C) June 30, 2020 for any records entity that is not subject to the compliance date set forth in paragraphs (d)(1)(i)(A) or (B) of this section and:

* * * * *

(D) June 30, 2021 for any records entity that is not subject to the

[1] 81 FR 75624 (Oct. 31, 2016).

[2] 31 CFR 148.1(d)(1)(i).

[3] 31 CFR 148.3(c)(4).

[4] *See* Executive Order No. 13771, Reducing Regulation and Controlling Regulatory Costs § 1, 82 FR 9339 (Feb. 3, 2017); Executive Order No. 13777, Enforcing the Regulatory Reform Agenda, § 1, 82 FR 12285 (Mar. 1, 2017).

compliance dates set forth in paragraphs (d)(1)(i)(A), (B), or (C) of this section.

* * * * *

Dated: December 21, 2017.

Clay Berry,

Deputy Assistant Secretary for Capital Markets.

[FR Doc. 2017–28073 Filed 12–27–17; 8:45 am]

BILLING CODE 4810–25–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–HQ–OAR–2017–0545; FRL–9972–50–OAR]

RIN 2060–AT67

State Guidelines for Greenhouse Gas Emissions from Existing Electric Utility Generating Units

AGENCY: Environmental Protection Agency (EPA).

ACTION: Advance notice of proposed rulemaking.

SUMMARY: An advance notice of proposed rulemaking (ANPRM) is a notice intended to solicit information from the public as the Environmental Protection Agency (EPA) considers proposing a future rule. In this ANPRM, the EPA is considering proposing emission guidelines to limit greenhouse gas (GHG) emissions from existing electric utility generating units (EGUs) and is soliciting information on the proper respective roles of the state and federal governments in that process, as well as information on systems of emission reduction that are applicable at or to an existing EGU, information on compliance measures, and information on state planning requirements under the Clean Air Act (CAA). This ANPRM does not propose any regulatory requirements.

DATES: Comments must be received on or before February 26, 2018.

ADDRESSES: *Comments.* Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2017–0545, at *http://www.regulations.gov.* Follow the online instructions for submitting comments. Once submitted, comments cannot be edited or removed from *Regulations.gov.* The EPA may publish any comment received to its public docket. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Multimedia submissions (audio, video, *etc.*) must be accompanied by a written comment. The written comment is considered the official comment and should include discussion of all points you wish to make. The EPA will generally not consider comments or comment contents located outside of the primary submission (*i.e.,* on the Web, cloud, or other file sharing system).

Comments may also be submitted by mail. Send your comments to: EPA Docket Center, U.S. EPA, Mail Code 28221T, 1200 Pennsylvania Ave. NW, Washington, DC 20460, Attn: Docket No. ID EPA–HQ–OAR–2017–0545.

For additional submission methods, the full EPA public comment policy, information about CBI or multimedia submissions, and general guidance on making effective comments, please visit *https://www.epa.gov/dockets/commenting-epa-dockets.*

Instructions. Direct your comments on the proposed rule to Docket ID No. EPA–HQ–OAR–2017–0545. The EPA's policy is that all comments received will be included in the public docket and may be made available online at *http://www.regulations.gov,* including any personal information provided, unless the comment includes information claimed to be CBI or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *http://www.regulations.gov* or email. The *http://www.regulations.gov* website is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through *http://www.regulations.gov,* your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. The EPA has established a new docket for this action under Docket ID No. EPA–HQ–OAR–2017–0545. The EPA previously established a docket for the October 23, 2015, Clean Power Plan (CPP) under Docket ID No. EPA–HQ–OAR–2013–0602. All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.,* CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy form. Publicly available docket materials are available either electronically at *http://www.regulations.gov* or in hard copy at the EPA Docket Center (EPA/DC), EPA WJC West Building, Room 3334, 1301 Constitution Ave. NW, Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the EPA Docket Center is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Dr. Nick Hutson, Energy Strategies Group, Sector Policies and Programs Division (D243–01), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone number: (919) 541–2968; email address: *hutson.nick@epa.gov.*

SUPPLEMENTARY INFORMATION:

Submitting CBI. Do not submit information that you consider to be CBI electronically through *http://www.regulations.gov* or email. Send or deliver information identified as CBI to only the following address: OAQPS Document Control Officer (Room C404–02), Environmental Protection Agency, Research Triangle Park, North Carolina 27711; Attn: Docket ID No. EPA–HQ–OAR–2017–0545.

Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to the EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. If you submit a CD–ROM or disk that does not contain CBI, mark the outside of the disk or CD–ROM clearly that it does not contain CBI. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 Code of Federal Regulations (CFR) part 2.

Organization of This Document. The following outline is provided to aid in locating information in this preamble.

I. General Information

A. What is the purpose of this ANPRM?

An ANPRM is an action intended to solicit information from the public in order to inform the EPA as the Agency considers proposing a future rule. In light of the proposed repeal of the CPP, 82 FR 48035 (October 16, 2017), this ANPRM focuses on considerations pertinent to a potential new rule establishing emission guidelines for GHG (likely expressed as carbon dioxide (CO_2)) [1] emissions from existing EGUs. In this ANPRM, the EPA sets out and requests comment on the roles, responsibilities, and limitations of the federal government, state governments, and regulated entities in developing and implementing such a rule, and the EPA solicits information regarding the appropriate scope of such a rule and associated technologies and approaches.

B. Introduction

When an agency considers proposing a new regulation, it should inform the public of the need and statutory authority for its action. In particular, for this ANPRM, the EPA believes it appropriate to inform the public of the reasons why the Agency is considering a future rulemaking addressing greenhouse gas emissions from existing electric utility generating units. The EPA is mindful that its regulatory powers are limited to those delegated to it by Congress. Here, the Clean Air Act—as interpreted by the EPA and the federal courts, in particular the Supreme Court and the Court of Appeals for the District of Columbia Circuit—determines the scope of whatever obligation and authority the EPA may have.

When passing and amending the CAA, Congress sought to address and remedy the dangers posed by air pollution to human beings and the environment. While the text of the CAA does not reflect an explicit intent on the part of Congress to address the potential effects of elevated atmospheric GHG concentrations, the U.S. Supreme Court in *Massachusetts* v. *EPA,* 549 U.S. 497 (2007), concluded that Congress had drafted the CAA broadly enough so that GHGs constituted air pollutants within the meaning of the CAA. Based on this decision, the EPA subsequently determined that emissions of GHGs from new motor vehicles cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. This determination required the EPA to regulate GHG emissions from motor vehicles.

Thereafter, the EPA moved to regulate GHG emissions from two types of stationary sources: Fossil fuel-fired electric utility steam generating units and fossil fuel-fired stationary combustion turbines (collectively, EGUs). Under CAA section 111(b) the EPA Administrator is required to list a category of stationary sources and adopt regulations establishing standards of performance for that category ''if in his judgment [the category of sources] causes, or contributes significantly to, air pollution which may reasonably be anticipated to endanger public health or welfare.'' 42 U.S.C. 7411(b)(1)(A).

In October 2015, the EPA promulgated standards of performance for new fossil fuel-fired EGUs. 80 FR 64510 (October 23, 2015). The EPA took the position that no new or separate endangerment finding was necessary, explaining that ''[u]nder the plain language of CAA section 111(b)(1)(A), an endangerment finding is required only to list a source category,'' *id.* at 64529–30, and that such a finding had already been made for the fossil fuel-fired EGU source categories many years before. Further, the EPA stated that ''section 111(b)(1)(A) does not provide that an endangerment finding is made as to specific pollutants.'' *Id.* at 64530. The EPA continued that ''[t]his contrasts with other CAA provisions that do require the EPA to make endangerment findings for each particular pollutant that the EPA regulates under those provisions.'' *Id.* (citing CAA sections 202(a)(1), 211(c)(1), and 231(a)(2)(A).[2]

Given this understanding of the CAA, the EPA disclaimed explicit reliance on the endangerment finding that it had previously made under CAA section 202(a)(1) with respect to GHG emissions from new motor vehicles for its decision to establish standards of performance for GHG emissions from EGUs. To the contrary, the EPA said, ''once a source category is listed'' under CAA section 111(b)(1)(A), ''the CAA does not specify what pollutants should be the subject of standards from that source category.'' 80 FR 64530. Rather, the EPA continued, ''the statute, in section 111(b)(1)(B), simply directs the EPA to propose and then promulgate '. . . standards of performance for new sources within such category,' '' with the CAA otherwise giving no ''specific direction or enumerated criteria . . . concerning what pollutants from a given source category should be the subject of standards.'' *Id.* The EPA then pointed out that it had ''previously interpreted [CAA section 111(b)(1)(B)] as granting it the discretion to determine which pollutants should be regulated.'' *Id.* In the instant case, the EPA went on to explain, the Agency had a ''rational basis for concluding that emissions of GHGs from fossil fuel-fired power plants, which are the major U.S. source of GHG air pollution, merit regulation under CAA section 111.'' *Id.* While the EPA said that it was not required to make a new or separate endangerment finding, the Agency did point to the endangerment finding it had made in 2009 under CAA section 202(a)(1) as providing the ''rational basis'' for regulating GHG emissions from EGUs. *Id.*

[1] The air pollutants of interest in this ANPRM are GHGs. However, any emission guidelines in a potential rule likely would be expressed as guidelines to limit emissions of CO_2 as it is the primary GHG emitted from fossil fuel-fired EGUs.

[2] In response to commenters who had argued that the EPA was ''required to make a new endangerment finding before it may regulate CO_2 from EGUs,'' the EPA reiterated its disagreement, but then added that, ''even if CAA section 111 required the EPA to make endangerment and cause-or-contribute significantly findings as prerequisites'' for its CAA section 111(b) rulemaking, the ''information and conclusions'' set forth in the preamble accompanying the final rule ''should be considered to constitute the requisite endangerment finding.'' 80 FR 64530.

By regulating GHG emissions from *new* stationary sources under CAA section 111(b), the EPA concluded that, under the regulations that the EPA had previously adopted for implementing CAA section 111(d), it triggered obligations to regulate GHG from existing sources. *See* 40 CFR 60.22(a). Pursuant to those regulatory obligations, the EPA, simultaneously with the new-source rule, issued regulations pertaining to GHG emissions from *existing* stationary sources. It was under CAA section 111(d), a rarely used provision, that EPA issued its ''Clean Power Plan.'' [3]

After considering the statutory text, context, legislative history, and purpose, and in consideration of the EPA's historical practice under CAA section 111 as reflected in its other existing CAA section 111 regulations and of certain policy concerns, the EPA has proposed to repeal the CPP. 82 FR 48035. At the same time, the EPA continues to consider the possibility of replacing certain aspects of the CPP in coordination with a proposed revision. Therefore, this ANPRM solicits comment on what the EPA should include in a potential new existing-source regulation under CAA section 111(d), including comment on aspects of the States' and the EPA's role in that process, on the Best System of Emission Reduction (BSER) in this context under the statutory interpretation contained in the proposed repeal of the CPP, on what systems of emission reduction may be available and appropriate, and the interaction of a potential new existing-source regulation with the New Source Review (NSR) program and with New Source Performance Standards under CAA section 111(b).

Section 111(d)(1) of the CAA states that the EPA ''Administrator shall prescribe regulations which shall establish a procedure . . . under which each State shall submit to the Administrator a plan which (A) establishes standards of performance for any existing source for any air pollutant . . . to which a standard of performance under this section would apply if such existing source were a new source, and (B) provides for the implementation and enforcement of such standards of performance.'' 42 U.S.C. 7411(d). CAA section 111(d)(1) also requires the Administrator to ''permit the State in applying a standard of performance to any particular source under a plan submitted under this paragraph to take into consideration, among other factors, the remaining useful life of the existing source to which such standard applies.'' *Id.*

As the plain language of the statute provides, the EPA's authorized role under section 111(d)(1) is to develop a procedure for States to establish standards of performance for existing sources. ''Section 111(d) grants a more significant role to the states in development and implementation of standards of performance than does [section 111(b)].'' [4] Indeed, the Supreme Court has acknowledged the role and authority of states under CAA section 111(d): this provision allows ''each State to take the first cut at determining how best to achieve EPA emissions standards within its domain.'' *Am. Elec. Power Co.* v. *Connecticut,* 131 S. Ct. 2527, 2539 (2011). The Court addressed the statutory framework as implemented through regulation, under which the EPA promulgates emission guidelines and the States establish performance standards: ''For existing sources, EPA issues emissions guidelines; in compliance with those guidelines and subject to federal oversight, the States then issue performance standards for stationary sources within their jurisdiction, § 7411(d)(1).'' *Id.* at 2537–38.

As contemplated by CAA section 111(d)(1), States possess the authority and discretion to establish appropriate standards of performance for existing sources. CAA section 111(a)(1) defines ''standard of performance'' as ''a standard of emissions of air pollutants which reflects'' what is colloquially referred to as the ''Best System of Emission Reduction'' or ''BSER''—*i.e.,* ''the degree of emission limitation achievable through the application of the *best system of emission reduction* which (taking into account the cost of achieving such reduction and any nonair quality health and environmental impact and energy requirements) the Administrator determines has been adequately demonstrated.'' 42 U.S.C. 7411(a)(1) (emphasis added).

The EPA's principal task under CAA section 111(d)(1), as implemented by the EPA's regulations, is to publish a guideline document for use by the States, with that guideline document containing, among other things, an ''emission guideline'' that reflects the BSER, as determined by the Agency, for the category of existing sources being regulated. *See* 40 CFR 60.22(b) (''Guideline documents published under this section will provide information for the development of State plans, such as: . . . (5) An emission guideline that reflects the application of the best system of emission reduction (considering the cost of such reduction) that has been adequately demonstrated.''). In undertaking this task, the EPA is to specify ''different emission guidelines . . . for different sizes, types, and classes of . . . facilities when costs of control, physical limitations, geographical location, or similar factors make subcategorization appropriate.'' 40 CFR 60.22(b)(5).

In short, under the EPA's regulations implementing CAA section 111(d), the guideline document serves to ''provide information for the development of state plans.'' 40 CFR 60.22(b), with the ''emission guideline,'' reflecting BSER as determined by the EPA, being the principal piece of information States use to develop their plans—plans which, under the statute, ''establish[] standards of performance for . . . existing source[s].'' 42 U.S.C. 7411(d)(1).

Because the Clean Air Act cannot necessarily be applied to GHGs in the same manner as other pollutants, *Utility Air Regulatory Group,* 134 S. Ct. 2427, 2455 (2014) (Alito, J., concurring in part and dissenting in part), it is fortuitous that the regulations implementing CAA section 111(d) recognize that States possess considerable flexibility in developing their plans in response to the emission guideline(s) established by the EPA.[5] 40 CFR 60.24(c) specifies that the ''emission standards'' adopted by States ''shall be no less stringent than the corresponding emission guideline(s)'' published by the EPA. That is to say, in those circumstances where the Agency, in an exercise of discretion, chooses to make its emission guideline binding,[6] state-adopted

[3] Nothing in this ANPRM should be construed as addressing or modifying the prior findings made under titles I and II of the CAA discussed in the preceding paragraphs with respect to endangerment and the requirements under 111. The ANPRM mentions them merely to explain the genesis of the CPP. Moreover, this ANPRM does not propose any modifications to the GHG regulations on new stationary sources promulgated under CAA section 111(b). The EPA has previously announced that it is undertaking a review of those regulations, and, at the conclusion of that review, if appropriate, ''will initiate proceedings to suspend, revise or rescind'' those regulations. 82 FR 16330 (April 4, 2017). The EPA is not soliciting comment on those actions in this ANPRM.

[4] Jonas Monast, Tim Profeta, Brooks Rainey Pearson, and John Doyle, *Regulating Greenhouse Gas Emissions from Existing Sources: Section 111(d) and State Equivalency,* 42 Envtl. L., 10206, (2012).

[5] Subpart B of 40 CFR part 60 sets forth the procedures and requirements for States' submittal of, and the EPA's action on, state plans for control of designated pollutants from designated facilities under section 111(d) of the CAA (we refer to these as the ''implementing regulations'').

[6] The implementing regulations authorize the EPA to make its emission guideline binding on the States only where the EPA has specifically determined that the pollutant that is the target of

Continued

standards may not be less stringent than the federal emission guidelines. However, the implementing regulations also provide that, where the EPA has *not* exercised its discretion to make its emission guideline binding, States ''may provide for the application of *less stringent* emissions standards,'' where a State makes certain demonstrations. 40 CFR 60.24(f) (emphasis added).[7] Those demonstrations include a case-by-case determination that a less stringent standard is ''significantly more reasonable'' due to such considerations as cost of control, a physical limitation of installing necessary control equipment, and other factors specific to the facility. 40 CFR 60.24(f).

Additionally, while CAA section 111(d)(1) clearly authorizes States to develop state plans that establish performance standards and provides States with certain discretion in determining appropriate standards, CAA section 111(d)(2) provides the EPA specifically a role with respect to such state plans. This provision requires the EPA to prescribe a plan for a State ''in cases where the State fails to submit a satisfactory plan.'' The EPA therefore is charged with determining whether state plans developed and submitted under section 111(d)(1) are satisfactory,'' and 40 CFR 60.27 accordingly provides timing and procedural requirements for the EPA to make such a determination. Just as guideline documents may provide information for States in developing plans that establish standards of performance, they may also provide information for EPA, particularly where EPA makes an emission guideline binding as described above, to consider when reviewing and taking action on a submitted state plan, as 40 CFR 60.27(c) references the ability of the EPA to find a state plan as ''unsatisfactory because the requirements of (the implementing regulations) have not been met.''[8]

Through this ANPRM, the EPA solicits information on multiple aspects of a potential rule that would establish emission guidelines for States to establish performance standards for GHG emissions from existing EGUs. To facilitate effective and efficient provision and review of comments, we here identify main areas in which we are soliciting comment and request that commenters include the corresponding numeric identifier(s) when providing comments. We emphasize that we are not limiting comment to these identified areas, but that we are identifying these to provide a framework and consistent approach for commenters. In the following discussion, we solicit comment on (1) the roles and responsibilities of the States and the EPA in regulating existing EGUs for GHGs. As discussed below, we are particularly interested in comment on (1a) the suitability of provisions of the EPA's regulations that set forth the procedures and requirements for States' submittals of, and the EPA's action on, state plans for controlling emissions under CAA section 111, as applied in this context of regulating existing EGUs for GHG and on (1b) the extent of involvement and roles of the EPA in developing emission guidelines, including, but not limited to, providing sample state plan text, determining the BSER, considering existing or nascent duplicative state programs, and reviewing state plan submittals; the roles of the States in this endeavor, including determining the scope of most appropriate emissions standards, *e.g.,* setting unit-by-unit or broader-based standards; and joint considerations, such as the form of the emission standard, *i.e.,* rate- or mass-based, and compliance flexibilities, such as emissions averaging and trading.

We further solicit comment on (2) application, in the specific context of limiting GHG emissions from existing EGUs, of reading CAA section 111(a)(1) as limited to emission measures that can be applied to or at a stationary source, at the source-specific level. Note that the solicitation in this ANPRM is application- and context-specific; comments on interpreting CAA section 111(a)(1) as generally applied to CAA section 111(d) should be submitted to the docket on the CPP repeal proposal. *See* 82 FR 48035.

Under this source-specific reading of CAA section 111(a)(1), we solicit comment on (3) how to best define the BSER and develop GHG emission guidelines for existing EGUs, specifically with respect to (3a) identifying the BSER that can be implemented at the level of an affected source, including aspects related to efficiency (heat rate) improvement technologies and practices as well as other systems of emission reduction; (3b) considering whether GHG emission guidelines for existing EGUs should include presumptively approvable limits; and (3c) aspects relating to use of carbon capture and storage (CCS) as a compliance option to reduce GHG emissions. With respect to applicability of a potential rule, we solicit comment on (3d) criteria for determining affected sources and on (3e) potential subcategories and any effects on an appropriate corresponding BSER and standards.

Additionally, we solicit comment on (4) potential interactions of a possible rule limiting GHG emissions from existing EGUs with existing statutory and regulatory programs, such as New Source Review (NSR) applicability and permitting criteria and processes and impacts on state plans of New Source Performance Standards (NSPS) coverage of existing sources that undergo reconstruction or modification sufficient to trigger regulation as a new source in that federal program.

We again emphasize that we list these main areas in which we are soliciting comment only to provide a conceptual and organizational structure for providing comments and not to limit comment; we encourage provision of (5) any other comment that may assist the Agency in considering setting emission guidelines to limit GHG emissions from existing EGUs.

C. Where can I get a copy of this document?

In addition to being available in the docket, an electronic copy of this ANPRM will also be available on the internet. Following signature by the EPA Administrator, a copy of this ANPRM will be posted at the following address: *https://www.epa.gov/Energy-Independence.* Following publication in the **Federal Register**, the EPA will post the **Federal Register** version of the ANPRM and key technical documents at this same website.

II. Background

In accordance with Executive Order 13783, 82 FR 16093 (March 31, 2017), the EPA has reviewed the CPP and issued a notice of proposed repeal on October 16, 2017, 82 FR 48035. As discussed in that notice, the EPA proposes a change in the legal interpretation underlying the CPP to an interpretation that is consistent with the text, context, structure, purpose, and legislative history of the CAA, as well as with the Agency's historical understanding and exercise of its statutory authority. If the proposed interpretation were to be finalized, the CPP would be repealed. 82 FR 48038–39. The EPA also explains in that proposal that the Agency is considering the scope of its legal authority to issue

regulation ''may cause or contribute to endangerment of public health.'' 40 CFR 60.24(c).

[7] States are, as a general matter, free to adopt *more* stringent standards than federal standards under CAA title I. *See* 42 U.S.C. 7416.

[8] *See also* 40 FR at 53343 (''If there is to be substantive review, there must be criteria for the review, and EPA believes it is desirable (if not legally required) that the criteria be made known in advance to the States, to industry, and to the general public. The emission guidelines, each of which will be subjected to public comment before final adoption, will serve this function.'').

a potential new rule and, in this ANPRM, is soliciting information on systems of emission reduction that are in accord with the legal interpretation discussed in the CPP repeal proposal and information on potential compliance measures and state planning requirements.

III. The Statutory and Regulatory Framework under CAA Section 111(d)

A. Introduction

As discussed above, the EPA's authorized role under CAA section 111(d) is to establish a procedure under which States submit plans establishing standards of performance for existing sources, reflecting the application of the best system of emission reduction (BSER) that the EPA has determined is adequately demonstrated for the source category. Under the statute and the EPA's implementing regulations, the States have authority and discretion to establish less stringent standards where appropriate.

This ANPRM solicits comment, as specified below, on certain aspects of the proper implementation of this statutory and regulatory framework with respect to GHG emissions from existing EGUs. This ANPRM further solicits comment both on the proper application in this context of the interpretation of CAA section 111 contained in the proposed repeal of the CPP—under which a BSER is limited to measures that apply to and at individual sources, on the source-specific level—and on the EPA's proper role and responsibilities under CAA section 111 as applied to GHG emissions from existing EGUs.

B. States' Role and Responsibilities Under CAA Section 111(d)

1. Designing State Plans

The implementing regulations at subpart B of 40 CFR part 60 set forth the procedures and requirements for States' submittal of, and the EPA's action on, state plans for control of designated pollutants from designated facilities under CAA section 111(d). A summary of the implementing regulations and a discussion of the basic concepts underlying them appear in the preamble published in connection with its promulgation (40 FR 53340, November 17, 1975). In brief, the implementing regulations provide that after a standard of performance applicable to emissions of a designated pollutant from new sources is promulgated, the Administrator will publish a draft guideline document containing information pertinent to the control of the same pollutant from designated (*i.e.,* existing) facilities. The Administrator will also publish a notice of availability of the draft guideline document, and invite comments on its contents. After publication of a final guideline document for the pollutant in question, the States will have 9 months to develop and submit plans for control of that pollutant from designated facilities. Within 4 months after the date for submission of plans, the Administrator will approve or disapprove each plan (or portion thereof). If a state plan (or portion thereof) is disapproved, the Administrator will promulgate a federal plan (or portion thereof) within 6 months after the date for plan submission. These and related provisions of the implementing regulations were patterned after section 110 of the CAA and 40 CFR part 51 (concerning adoption and submittal of state implementation plans (SIPs) under CAA section 110).

As discussed in the preamble to the implementing regulations, those regulations provide certain flexibilities available to States in establishing state plans. For example, as provided in 40 CFR 60.24, States may consider certain factors such as cost and other limitations in setting emission standards or compliance schedules. After the implementing regulations were first promulgated, CAA section 111(d) was amended to authorize States ''to take into consideration, among other factors, the remaining useful life'' of existing sources when applying standards to such sources. Public Law 95–95, 109(b), 91 Stat. 685, 699 (August 7, 1977). The EPA solicits comment on the proper application of this provision to a potential new rule addressing GHG emissions from existing EGUs, and whether any change to that provision—or to other provisions of the implementing regulations, particularly those establishing the time frames for States to submit their plans to the EPA, for the EPA to act on those plans, and for the EPA to develop its own plan or plans in the absence of an approvable state submission, as well as criteria for approval of state plans—is warranted in the context of such a potential new rulemaking. The EPA further solicits comment on which mechanisms, if any, presently available under CAA section 110 for SIPs may also be appropriate for the EPA to adopt and utilize in the context of state plans submitted under CAA section 111(d) (*e.g.,* conditional approvals). The EPA also solicits comment on whether any other changes to the implementing regulations are appropriate.

2. Application of Standards to Sources

Historically, the EPA has provided States with guidance on the preparation of state plans (for example, by providing model rules or sample rule language). While providing this text provides States with a clear direction in creating their state plans, the EPA understands that it may also be perceived as sending a signal of limiting flexibility and limiting the consideration of other factors that are unique to each State and situation. The EPA is soliciting comment on whether it would be beneficial to States for the EPA to provide sample state plan text as part of the development of emission guidelines.

Each State has its own unique circumstances to consider when regulating air pollution emissions from the power industry within that State. A prime example is the remaining useful life (RUL) of the State's fleet of EGUs. A State may take into account the RUL of sources within its fleet, such as how much longer an EGU will operate and how viable it is to invest in upgrades that can be applied at or to the source, when establishing emission standards as part of its state plan. These are source-specific considerations and play a role in a State evaluating the future of a fleet. The EPA solicits comment on the role of a State in setting unit-by-unit or broader emission standards for EGUs within its borders, including potential advantages of such an approach (*e.g.,* it provides flexibility to tailor standards that take into account the characteristics specific to each boiler or turbine) and potential challenges (*e.g.,* the impact that varying requirements could have on emissions and dispatch in such an interconnected system). The EPA also solicits comment on an approach where the EPA determines what systems may constitute BSER without defining presumptive emission limits and then allows the States to set unit-by-unit or broader emission standards based on the identified BSER while considering the unique circumstances of the State and the EGU. The EPA requests more information on the burden that it would create for States to determine unit-by-unit emission standards for each EGU, for determining what the remaining useful life of a given source is and how that should impact the level of the standard and on what role subcategorization can play in the emission standard setting process.

The process that the State of North Carolina used in the development of its draft rule,[9] in response to the CPP, may

[9] *https://files.nc.gov/ncdeq/Air%20Quality/rules/hearing/111dRules.pdf.*

provide a useful example of a process a State could go through to determine unit-level emission standards based on technology that can be applied at or to a source.[10] In that draft rule, North Carolina developed a menu of potential heat rate improvements. The State then examined these potential opportunities on a unit-by-unit basis, determined that some units had opportunities for cost-effective improvements and developed unit-specific emission standards consistent with those rates. North Carolina determined that other units did not have such opportunities (for reasons including that a given heat rate improvement opportunity was not applicable to a particular unit, that it had already been applied, or that the unit was scheduled to retire soon (*i.e.,* RUL)).

Another example of a unit-by-unit heat rate improvement analysis can be found in the final CAA section 111(b) GHG standards of performance for modified fossil fuel-fired steam generating EGUs (80 FR 64510, October 23, 2015). There, the EPA determined that the BSER for existing steam generating EGUs that trigger the modification provisions is the affected EGU's own best potential performance as determined by that source's historical performance. Relying on this BSER, the EPA finalized an emission standard that is based on a unit-specific emission limitation consistent with each modified unit's best 1-year historical performance and can be met through a combination of best operating practices and equipment upgrades. *See* 80 FR 64658. The EPA seeks comment on this approach to evaluate unit-specific heat rate improvement opportunities. We also seek comment on potential limitations to this approach, such as the potential for degradation of heat rate over time and the effects of changing operating conditions (*e.g.,* changing from stable baseload operations to variable load-following operations or vice-versa).

The EPA is aware that some States have already developed, or are in the process of developing, programs to limit GHG emissions from EGUs. The EPA requests comment on how these programs could interact with, or perhaps, satisfy, a potential rule under CAA section 111(d) to regulate GHG emissions from existing EGUs.

[10] The EPA is not otherwise endorsing nor judging whether this draft plan was or is adequate to meet any previous or future CAA section 111(d) emission guidelines.

a. Rate-Based and Mass-Based Compliance Options and Other Potential Compliance Flexibilities

The Agency's existing CAA section 111 rules (both new-source rules under 111(b) and existing-source rules under 111(d)) are all based on emission rate standards (*e.g.,* mass of pollutant per unit of heat input or production). The potential opportunities for improvements in a unit's GHG performance seem similarly amenable to emission rate standards. The EPA requests comment on whether emission guidelines for GHG emission rate standards is all that it or the States should consider in a potential future rulemaking or whether the use of mass-based emission standards should also be considered.

In addition to the form of the emission standard, the EPA solicits comment on what factors the EPA should consider when reviewing State plans, as well as additional compliance flexibilities States should be able to employ in developing state plans. Should States be able to develop plans that allow emissions averaging? If so, should averaging be limited to units within a single facility, to units within a State, to units within an operating company, or beyond the State or company? If averaging is not limited between units in different States or between units owned by the same company, are any special requirements needed to facilitate such trading? Should mass-based trading be considered? If so, how should rate-based compliance instruments intended to meet unit-specific emission rates be translated into mass-based compliance instruments? Should rate-based trading programs be able to interact with mass-based trading programs? What considerations should States and the EPA take into account when determining appropriate implementing and enforcing measures for emission standards? The EPA requests information and feedback on all of these questions and on what limitations, if any, apply to States as they set standards.

C. The EPA's Interpretation of CAA Section 111(a)(1)

In the CPP repeal proposal, the EPA explained that the Administrator proposes to return to the traditional reading of CAA section 111(a)(1) as being limited to emission reduction measures that can be *applied to or at* a stationary source, at the source-specific level. Under this reading, such measures must be based on a physical or operational change to a building, structure, facility, or installation at that source, rather than measures that the source's owner or operator *can implement on behalf of* the source at another location. The EPA is not soliciting comment through this ANPRM on this proposed interpretation; rather, comments on interpreting CAA section 111(a)(1) should be submitted on the CPP repeal proposal. Here, the EPA is requesting comment on how the program should be implemented assuming adoption of that proposed interpretation.

D. The EPA's Role and Responsibilities Under CAA Section 111(d)

The EPA has certain responsibilities to fulfill and certain authority to act when issuing a rule under CAA section 111(d). Specifically, the EPA is required to prescribe regulations establishing a procedure under which States submit plans that establish standards of performance for existing sources and that provide for the implementation and enforcement of such standards. The EPA's regulations implementing CAA section 111(d) created a process by which the EPA issues "emission guidelines" reflecting the Administrator's judgment on the degree of control attainable with the BSER that has been adequately demonstrated for existing sources in relevant source categories. *See generally* 40 FR 53340 (November 17, 1975). The EPA has set emission guidelines consistent with this approach for five source categories under CAA section 111(d).[11] These earlier emission guidelines shared a number of common features or elements:

- A description of the BSER that has been adequately demonstrated based on controls or actions that could be implemented at the level of the individual source;
- A consideration of the degree of emission limitation achievable, taking into account costs and energy and environmental impacts from the application of the BSER;
- A compliance schedule;
- A level or degree of emission reductions achievable with application of the BSER;
- Rule language implementing the emission guideline; and
- Other information to facilitate the development of state plans.

[11] These categories are: Phosphate Fertilizer Plants, *see* 42 FR 12022 (March 1, 1977); Sulfuric Acid Plants, *see* 42 FR 55796 (October 18, 1977); Kraft Pulp Mills, *see* 44 FR 29828 (May 22, 1979); Primary Aluminum Plants, *see* 45 FR 26294 (April 17, 1980); and Municipal Solid Waste Landfills, *see* 61 FR 9905 (March 12, 1996). (Note that the Agency also finalized CAA section111(d) emission guidelines for municipal waste combustors, *see* 56 FR 5514 (February 11, 1991); however, those rules were subsequently withdrawn and superseded by requirements under CAA section 129, *see* 60 FR 65387 (December 19, 1995)).

Once the EPA issues an emission guideline, States develop CAA section 111(d) plans establishing standards of performance for the covered sources within their borders and providing procedures for the implementation and enforcement of such standards similar to the process used for SIPs for National Ambient Air Quality Standards under CAA section 110. In accordance with CAA section 111(d)(1), state plans may—when applying a standard of performance to a particular source—''take into consideration, among other factors, the remaining useful life'' of an existing source to which such standard applies. 42 U.S.C. 7411(d)(1). The state plans are submitted to the EPA for review and approval or disapproval through notice-and-comment rulemaking. In cases where a State fails to submit a ''satisfactory'' plan, the EPA has authority to prescribe a plan for that State. Where a State fails to enforce an EPA-approved plan, the EPA has the authority to enforce the provisions of such a plan.

The EPA is taking comment on how best to define the BSER and to develop emission guidelines for EGUs for emissions of GHG. Specifically, we are requesting comment on the following three subjects:

(1) Identifying the BSER that can be implemented at the level of an affected source (section IV below discusses what such a BSER might look like in more detail).

(2) Whether emission guidelines for EGUs for emissions of GHG should include presumptively approvable limits.

(3) How much discretion States have to depart from the EPA's emission guidelines.

As discussed in the proposed repeal of the CPP, there have been significant changes in the power sector since the CPP was finalized. We take comment on how these changes should be factored into any analysis that the EPA does regarding determination of a BSER that can be *applied to or at* an individual source, at the source-specific level. In particular, the EPA is interested in comment on how the EPA should consider the impact on the benefits and costs of any potential new rule from state programs to reduce GHG emissions from existing EGUs that are not federally mandated.

1. BSER

The EPA's traditional approach to establishing the BSER focused on technological or operational measures that can be applied to or at a single source. The Agency is now requesting comment on *how* to take an approach to regulating GHG from existing EGUs in line with its prior practice under CAA section 111(d) whereby it would consider only measures that can be applied at or to individual sources to develop the BSER and emission guidelines.[12] The types of measures that may be considered are discussed in more detail below in section IV.

2. Presumptively Approvable Limits

As discussed in section IV of this document, with regard to coal-fired EGUs, the potential for emission reductions at the unit-level or source-level may vary widely from unit to unit. Consequently, broadly applicable, presumptively approvable emission limitations (even at a subcategorized level) may not be appropriate for GHG emissions from EGUs. Therefore, in this ANPRM, the EPA is taking comment on an approach where the Agency defines BSER or otherwise provides emission guidelines without providing a presumptively approvable emission limitation.

IV. Available Systems of GHG Emission Reduction

The EPA has examined technologies and strategies that could potentially be applied at or to existing EGUs to reduce emissions of GHG. The Agency primarily focused on opportunities for heat rate (or efficiency) improvements at fossil fuel-fired steam generating EGUs to be a part of the BSER.

A. Heat Rate Improvements for Boilers

1. Heat Rate Improvement

Heat rate is a measure of efficiency for fossil fuel-fired EGUs. An EGU's heat rate is the amount of energy input, measured in British thermal units (Btu), required to generate one kilowatt hour (kWh) of electricity. The more efficiently an EGU operates, the lower its heat rate will be. As a result, an EGU with a lower heat rate will consume less fuel per kWh generated and emit lower amounts of GHG and other air pollutants per kWh generated as compared to a less efficient unit. An EGU's heat rate can be affected by a variety of design characteristics, site-specific factors, and operating conditions, including:

- Thermodynamic cycle of the boiler;
- Boiler and steam turbine size and design;
- Cooling system type;
- Auxiliary equipment, including pollution controls;
- Operations and maintenance;
- Fuel quality; and
- Ambient conditions.

The EPA has previously assessed the potential heat rate improvements of existing coal-fired EGUs by conducting statistical analyses using historical gross heat rate data from 2002 to 2012 for 884 coal-fired EGUs that reported both heat input and gross electricity output to the Agency in 2012.[13] The Agency grouped the EGUs by regional interconnections—Western, Texas, and Eastern—and analyzed potential heat rate improvements within each interconnection. The results of the statistical analyses indicated that there may be significant potential for heat rate improvement—both regionally and nationally. However, these results represent fleet-wide average heat rate improvement. The EPA did not conduct analyses to identify heat rate improvement opportunities at the unit level, and the Agency recognizes that the fleet of U.S. fossil fuel-fired EGUs is varied in terms of size, age, fuel type, fuel usage (*e.g.* baseload, cycling, etc.) boiler type, *etc.* The EPA solicits comment on this statistical approach and its applicability in identifying heat rate improvement opportunities at the unit level. The EPA also is aware that many coal-fired EGUs now often operate under load following and cycling conditions. The EPA solicits comment on how best to evaluate unit level heat rate improvement opportunities while properly accounting for the effects of changes in the historical operation of such units. The EPA also invites comment on how heat rate is impacted when EGUs operate outside their design conditions and what options are available to remedy the efficiency losses these units may incur when responding to variable load demands. The EPA also requests comment on whether there are any data that the Agency should consider collecting either for the purpose of proposing emission guidelines or that could ultimately be helpful to States in developing state plans.

There are several technologies and equipment upgrades—as well as good operating and maintenance practices—that EGU owners or operators may utilize to reduce an EGU's heat rate, in particular for utility boilers. Table 1 lists some technology and equipment upgrades that owners or operators of EGUs may be able to deploy to improve heat rate. Table 2 lists some good practices that have the potential to

[12] As noted above, the EPA is not soliciting comment through this ANPRM on that proposed interpretation. Rather, comments on how the EPA should interpret CAA section 111(a)(1) should be submitted to the docket for the CPP repeal proposal.

[13] Greenhouse Gas Mitigation Measures Technical Support Document (TSD), Docket ID: EPA–HQ–OAR–2013–0602–36859.

reduce an EGU's heat rate. (Note, these lists of technologies and practices, along with their respective potential heat rate improvements, were drawn from studies listed below in Table 3.)

The EPA is seeking comment on all technologies and practices that may be implemented to improve heat rate—including, but not limited to, those listed in Tables 1 and 2. Specifically, the Agency is interested in the availability and applicability of technologies and best operating and maintenance practices for the U.S. fossil fuel-fired EGU fleet. We are also soliciting comment on potential heat rate improvements from technologies and practices; on likely costs of deploying these technologies and the good operating and maintenance practices, including applicable planning, capital, and operating and maintenance costs; on owner and operator experiences deploying these technologies and employing these operating and maintenance practices; on barriers to or from deploying these technologies and operating and maintenance practices; and on any other technologies or operating and maintenance practices that may exist for improving heat rate, but are not reflected on these lists. The EPA solicits comments on any differences in cost or effectiveness in technologies that are due to impacts of regional or geographical considerations (*e.g.,* regional labor or materials costs).

The EPA also requests comment on the merits of differentiating between gross and net heat rate. This may be particularly important when considering the effects of part load operations (*i.e., net* heat rate would include inefficiencies of the air quality control system at a part load whereas *gross* heat rate would not). The EPA explicitly requests comment on how the technologies and operating practices are potentially affected by the operation of the EGU (*e.g.,* at part load or in cycling operations).

TABLE 1—EXAMPLE EQUIPMENT UPGRADES AND TECHNOLOGY TO IMPROVE HEAT RATES AT UTILITY BOILERS

Equipment upgrade(s)	Potential heat rate improvement
Replace materials handling motors and drives with more efficient motors and/or variable frequency drives to reduce ancillary energy consumption.	Negligible.
Improve coal pulverizers to produce more finely ground coal to improve combustion efficiency	0.52–2.6%.
Use waste heat to dry low-grade coal and improve combustion efficiency	N/A.
Automate boiler drains to manage make-up water intake	N/A.
Improve boiler, furnace, ductwork, and pipe insulation to reduce heat loss	N/A.
Upgrade economizer to increase heat recovery	50–100 Btu/kWh.
Install a neural network and advanced sensors and controls to optimize plant station operation	0–150 Btu/kWh.
Install intelligent sootblowers to enhance furnace efficiency	30–150 Btu/kWh.
Improve seals on regenerative air pre-heaters to reduce air in-leakage and increase heat recovery	10–40 Btu/kWh.
Install sorbent injection system to reduce flue gas sulfuric acid content and allow increased energy recovery at the air heater.	50–120 Btu/kWh.
Upgrade steam turbine internals to improve efficiency and replace worn seals to reduce steam leakage	100–300 Btu/kWh; 1.5–5.5%.
Retube the condenser to restore efficiency or expand condenser surface area to improve efficiency	3–70 Btu/kWh; 1.0–3.5%.
Replace feedwater pump seals to reduce water loss	N/A.
Install solar systems to pre-heat feedwater to improve efficiency	N/A.
Increase feedwater heating surface to improve efficiency	N/A.
Overhaul or upgrade boiler feedwater pumps to improve efficiency	25–50 Btu/kWh.
Replace centrifugal induced draft (ID) fans with axial ID fans	10–50 Btu/kWh.
Replace ID fan motors with variable frequency drives	10–150 Btu/kWh.
Upgrade flue-gas desulfurization components (*e.g.,* co-current spray tower quencher, turning vanes, variable frequency drives) to reduce pressure drop, improve flow distribution, and reduce ancillary energy consumption.	0–50 Btu/kWh.
Upgrade the electrostatic precipitator energy system (*e.g.,* high voltage transformer/rectifier sets) to improve particulate matter capture and reduce energy consumption.	0–5 Btu/kWh.
Replace older motors with more efficient motors to reduce ancillary energy consumption	0–21 Btu/kWh.
Refurbish and/or upgrade cooling tower packing material to improve cycle efficiency	0–70 Btu/kWh.
Install condenser tube cleaning system to reduce scaling, improve heat transfer and restore efficiency	N/A.

N/A = The potential heat rate improvement is unknown.

TABLE 2—EXAMPLE GOOD PRACTICES TO IMPROVE HEAT RATES AT UTILITY BOILERS

Good practice(s)	Potential heat rate improvement
Reduce excess air to improve combustion efficiency	N/A.
Optimize primary air temperature to improve combustion efficiency	N/A.
Measure and control primary and secondary air flow rates to improve combustion efficiency	N/A.
Tune individual burners (balance air/fuel ratio) to improve combustion efficiency	N/A.
Conduct more frequent condenser cleanings to maintain cycle performance	30–70 Btu/kWh.
Monitor condenser performance to track efficiency/performance	N/A.
Use secondary air for ammonia vaporization and dilution to reduce ancillary energy consumption	0–5 Btu/kWh.
Careful monitoring of the water treatment system for optimal feedwater quality and cooling water performance to reduce scale build-up and corrosion plus maintain efficiency.	N/A.
Conduct maintenance of cooling towers (*e.g.,* replace missing/damaged planks) to restore cooling tower efficiency	N/A.
Chemical clean scale build-up on feedwater heaters to improve heat transfer	N/A.
Repair steam and water leaks (*e.g.,* replace valves and steam traps) to reduce makeup water consumption	N/A.
Repair boiler, furnace, ductwork, and air heater cracks to reduce air in-leakage and auxiliary energy consumption	N/A.
Clean air pre-heater to improve heat transfer	N/A.

TABLE 2—EXAMPLE GOOD PRACTICES TO IMPROVE HEAT RATES AT UTILITY BOILERS—Continued

Good practice(s)	Potential heat rate improvement
Adopt sliding pressure operation to reduce turbine throttling losses	N/A.
Reduce attemperator activation to reduce heat input	N/A.
Clean turbine blades to remove deposits and improve turbine efficiency	N/A.
Maintain instrument calibration to ensure valid operating data	N/A.
Perform on-site appraisals to identify areas for improved heat rate performance	N/A.
Adopt training program for operating and maintenance staff on heat rate improvements	N/A.
Adopt incentive program to reward actions to improve heat rate	N/A.
Implement heat rate analytics to identify real-time heat rate deviations	N/A.
Plant lighting upgrades to reduce ancillary energy consumption	N/A.
Use predictive maintenance to avoid outages and de-rate events	N/A.

N/A = The potential heat rate improvement is unknown.

The technologies and operating and maintenance practices listed above may not be available or appropriate for all types of EGUs; and some owners or operators may have already deployed some of the technologies and/or employed some of the best operating and maintenance practices at their fossil fuel-fired EGUs. In addition, some of the technologies and operating and maintenance practices listed above might be alternatives to other actions on the list and, therefore, mutually exclusive of other technologies and practices.

Government agencies and laboratories, industry research organizations, engineering firms, equipment suppliers, and environmental organizations have conducted studies examining the potential for improving heat rate in the U.S. EGU fleet or a subset of the fleet. Table 3 provides a list of some reports, case studies, and analyses about heat rate improvement opportunities in the U.S. The EPA is seeking comment on the appropriateness of the studies for informing our understanding of potential heat rate improvement opportunities. The EPA is also seeking information on any additional publicly available studies that identify heat rate improvement measures or demonstrate actual or potential heat rate improvements at fossil fuel-fired EGUs, including the appropriateness of the studies for establishing heat rate improvement goals.

TABLE 3—HEAT RATE IMPROVEMENT REPORTS, CASE STUDIES, AND ANALYSES

Heat rate improvement report organization/publication (author, if known)—title—year [URL]
ABB Power Generation—Energy Efficient Design of Auxiliary Systems in Fossil-Fuel Power Plants [*https://library.e.abb.com/public/5e627b842a63d389c1257b2f002c7e77/Energy%20Efficiency%20for%20Power%20Plant%20Auxiliaries-V2_0.pdf*].
Alstom Engineering (Sutton)—CO_2 Reduction Through Energy Efficiency in Coal-Fired Boilers—2011 [*http://www.mcilvainecompany.com/Universal_Power/Subscriber/PowerDescriptionLinks/Jim%20Sutton%20-%20Alstom%20-%203-31-2011.pdf*].
Congressional Research Service (Campbell)—Increasing the Efficiency of Existing Coal-fired Power Plants (R43343)—2013 [*https://fas.org/sgp/crs/misc/R43343.pdf*].
EIA—Analysis of Heat Rate Improvement Potential at Coal-Fired Power Plants—2015 [*https://www.eia.gov/analysis/studies/powerplants/heatrate/pdf/heatrate.pdf*].
EPA—Greenhouse Gas Mitigation Measures—2015 [*https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-37114*].
EPRI—Range of Applicability of Heat Rate Improvements—2014 [*https://www.epri.com/#/pages/product/000000003002003457*].
European Commission—Integrated Pollution Prevention and Control Reference Document on Best Available Techniques for Large Combustion Plants—2006 [*http://eippcb.jrc.ec.europa.eu/reference/BREF/lcp_bref_0706.pdf*].
GE—Comments of the General Electric Company—2014 [*https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-22971*].
IEA (Reid)—Retrofitting Lignite Plants to Improve Efficiency and Performance (CCC/264)—2016 [*http://bookshop.iea-coal.org/reports/ccc-264/83861*].
IEA (Henderson)—Upgrading and Efficiency Improvement in Coal-fired Power Plants (CCC/221)—2013 [*http://bookshop.iea-coal.org/reports/ccc-221/83186*].
Lehigh University—Reducing Heat Rates of Coal-fired Power Plants—2009 [*http://www.lehigh.edu/~inenr/leu/leu_61.pdf*].
NETL—Opportunities to Improve the Efficiency of Existing Coal-fired Power Plants—2009 [*http://www.netl.doe.gov/File%20Library/Research/Energy%20Analysis/Publications/OpportImproveEfficExistCFPP-ReportFinal.pdf*].
NETL—Improving the Thermal Efficiency of Coal-Fired Power Plants in the United States—2010 [*http://www.netl.doe.gov/File%20Library/Research/Energy%20Analysis/Publications/ThermalEfficCoalFiredPowerPlants-TechWorkshopRpt.pdf*].
NETL—Improving the Efficiency of Coal-Fired Power Plants for Near Term Greenhouse Gas Emissions Reductions (DOE/NETL–2010/1411)—2010 [*http://www.netl.doe.gov/File%20Library/Research/Energy%20Analysis/Publications/DOE-NETL-2010-1411-ImpEfficCFPPGHGRdctns-0410.pdf*].
NETL—Options for Improving the Efficiency of Existing Coal-Fired Power Plants (DOE/NETL–2013/1611)—2014 [*https://www.netl.doe.gov/energy-analyses/temp/FY14_OptionsforImprovingtheEfficiencyofExistingCoalFiredPowerPlants_040114.pdf*].
National Petroleum Council—Electric Generation Efficiency—2007 [*http://www.npc.org/Study_Topic_Papers/4-DTG-ElectricEfficiency.pdf*].
NRDC—Closing the Power Plant Carbon Pollution Loophole: Smart Ways the Clean Air Act Can Clean Up America's Biggest Climate Polluters (12–11–A)—2013 [*https://www.nrdc.org/sites/default/files/pollution-standards-report.pdf*].
Power Engineering International (Cox)—Dry Sorbent Injection for SO_X Emissions Control—2017 [*http://www.powerengineeringint.com/articles/print/volume-25/issue-6/features/dry-sorbent-injection-for-sox-emissions-control.html*].
Power Mag (Korellis)—Coal-Fired Power Plant Heat Rate Improvement Options, Parts 1 & 2—2014 [*http://www.powermag.com/coal-fired-power-plant-heat-rate-improvement-options-part-1*] [*http://www.powermag.com/coal-fired-power-plant-heat-rate-improvement-options-part-2*].
Power Mag (Peltier)—Steam Turbine Upgrading: Low-hanging Fruit—2006 [*http://www.powermag.com/steam-turbine-upgrading-low-hanging-fruit*].
Resources for the Future (Lin *et al*)—Regulating Greenhouse Gases from Coal Power Plants Under the Clean Air Act (RFF-DP-13-05)—2014 [*http://www.rff.org/files/sharepoint/WorkImages/Download/RFF-DP-13-05.pdf*].

TABLE 3—HEAT RATE IMPROVEMENT REPORTS, CASE STUDIES, AND ANALYSES—Continued

Heat rate improvement report organization/publication (author, if known)—title—year [URL]
S&L—Coal-fired Power Plant Heat Rate Reductions (SL–009597)—2009 [*https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-36895*] S&L—Coal Fired Power Plant Heat Rate Reduction—NRECA (SL–012541)—2014 [*https://www.regulations.gov/document?D=EPA-HQ-OAR-2013-0602-22767 Supp 33*].
Sierra Club (Buckheit & Spiegel)—Sierra Club 52 Unit Study—2014 [*http://content.sierraclub.org/environmentallaw/sites/content.sierraclub.org.environmentallaw/files/Appendix%201%20-%20Rate%20v%20Load%20Summary.pdf*].
Storm Technologies—Applying the Fundamentals for Best Heat Rate Performance of Pulverized Coal Fueled Boilers—2009 [*http://www.stormeng.com/pdf/EPRI2009HeatRateConference%20FINAL.pdf*].

It has been noted that unit-level heat rate improvements, with the resulting reductions in variable operating costs at those improved EGUs, could lead to increases in utilization of those EGUs as compared to other generating options. *See generally* 80 FR 64745. This so-called ''rebound effect'' could result in smaller overall reductions in GHG emissions (depending on the GHG emission rates of the displaced generating capacity). The EPA solicits comments on this potential ''rebound effect,'' on whether the EPA should consider it in a potential future rulemaking, and on any available measures that the Agency can take to minimize any potential effect.

2. Measuring Heat Rate at Fossil Fuel-Fired EGUs

Accurately monitoring changes in heat rate is vital for assessing the degree of heat rate improvement at fossil fuel-fired EGUs. Most coal-fired EGUs already continuously monitor heat input and gross electric output and report the information to the EPA under 40 CFR part 75. To calculate heat input, coal-fired EGUs monitor the CO_2 concentration and stack volumetric flow rates. Part 75 classifies hourly CO_2 concentration and stack volumetric flow rates measurements as valid, if the continuous emissions monitoring systems' (CEMS') relative accuracies are within plus or minus 10 percent when compared to federal reference methods.

In 1999, the EPA introduced new federal reference methods to address angular stack flow (Methods 2F and 2G) and the effect of the stack walls on gas flow (Method 2H). In general, these alternative measurement methods reduce or eliminate the over-estimation of stack gas volumetric flow that results from the use of Method 2 when specific flow conditions (*e.g.,* angular flow) are present in the stack. Generally, the alternative methods lead to lower flow rates, and, as a result, lower heat input. After the introduction of these new methods, many coal-fired EGUs adopted the alternative methods to measure flow and calculate mass emissions. However, coal-fired EGUs are not required to use the alternative measurement methods, and they may change methods when conducting a Relative Accuracy Test Audit (RATA).

The EPA is seeking comment on the level of uncertainty of measurement of flue gas CO_2 concentration and stack volumetric flow rate; options to reduce the uncertainty associated with CEMS at coal-fired EGUs and fuel flow monitors (40 CFR part 75, appendix D) and 40 CFR part 75, appendix G, equation G–4 at natural gas- and oil-fired EGUs; options for eliminating or revising 40 CFR part 75, appendix G, equation G–1 at natural gas- and oil-fired EGUs; and alternative approaches to accurately measure heat rate at fossil fuel-fired EGUs.

The EPA also requests comment on the need for and utility of direct heat input monitoring as EGUs generally do not monitor heat input directly, but instead calculate it from CEMS data.

B. Heat Rate Improvements at Natural Gas-fired Combustion Turbines

The EPA has also considered opportunities for emission reductions at natural gas-fired stationary combustion turbines as a part of the BSER—at both simple cycle turbines and combined cycle turbines—and previously determined that the available emission reductions would likely be too expensive or would likely provide only small overall reductions. In the development of the CAA section 111(b) standards of performance for new, modified, and reconstructed EGUs, several commenters provided information on various options that may be available to improve the efficiency of existing natural gas-fired stationary combustion turbines. *See* 80 FR 64620. Commenters—including turbine manufacturers—described specific technology upgrades for the compressor, combustor, and gas turbine components that operators of existing combustion turbines may deploy. These state-of-the-art gas path upgrades, software upgrades, and combustor upgrades can reduce GHG emissions by a significant amount. In addition, one turbine manufacturer stated that existing combustion turbines can achieve the largest efficiency improvements by upgrading existing compressors with more advanced compressor technologies, potentially improving the combustion turbine's efficiency by an additional margin. *See* 80 FR 64620.

In addition to upgrades to the combustion turbine, the operator of a natural gas combined cycle (NGCC) unit will have the opportunity to improve the efficiency of the heat recovery steam generator and steam cycle using retrofit technologies that may reduce the GHG emissions by 1.5 to 3 percent. These include (1) steam path upgrades that can minimize aerodynamic and steam leakage losses; (2) replacement of the existing high pressure turbine stages with state-of-the-art stages capable of extracting more energy from the same steam supply; and (3) replacement of low-pressure turbine stages with larger diameter components that extract additional energy and that reduce velocities, wear, and corrosion.

The EPA seeks comment on the broad availability and applicability of any heat rate (efficiency) improvements for natural gas combustion turbine EGUs including, but not limited to, those discussed in this ANPRM. We also seek comment on the Agency's previous determination that the available GHG emission reduction opportunities would likely provide only small overall GHG reductions as compared to those from heat rate improvements at existing coal-fired EGUs. *See* 80 FR 64756.

C. Other Available Systems of GHG Emission Reduction

1. Broad Solicitation of Information on Other Available Systems of GHG Emission Reduction

The EPA is interested in obtaining information on any other systems of GHG emission reductions that may be available for consideration as the BSER for existing fossil fuel-fired EGUs. The EPA is also interested in obtaining information on available systems of emission reduction that may not meet the criteria for consideration as the BSER (because, for example, they may not be broadly applicable), but are emission reduction options that may be considered as compliance options for individual units.

The Agency solicits information on any system of emission reduction that commenters believe to be available and applicable for reducing emissions of GHG from existing fossil fuel-fired steam-generating EGUs (*e.g.,* utility boilers and integrated gasification combined cycle (IGCC) units) and/or combustion turbines (*e.g.,* NGCC units). The Agency seeks information on all aspects of the systems of emission reduction—including the availability, applicability, technical feasibility, and the cost of any such systems of emission reduction. The EPA also seeks information on any limitations to the application of systems of emission reduction. In particular, the Agency is interested in whether there are geographic limitations to the applicability of suggested emission reduction systems. The Agency also notes that the current fleet of existing EGUs is quite diverse in terms of generating technology, size, location, age, fuel usage, and configuration. The EPA is interested in obtaining information on any limitations on the use of emission reduction systems that are due to the diverse nature of the existing fleet of EGUs. For example, are any potential emission reduction systems limited by geographic location? Are any potential systems of emission reduction limited to use with only certain fossil fuels or certain coal types?

2. Carbon Capture and Storage (CCS) [14]

The EPA has previously determined that CCS (or partial CCS) should not be a part of the BSER for existing fossil fuel-fired EGUs because it was significantly more expensive than alternative options for reducing emissions. *See* 80 FR 64756. The EPA continues to believe that neither CCS nor partial CCS are technologies that can be considered as the BSER for existing fossil fuel-fired EGUs. However, if there is any new information regarding the availability, applicability, or technical feasibility of CCS technologies, commenters are encouraged to provide that information to the EPA.

The Agency recognizes that some companies may be interested in using CCS technology as a compliance option—especially when they are able to use the captured CO_2 in enhanced oil recovery operations (*e.g.,* the W. A. Parish Plant in Texas). The EPA solicits information on how potentially affected EGUs may utilize retrofit CCS technology as a compliance option to reduce CO_2 emissions and whether those EGUs should be allowed to participate in any intrastate or interstate trading program. The Agency also seeks information on the appropriate level of monitoring, recordkeeping, and reporting that should be required for sequestered CO_2 in such cases. In the final new source performance standards issued under CAA section 111(b), the EPA requires new fossil fuel-fired EGUs to limit CO_2 emissions and identifies partial CCS as one of the compliance options. In that final rule, any new affected EGU that uses CCS to meet the applicable CO_2 emission limit must report in accordance with 40 CFR part 98, subpart PP (Suppliers of Carbon Dioxide), and the captured CO_2 must be injected at a facility or facilities that reports in accordance with 40 CFR part 98, subpart RR (Geologic Sequestration of Carbon Dioxide). *See* 80 FR 64654 and 40 CFR 60.5555(f). Together, these requirements ensure that the amount of captured and sequestered CO_2 will be tracked as appropriate at project and national levels and that the status of the CO_2 in its geologic storage site will be monitored, including air-side monitoring and reporting. The EPA solicits comment on this approach and other alternatives that may be used when utilizing CCS as a compliance option for meeting emission reduction requirements in a state plan.

D. EGU Source Categories and Subcategories

1. Applicability Criteria

The EPA has specified that an affected EGU is any existing fossil fuel-fired electric utility steam generating unit (*i.e.,* utility boiler or IGCC unit) or stationary combustion turbine that meets specific criteria. An affected EGU (either steam generating or stationary combustion turbine) must serve a generator capable of selling more than 25 megawatts to a utility power distribution system and have a base load heat input rating greater than 250 million Btu per hour. An affected stationary combustion turbine EGU must meet the definition of a combined cycle (*i.e.,* NGCC) or combined heat and power combustion turbine. The EPA has also specifically exempted certain EGUs from applicability, including simple cycle turbines, certain non-fossil units, and certain combined heat and power units. *See* 80 FR 64716. The EPA solicits comment on applicability criteria in a potential new rule and whether the Agency should retain the criteria and exemptions previously set forth.

2. Subcategories

CAA section 111 requires the EPA first to list source categories that may reasonably be expected to endanger public health or welfare and then to regulate new sources within each of those source categories. CAA section 111(d)(1) is silent on whether the EPA may establish subcategories for existing sources, but the EPA has interpreted this provision to authorize the EPA to exercise discretion as to whether and, if so, how to subcategorize existing sources subject to CAA section 111(d). Further, the implementing regulations under CAA section 111(d) provide that the Administrator will specify different emission guidelines or compliance times or both ''for different sizes, types, and classes of designated facilities when costs of the control, physical limitations, geographical location, or similar factors make subcategorization appropriate.'' [15]

In previous rulemakings, the EPA has promulgated presumptive EGU-related emission standards for subcategories of sources. For example, the EPA has issued separate NSPS for sulfur dioxide (SO_2) and nitrogen oxide (NOx) emissions from EGUs that utilize coal refuse as a subcategory of steam generating EGUs that utilize coal or other fossil fuel. *See* 77 FR 9423. The EPA has also promulgated separate standards of performance that distinguish between stationary combustion turbines that operate to serve intermediate and baseload power demand as opposed to those that operate to serve peak power demand. The EPA has also issued separate standards based on coal-type. For example, in the Mercury and Air Toxics Standards (MATS), promulgated under CAA section 112(d)(1),[16] the Agency issued separate mercury emission standards for coal-fired EGUs that use lignite versus those that use non-lignite coal. The Agency, also in the MATS rule, promulgated separate emission standards for IGCC EGUs as compared to the standards issued for utility boilers. *See* 77 FR 9487. The Agency solicits comment on whether potentially affected EGU sources (*e.g.,* steam generating EGUs, stationary combustion turbines) should be grouped into

[14] CCS is sometimes referred to as Carbon Capture and Sequestration. It is also sometimes referred to as CCUS or Carbon Capture Utilization and Storage (or Sequestration), where the captured CO_2 is utilized in some useful way (for example in enhanced oil recovery) before ultimate storage. In this document, we consider these terms to be interchangeable.

[15] 40 CFR 60.22(b)(5).

[16] CAA section 112(d)(1) provides that ''The Administrator may distinguish among classes, types, and sizes of sources within a category or subcategory in establishing such standards . . . .''

categories and subcategories for purposes of identifying the BSER. Commenters are requested to provide justification for such subcategorization. For example, are emissions and emission reduction opportunities distinct for EGUs of different sizes, classes, or types—or for EGUs utilizing different types or qualities of fossil fuels? The EPA requests comment on subcategorization based on operation or utilization of the EGU—*i.e.,* based on whether the EGU (whether a utility boiler, an IGCC unit, or a stationary combustion turbine) is operated to serve baseload, intermediate, or peak power demand.

V. Potential Interactions with Other Regulatory Programs

A. New Source Review (NSR)

The NSR program is a preconstruction permitting program that requires stationary sources of air pollution to obtain permits prior to beginning construction. The NSR program applies both to new construction and to modifications of existing sources. New construction and modifications that emit air pollutants over certain thresholds are subject to major NSR requirements, while smaller emitting sources and modifications may be subject to minor NSR requirements.[17] Major NSR permits for sources in attainment areas and for other pollutants regulated under the major source program are referred to as prevention of significant deterioration (PSD) permits, while major NSR permits for sources emitting nonattainment pollutants and located in nonattainment areas are referred to as nonattainment NSR (NNSR) permits.

Since emission guidelines that are established pursuant to CAA section 111(d) apply to units at existing sources, the interaction between CAA section 111(d) and the NSR program primarily centers around the treatment of modifications of existing sources. Generally, a major stationary source triggers major NSR permitting requirements when it undertakes a physical or operational change that would result in (1) a significant emission increase at the emissions unit, and (2) a significant net emissions increase at the source (*i.e.,* a source-wide ''netting'' analysis that considers emission increases and decreases occurring at the source during a contemporaneous period). *See, e.g.,* 40 CFR 52.21(b)(2)(i). NSR regulations define what emissions rate on an annual tonnage basis constitutes ''significant'' for NSR pollutants. *See, e.g.,* 40 CFR 52.21(b)(23).[18] For example, an increase in emissions is ''significant'' for NO_X when it is at least 40 tons per year. To calculate the emissions increase from a project, the ''projected actual emissions'' (PAE) are compared to the ''baseline actual emissions'' (BAE). For EGUs, the PAE is the maximum annual rate (tons per year) that the modified unit is projected to emit a pollutant in any one of the 5 years (or 10 years if the design capacity increases) after the project, excluding any increase in emissions that (1) is unrelated to the project, and (2) could have been accommodated during the baseline period (commonly referred to as the ''demand growth exclusion''). The BAE for an EGU is the average annual rate of actual emissions during any 2-year period within the last 5 years.

If a physical or operational change triggers the requirements of the major NSR program, the source must obtain a permit prior to making the change. The pollutant(s) at issue and the air quality designation of the area where the facility is located or proposed to be built determine the specific permitting requirements. The CAA requires sources to meet emission limits based on Best Available Control Technology (BACT) for PSD permits and Lowest Achievable Emissions Rate (LAER) for NNSR permits. CAA sections 165(a)(4), 173(a)(2). These technology requirements for major NSR permits are not predetermined by a rule or state plan, but are case-specific decisions made by the permitting agency. Other requirements to obtain a major NSR permit vary depending on whether it is a PSD or NNSR permit and a State or a federal permit action.

New sources and modifications that do not require a major NSR permit generally require a minor NSR permit prior to construction. Minor NSR permits are almost exclusively issued by state and local air agencies, and since the CAA is less prescriptive regarding requirements for these permits, agencies have more flexibility to design their own programs.

The EPA's regulations offer flexible permitting approaches that enable sources undergoing modifications to avoid triggering major NSR. In the case of Plantwide Applicability Limits (PALs), a source that plans to make modifications to its emission units can avoid major NSR requirements as long as it obtains a PAL permit and operates within the source-wide emissions cap of the PAL. *See, e.g.,* 40 CFR 52.21(aa). In addition, sources can take enforceable limits on hours of operation in order to avoid triggering major NSR requirements that would otherwise apply to the source. Specifically, a source may voluntarily obtain a synthetic minor source limitation—*i.e.,* a legally and practicably enforceable restriction that has the effect of limiting emissions below the relevant major source level—to avoid triggering major NSR requirements.

Over the years, some stakeholders have expressed concerns that NSR regulations do not adequately allow for some sources to undertake changes to improve their operational efficiency without being ''penalized'' by having to get a major NSR permit. In the context of EGUs, stakeholders have asserted that heat rate improvement projects could result in greater unit availability and increase in dispatching, which under the NSR program might translate into projected increases in emissions that trigger major NSR permitting. Stakeholders have raised similar concerns regarding modifying an EGU facility to enable co-firing of natural gas or other lower-emitting fuels.

The EPA received a number of similarly focused comments following proposal of the CPP. Specifically, commenters contended that, if an air agency, as part of its plan to comply with emission guidelines established pursuant to CAA section 111(d), requires a source to make modifications (*e.g.,* heat rate improvement projects), it could potentially trigger major NSR requirements. Commenters added that the EPA has previously taken enforcement action against sources making such modifications without getting a major NSR permit.

Since this ANPRM solicits input on a possible rule that is based on actions that could be implemented at the level

[17] Major sources and certain other sources are also required by the CAA to obtain title V operating permits. While title V permits generally do not establish new emissions limits, they consolidate requirements under the CAA into a comprehensive air permit.

[18] In the case of GHGs, EPA regulations currently do not have a ''significant'' emissions rate. Under existing regulations, a major source would trigger PSD permitting requirements for GHG if it undergoes a modification that results in a significant increase in the emissions of a pollutant other than GHGs and a GHG emissions increase of 75,000 tons per year of carbon dioxide equivalent (CO_2e) as well as a GHG emissions increase (*i.e.,* anything above zero) on a mass basis. In proposing a significant emissions rate for GHG, the EPA has proposed to remove the mass-based component of the NSR emissions test for GHG. *See* 81 FR 68110 (October 3, 2016). Furthermore, in *UARG* v. *EPA,* 134 S. Ct. 2427 (June 23, 2014), the U.S. Supreme Court held that an increase in GHG emissions alone cannot by law trigger the NSR requirements of the PSD program under section 165 of the CAA. Thus, unlike other NSR pollutants, a modification that increases only GHG emissions above the applicable level will not trigger the requirement to obtain a PSD permit.

of an individual source, we are again inviting comment from interested stakeholders on the topic of how the NSR program overlays with emission guidelines established under CAA section 111(d). We are interested in actions that can be taken to harmonize and streamline the NSR applicability and/or the NSR permitting process with a potential new rule. We invite comment on the following questions:

1. Under what scenarios would EGUs be potentially subject to the requirements of the NSR program as a result of making physical or operational changes that are part of a strategy for regulating existing sources under CAA section 111(d)? Do the scenarios differ depending on site specific factors, such as the size or class of EGU, how the EGU operates (*e.g.,* baseload, intermediate, load following), fuel(s) the EGU burns, or the EGU's existing level of pollution control? If so, please explain the differences.

2. What rule or policy changes or flexibilities can the EPA provide as part of the NSR program that would enable EGUs to implement projects required under a CAA section 111(d) plan and not trigger major NSR permitting while maintaining environmental protections?

3. What actions can sources take—*e.g.,* through the minor NSR program, agreeing to a PAL—when making heat rate improvements or co-firing with a lower emitting fuel that would allow them to continue to serve the demand of the grid while not having excessive permitting requirements?

4. What approaches could be used in crafting CAA section 111(d) plans so as to reduce the number of existing sources that will be subject to NSR permitting? Do compliance measures, such as inter- and intra-state trading systems, rate-based or mass-based standards, or generation shifting to lower- or zero-emitting units, offer favorable solutions for air agencies and sources with regard to NSR permitting?

5. What other approaches would minimize the impact of the NSR program on the implementation of a performance standard for EGU sources under CAA section 111(d)?

B. New Source Performance Standards (NSPS)

The EPA solicits comment on whether there are any potential interactions between a state-based program under CAA section 111(d) covering existing fossil fuel-fired EGUs and a federal program under CAA section 111(b) covering newly constructed, reconstructed, and modified fossil fuel-fired EGUs. In particular, the EPA requests information on how an existing EGU covered under a CAA section 111(d) state plan might affect the state plan (or an interstate trading program) if the EGU undergoes a reconstruction or modification (as defined under CAA 111(b)).

VI. Statutory and Executive Order Reviews

Under Executive Order 12866, titled Regulatory Planning and Review (58 FR 51735, October 4, 1993), this is a ''significant regulatory action.'' Accordingly, the EPA submitted this action to the Office of Management and Budget (OMB) for review under Executive Order 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action. Because this action does not propose or impose any requirements, and instead seeks comments and suggestions for the Agency to consider in possibly developing a subsequent proposed rule, the various statutes and Executive Orders that normally apply to rulemaking do not apply in this case. Should the EPA subsequently determine to pursue a rulemaking, the EPA will address the statutes and Executive Orders as applicable to that rulemaking.

Dated: December 18, 2017.

E. Scott Pruitt,

Administrator.

[FR Doc. 2017–27793 Filed 12–27–17; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 417, 422, 423, 460, and 498

[CMS–4182–CN]

RIN 0938–AT08

Medicare Program Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-For-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program; Correction

AGENCY: Centers for Medicare & Medicaid Services (CMS), HHS.

ACTION: Proposed rule; correction.

SUMMARY: This document corrects technical and typographical errors in the proposed rule that appeared in the November 28, 2017 issue of the **Federal Register** titled ''Medicare Program Contract Year 2019 Policy and Technical Changes to the Medicare Advantage, Medicare Cost Plan, Medicare Fee-For-Service, the Medicare Prescription Drug Benefit Programs, and the PACE Program''.

FOR FURTHER INFORMATION CONTACT: Marie Manteuffel, (410) 786–3447. Lucia Patrone, (410) 786–8621.

SUPPLEMENTARY INFORMATION:

I. Background

In FR Doc. 2017–25068 of November 28, 2017 (82 FR 56336), there were a number of technical and typographical errors that are identified and corrected in the Correction of Errors section of this correcting document.

II. Summary of Errors

A. Summary of Errors in the Preamble

On page 56366, in the listing of parts of the Code of Federal Regulations (CFR) that are being revised by the proposed rule, we inadvertently omitted 42 CFR part 460.

On page 56488, in our discussion of reducing the burden of the medical loss ratio (MLR) reporting requirements, we made errors in our description of the tasks performed by our contractor during the initial analyses or desk reviews of MLR reports and the entities for which they perform these tasks (that is, MA organizations and Part D sponsors, not just MA organizations).

B. Summary of Errors in the Regulations Text

On pages 56498 and 56516, in the proposed regulations text for the calculation of the Part D improvement scores (§§ 422.164(f)(4)(vi) and 423.184(f)(4)(vi), respectively), we made errors in referencing the proposed provision for the clustering algorithm.

On page 56509, in the regulations text changes for § 423.120(b)(5)(i)(A) and (B), we made technical errors in the timeframes regarding notice of formulary changes and supply of the Part D drug.

On page 56510, we inadvertently omitted regulations text changes for § 423.128(a)(3) that we discussed in section II.B.4. of the proposed rule (see 82 FR 56432). These proposed changes would require MA plans and Part D Sponsors to provide the information in § 423.128(b) by the first day of the annual enrollment period.

III. Correction of Errors

In FR Doc. 2017–25068 of November 28, 2017 (82 FR 56336), we are making the following corrections:

A. Corrections of Errors in the Preamble

1. On page 56366, first column, line 6 (part heading), the phrase ''423, and'' is corrected to read ''423, 460, and''.

2. On page 56488, first column, third full paragraph, the paragraph that begins with the phrase ''Our proposal to

significantly reduce the amount'' and ends with the phrase ''in order to resolve potential compliance issues.'' is corrected to read as follows:

''Our proposal to significantly reduce the amount of MLR data submitted to CMS would eliminate the need for CMS to continue to pay a contractor approximately $390,000 a year to perform initial analyses or desk reviews of the detailed MLR reports submitted by MA organizations and Part D sponsors. These initial analyses or desk reviews are done by our contractors in order to identify omissions and suspected inaccuracies and to communicate their findings to MA organizations and Part D sponsors in order to resolve potential compliance issues.''

B. Correction of Errors in the Regulations Text

§ 422.164 [Corrected]

■ 1. On page 56498, third column, in § 422.164(f)(4)(vi), lines 4 through 6, the reference ''§§ 422.166(a)(2)(ii) through (iv) and 423.186(a)(2)(ii) through (iv)'' is corrected to read, ''§§ 422.166(a)(2)(iii) and 423.186(a)(2)(iii)''.

§ 423.120 [Corrected]

■ 2. On page 56509, first column—

■ a. Sixth paragraph, amendatory instruction 62e is corrected to read ''e. In paragraph (b)(5)(i)(A), by removing the phrase ''60 days'' and adding in its place the phrase ''30 days'';''.

■ b. Eighth paragraph, amendatory instruction 62f is corrected to read ''f. In paragraph (b)(5)(i)(B), by removing the phrase ''60 day supply'' and adding in its place the phrase ''month's supply'';''.

§ 423.128 [Corrected]

■ 3. On page 56510, second column—

■ a. Third full paragraph, amendatory instruction 63 is corrected to read ''63. Section 423.128 is amended by revising paragraphs (a)(3) and (d)(2)(iii) to reads as follows:''.

■ b. Following the third full paragraph, § 423.128, the text is corrected by adding the following text after the section heading and before line 1 (5 stars) to read as follows:

'' (a) * * *

(3) At the time of enrollment and at least annually thereafter, by the first day of the annual coordinated election period.''

§ 423.184 [Corrected]

■ 4. On page 56516, third column, in § 423.184(f)(4)(vi), line 4, the reference ''§ 423.186(a)(2)(ii)'' is corrected to read ''§ 423.186(a)(2)(iii)''.

Dated: December 19, 2017.

Ann C. Agnew,

Executive Secretary to the Department, Department of Health and Human Services.

[FR Doc. 2017–27943 Filed 12–27–17; 8:45 am]

BILLING CODE 4120–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 63

[WC Docket No. 17–84; FCC 17–154]

Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, a Further Notice of Proposed Rulemaking (FNPRM) seeks comment on a number of actions aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks. The FNPRM seeks comment on pole attachment reforms, changes to the copper retirement and other network change notification processes, and changes to the section 214(a) discontinuance application process. The Commission adopted the FNPRM in conjunction with a Report and Order and Declaratory Ruling in WC Docket No. 17–84.

DATES: Comments are due on or before January 17, 2018, and reply comments are due on or before February 16, 2018. Written comments on the Paperwork Reduction Act proposed information collection requirements must be submitted by the public, Office of Management and Budget (OMB), and other interested parties on or before February 26, 2018.

ADDRESSES: You may submit comments, identified by WC Docket No. 17–84, by any of the following methods:

▪ *Federal Communications Commission's website: http://apps.fcc.gov/ecfs/.* Follow the instructions for submitting comments.

▪ *Mail:* 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).

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document. In addition to filing comments with the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to the Federal Communications Commission via email to *PRA@fcc.gov* and to Nicole Ongele, Federal Communications Commission, via email to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: Wireline Competition Bureau, Competition Policy Division, Michele Berlove, at (202) 418–1477, *michele.berlove@fcc.gov,* or Michael Ray, at (202) 418–0357, *michael.ray@fcc.gov.* For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, send an email to *PRA@fcc.gov* or contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (FNPRM) in WC Docket No. 17–84, adopted November 16, 2017 and released November 29, 2017. The full text of this document is available for public inspection during regular business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW, Room CY–A257, Washington, DC 20554. It is available on the Commission's website at *https://*

apps.fcc.gov/edocs_public/Query.do?numberFld=17-154&numberFld2=&docket=&dateFld=&docTitleDesc=. Pursuant to sections 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). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998), *http://www.fcc.gov/Bureaus/OGC/Orders/1998/fcc98056.pdf.*

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the ECFS: *https://www.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 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.
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Synopsis

I. Introduction

1. Access to high-speed broadband is an essential component of modern life, providing unfettered access to information and entertainment, an open channel of communication to far-away friends and relatives, and unprecedented economic opportunity. Technological innovation and private investment have revolutionized American communications networks in recent years, making possible new and better service offerings, and bringing the promise of the digital revolution to more Americans than ever before. As part of this transformation, consumers are increasingly moving away from traditional telephone services provided over copper wires and towards next-generation technologies using a variety of transmission means, including copper, fiber, and wireless spectrum-based services.

2. Despite this progress, too many communities remain on the wrong side of the digital divide, unable to take full part in the benefits of the modern information economy. To close that digital divide, we seek to use every tool available to us to accelerate the deployment of advanced communications networks. Accordingly, today we embrace the transition to next-generation networks and the innovative services they enable, and adopt a number of important reforms aimed at removing unnecessary regulatory barriers to the deployment of high-speed broadband networks.

3. By removing unnecessary impediments to broadband deployment, the regulatory reforms we adopt today will enable carriers to more rapidly shift resources away from maintaining outdated legacy infrastructure and services and towards the construction of next-generation broadband networks bringing innovative new broadband services. And by reducing the costs to deploy high-speed broadband networks, we make it more economically feasible for carriers to extend the reach of their networks, increasing competition among broadband providers to communities across the country. We expect competition will include such benefits as lower prices to consumers. We anticipate taking additional action in the future in this proceeding to further facilitate broadband deployment.

A. Expediting Applications That Grandfather Additional Data Services for Existing Customers

4. We propose to streamline the approval process for applications seeking to grandfather data services with download/upload speeds of less than 25 Mbps/3 Mbps, so long as the applying carrier provides data services of equivalent quality at speeds of at least 25 Mbps/3 Mbps or higher throughout the affected service area. We acknowledge that data services subject to section 214 discontinuance authority typically have symmetrical upload and download speeds. Proposing non-symmetrical speed thresholds for streamlining purposes, however, provides maximum flexibility for carriers to the extent legacy data services having non-symmetrical download and upload speeds are subject to our discontinuance rules. We currently use 25 Mbps/3 Mbps as the speed benchmark for evaluating deployment of fixed advanced telecommunications capability, meaning a service that ''enables users to originate and receive high quality voice, data, graphics, and video telecommunications'' under section 706 of the Telecommunications Act of 1996. As such, we think that comparatively lower speed services are ripe for streamlined treatment when higher speed services are available. In the *Wireline Infrastructure* notice of proposed rulemaking, the Commission proposed to apply any streamlined discontinuance process to grandfathered low-speed legacy services below 1.544 Mbps, but sought comment on whether we should make streamlined processing available for applications to grandfather services at higher speeds, such as TDM services below 10Mbps or 25 Mbps. We seek comment on this proposal.

5. We propose a uniform reduced public comment period of 10 days and an auto-grant period of 25 days for all carriers submitting such applications. Under this proposal, such services must be grandfathered for a period of no less than 180 days before a carrier may submit an application to the Commission seeking authorization to discontinue such services. Through these proposed reforms, we seek to provide carriers with incentives to develop and deploy higher quality services operating at higher speeds. We seek comment on this proposal. We also seek comment on possible alternatives, including different speed thresholds and different time intervals.

6. Will streamlining the approval process for this class of applications promote competition in the market for higher-speed data services? Will it help speed the ongoing technology transition to next-generation IP-based services and networks, and encourage the deployment of better quality, higher-speed services? What are this proposal's benefits and costs?

7. Additionally, we seek comment on whether applications to discontinue these higher-speed data services after they have been grandfathered for a period of at least 180 days should be granted the same streamlined comment and auto-grant periods that we have adopted for previously grandfathered

legacy data services in the above Order. Should applications to discontinue higher-speed already-grandfathered services be subject to a 10-day comment period and a 31-day auto-grant period upon inclusion of a certification that the carrier has received Commission authority to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application?

B. Utility Treatment of Overlashing

8. For decades, the Commission has maintained a policy of encouraging the use of overlashing to maximize the useable space on utility poles. In 1995, the Commission ''noted the serious anti-competitive effects of preventing cable operators from adding fiber to their systems by overlashing'' and ''affirmed its commitment to ensure that the growth and development of cable system facilities are not hindered by an unreasonable denial of overlashing by a utility pole owner.'' In 1998, the Commission reaffirmed that overlashing ''facilitates and expedites installing infrastructure,'' ''promotes competition,'' and ''is an important element in promoting . . . diversity of services over existing facilities, fostering the availability of telecommunications services to communities, and increasing opportunities for competition in the marketplace.'' It further noted that ''any concerns [with overlashing] should be satisfied by compliance with generally accepted engineering practices.'' In 2001, the Commission again reaffirmed that overlashing ''reduces construction disruption and associated expenses which would otherwise be incurred by third parties installing new poles and separate attachments'' and reaffirmed its holding that ''neither the host attaching entity nor the third party overlasher must obtain additional approval from or consent of the utility for overlashing other than the approval obtained for the host attachment.'' The Commission's holdings on overlashing were upheld by the D.C. Circuit and remain in effect today.

9. Nonetheless, some parties have claimed that not all utilities are complying with these holdings. ACA states that ''some utilities require, or seek to require, additional prior approvals for overlashing projects.'' Others have asked for the agency to make clear that ''an attacher shall not be required to obtain approval from or provide advance notice to a pole owner before overlashing additional wires, cables, or equipment to its own facilities. The attacher shall inform the pole owner of the location and type of any facilities that have been overlashed.''

10. We seek comment on codifying our longstanding precedent regarding overlashing. Specifically, we seek comment on codifying a rule that overlashing is subject to a notice-and-attach process and that any concerns with overlashing should be satisfied by compliance with generally accepted engineering practices. Although one commenter asserts that ''overlashing must be subject to utility review through the applications process'' because of potential safety concerns and another asserts that ''Each Utility Needs to Retain the Right to Determine What Level of Review is Required,'' neither offers a reason for us to disturb our long-held precedent and we see no reason to reopen that precedent here. Would codifying such a rule make clear the rights of overlashers? Would doing so reduce any confusion that may delay attachers from deploying next-generation services to unserved communities? Would codifying such a rule be consistent with our long-held view that overlashing has substantial competitive effects, ultimately leading to greater deployment and lower prices for consumers?

C. Calculation of Waiting Period Under Section 51.333(B)

11. AT&T proposes that we revise the rule governing short-term network change notices to calculate the effective date of such notices from the date the incumbent LEC files its notice or certification of the change rather than from the date the Commission releases its public notice. We seek comment on this proposal. Section 51.333(b) of the Commission's rules provides that the network change referenced in a short-term notice ''shall be deemed final on the tenth business day after the release of the Commission's public notice.'' According to AT&T, tying the effective date to release of the Commission's public notice is unnecessary because incumbent LECs are required to provide direct notice to interconnecting carriers. Is AT&T correct? We seek comment on the benefits and burdens of revising the rule as AT&T suggests.

12. In connection with copper retirement notices, we found in the Order above that ''having the waiting period run from the date we release a public notice of the filing, as has been the case for more than two decades, affords Commission staff the necessary opportunity to review filings for mistakes and/or non-compliance with the rules.'' Are circumstances different for short-term network change notices than for copper retirement notices? Is there any reason Commission staff might not need the opportunity to review short-term network change notices for accuracy or completeness before the waiting period under the rule should begin to run? Are there other benefits associated with having the waiting period run from the time the Commission releases its public notice rather than from the date the incumbent LEC files its notice or certification with the Commission? Will altering the calculation of the waiting period in such a way help speed the ongoing technology transition to next-generation IP-based services and networks? Are there other advantages or disadvantages to calculating the waiting period in this manner? How would calculating the waiting period in this manner affect the deadline for objecting to a network change disclosure? Are there other issues we should consider in conjunction with considering this proposal?

D. Public Notice of Network Changes Affecting Interoperability of Customer Premises Equipment

13. AT&T also proposes that we eliminate the requirement that incumbent LECs provide public notice of network changes affecting the interoperability of customer premises equipment. We seek comment on this proposal. Section 51.325(a)(3) requires that incumbent LECs provide notice pursuant to the Commission's network change disclosure rules of any changes to their networks that ''will affect the manner in which customer premises equipment is attached to the interstate network.'' AT&T asserts that this rule is no longer necessary because incumbent LECs ''do not have a significant presence in the market for manufacturing CPE . . . CPE manufacturers move at lightning speed to adapt to new technologies,'' and ''incumbent LECs no longer ''possess the market power that would enable them to adversely affect the CPE marketplace.'' We seek comment on the benefits and costs of the current rule and whether the benefits outweigh the costs. Does section 51.325(a)(3) continue to afford relevant protections in the current marketplace? How frequently do incumbent LECs provide public notice of such network changes? Do interconnecting carriers rely on public notice of such network changes? Will eliminating the requirement that incumbent LECs provide public notice of network changes affecting the interoperability of customer premises equipment help speed the ongoing technology transition to next-generation IP-based services and networks?

14. We seek comment on the intersection of section 51.325(a)(3) with

other rules and how that intersection should influence our approach here. In the *Notice,* the Commission sought comment on eliminating section 68.110(b), which requires that ''[i]f . . . changes [to a wireline telecommunications provider's communications facilities, equipment, operations or procedures] can be reasonably expected to render any customer's terminal equipment incompatible with the communications facilities of the provider of wireline telecommunications, or require modification or alteration of such terminal equipment, or otherwise materially affect its use or performance, the customer shall be given adequate notice in writing, to allow the customer an opportunity to maintain uninterrupted service.'' AT&T makes similar assertions in support of its arguments in favor of eliminating both sections 51.325(a)(3) and 68.110(b). Unlike section 51.325(a)(3), which applies only to incumbent LECs, section 68.110(b) applies to all carriers. Do sections 51.325(a)(3) and 68.110(b) impose similar burdens on carriers or afford similar benefits to customers? Is there any reason to treat the two rules differently? Should we modify rather than eliminate or retain either section 51.325(a)(3) or 68.110(b)?

E. Applying Streamlined Notice Procedures for Force Majeure Events to All Network Changes

15. We seek comment on extending the streamlined notice procedures applicable to *force majeure* and other unforeseen events adopted in today's Order for copper retirements to all types of network changes. The notice of proposed rulemaking sought comment on removing the copper retirement notice requirements in emergency situations. It did not, however, ask about removing the notice requirements applicable to network changes other than copper retirements. We seek comment on whether the same benefits to be gained from the streamlined procedures adopted in the copper retirement context similarly apply to other types of network changes. The waiver orders discussed above are general in nature. We seek comment on whether all incumbent LECs should have the same access to the relief afforded by these waiver orders in all situations, not just when copper retirements are implicated.

F. Forbearance From Section 214(a) Discontinuance Requirements for Services With No Existing Customers

16. CenturyLink and AT&T propose that we forbear from applying the section 214(a) discontinuance requirements when carriers seek to discontinue, reduce, or impair services with no existing customers. We seek comment on this proposal and whether we should, on our own motion, grant this forbearance. We specifically seek comment on forbearing from section 214(a) and our part 63 implementing rules when carriers seek to discontinue, reduce, or impair services with no existing customers. We seek comment on whether such action would satisfy the criteria for granting forbearance. Is maintaining the requirement to obtain discontinuance authorization in such cases necessary to protect consumers or other stakeholders? Can enforcement of section 214(a)'s requirements be necessary for the protection of consumers when there are no affected customers? Is enforcement of these requirements where there are no affected customers necessary to ensure that the charges and practices of carriers are not unjustly or unreasonably discriminatory? Is forbearance from section 214(a)'s requirements in this context otherwise consistent with the public interest? We anticipate that because the services in question lack customers, applying the section 214(a) discontinuance requirement here is not necessary to ensure just charges or protect consumers, and we seek comment on this view. Is forbearance in this context consistent with the public interest? In this regard, will forbearing from applying section 214(a)'s discontinuance requirements in the context of services without existing customers help speed the ongoing technology transition to next-generation IP-based services and networks?

17. Alternatively, should we further streamline the discontinuance process for ''no customer'' applications, generally? In the Order, we substantially streamline the discontinuance process for ''no customer'' applications for legacy voice and data services below 1.544 Mbps. Specifically, we reduce the auto-grant period from 31 days to 15 days and reduce the timeframe within which a carrier must not have had any customers or request for service from 180 days to 30 days. Should we adopt these same streamlined rules for all ''no customer'' discontinuance applications or some larger subset than just the legacy services below 1.544 Mbps that the record currently supports?

18. We note that under our current rules, there is no deadline for filing comments in response to an application to discontinue, reduce, or impair services with no existing customers. We seek comment on whether we should establish a set comment period for such applications in the unlikely event that any party may wish to comment on requests to discontinue, reduce, or impair services with no existing customers. How long should any such comment period be? Should we apply a uniform period of public comment to applications from both dominant and non-dominant carriers, or should each type of provider be subject to a different comment period?

G. Further Streamlining of the Section 214(a) Discontinuance Process for Legacy Voice Services

19. Several commenters propose that we further streamline the section 214(a) discontinuance process for legacy voice services. We seek comment on what further steps we can take to streamline the section 214(a) discontinuance process for legacy voice services. In particular, we seek comment on Verizon's proposal that the Commission streamline processing of section 214(a) discontinuance applications for legacy voice services where a carrier certifies: (1) That it provides interconnected VoIP service throughout the affected service area; and (2) that at least one other alternative voice service is available in the affected service area. As Verizon notes, this approach provides an alternative to forbearance from section 214(a) discontinuance requirements for legacy voice services. Verizon asserts that adoption of this streamlined test ''would compel carriers to maintain legacy services only in those rare instances . . . where their absence would cut consumers off from the nation's telephone network'' and would ''free[] carriers to focus on rolling out and improving the next-generation technologies their customers demand.''

20. We seek comment on the benefits and burdens of streamlining section 214(a) discontinuances for legacy voice services and on the benefits and burdens of Verizon's specific recommendation. Would such rule changes reduce unnecessary costs and burdens associated with the deployment of next-generation services and thereby spur broadband such deployment? Would such changes help speed the ongoing technology transition to next-generation IP-based services and networks?

21. As to Verizon's proposal, would the information sought under this kind of two-part test be sufficient to allow the Commission to certify that the ''public convenience and necessity'' would not be adversely affected by the proposed discontinuance, as section 214(a) requires? If not, what information should be required? If we were to adopt this approach, what would be the best

means to implement this type of test? What type of showing would a carrier be required to make under each prong? Would a simple certification be sufficient, or should some other evidence of available alternatives be required? What types of voice services should be considered as sufficient alternatives to legacy TDM-based voice service that would satisfy the second prong? Are there specific characteristics that a voice service should be required to have in order to satisfy the second prong? Finally, we seek comment on any alternative approaches to streamlining the section 214(a) discontinuance process for legacy voice services.

22. Alternatively, Verizon requests that we forbear from applying section 214(a)'s discontinuance requirements to carriers seeking to transition from legacy voice services to next-generation replacement services. CenturyLink and WTA similarly request that we eliminate the requirement to file a section 214(a) application altogether for any discontinuance that is part of a network upgrade. We seek comment on these proposals and whether we should, on our own motion, grant forbearance when carriers upgrade their networks and simultaneously transition the services provided over those networks to next-generation technology, *e.g.,* TDM to IP. We specifically seek comment on forbearing from both section 214(a)'s discontinuance requirements and our part 63 implementing rules. We seek comment on whether such action would satisfy the criteria for granting forbearance. Is enforcement of our discontinuance requirements under section 214(a) and part 63 of our implementing rules in cases where carriers seek to transition from legacy services to next-generation services not necessary to ensure that the charges and practices of carriers are not unjustly or unreasonably discriminatory? Is enforcement of these discontinuance requirements necessary to ensure consumer protection during the ongoing technology transition to next-generation networks and services? Will forbearing from applying our discontinuance requirements under section 214(a) and part 63 of our implementing rules in this context be consistent with the public interest? Will forbearance in this context help speed the ongoing technology transition to next-generation IP-based services and networks? Is forbearance even necessary in light of the actions we take today in the Order to revise our section 214(a) discontinuance rules?

23. Verizon asserts that current market dynamics demonstrate that next-generation voice services are readily available, as evidenced by a decisive shift by consumers away from legacy voice services, and towards competing fiber, IP-based and wireless alternatives. In such a competitive environment, Verizon asserts that ''freeing providers from Section 214(a) in this market will promote competition among those providers on the merits of their next-generation services'' and that therefore ''forbearance [from the section 214(a) discontinuance process] is in the public interest'' where providers seek to replace legacy services with next-generation alternatives. We seek comment on these assertions and on the benefits and burdens associated with forbearing from section 214(a)'s discontinuance requirements when carriers seek to replace legacy voice services with next-generation services. How would forbearance from these rules affect competitive market conditions for telecommunications services? Would forbearance from our section 214(a) discontinuance requirements in circumstances where carriers seek to replace legacy voice services with next-generation alternatives better incentivize the deployment of high-speed broadband than the streamlining proposals discussed above? Why or why not?

H. Eliminating Outreach Requirements Adopted in the 2016 Technology Transitions Order

24. ITTA proposes that we eliminate the outreach requirements adopted in the *2016 Technology Transitions Order.* We seek comment on this proposal. These requirements mandate that carriers offer an adequate outreach plan when discontinuing legacy retail services. These requirements apply to transitioning wireline TDM-based voice service to a voice service using a different technology such as internet Protocol (IP) or wireless. The requirements further specify that an adequate outreach plan must, at a minimum, involve: ''(i) The development and dissemination of educational materials provided to all customers affected containing specific information pertinent to the transition, as specified in detail below; (ii) the creation of a telephone hotline and the option to create an additional interactive and accessible service to answer questions regarding the transition; and (iii) appropriate training of staff to field and answer consumer questions about the transition.'' We seek comment on the benefits and burdens of these requirements.

25. ITTA asserts that these requirements are ''unduly burdensome and prescriptive,'' in addition to being unnecessary, because our preexisting discontinuance notice process already provides ''affected customers and other stakeholders with adequate information of what is to occur and what steps they may need to take.'' ITTA further asserts that regardless of any notice requirements maintained by the Commission, carriers ''would continue to have incentives due to marketplace forces to communicate with customers in connection with technology transitions when customers are impacted by such changes.'' We seek comment on ITTA's assertions. Are the burdens imposed by these outreach requirements adopted in the *2016 Technology Transitions Order* unduly burdensome such that they should be eliminated or revised? Or do those requirements afford necessary protections to affected consumers of legacy services? Should we modify those requirements rather than retain or eliminate them, and if so how? Will eliminating or modifying these requirements help speed the ongoing technology transition to next-generation IP-based services and networks?

I. Rebuilding and Repairing Broadband Infrastructure After Natural Disasters

26. We are committed to helping communities rebuild damaged or destroyed communications infrastructure after a natural disaster as quickly as possible. We recognize the important and complementary roles that local, state, and federal authorities play in facilitating swift recovery from disasters such as Hurricanes Harvey, Irma, and Maria. We are concerned that unnecessarily burdensome government regulation may hinder rather than help recovery efforts, and laws that are suited for the ordinary course may not be appropriate for disaster recovery situations. We seek comment on whether there are targeted circumstances in which we can and should use our authority to preempt state or local laws that inhibit restoration of communications infrastructure.

27. We emphasize that we appreciate the importance of working cooperatively with state and local authorities. How can we ensure that any preemptive action we take helps rather than inhibits state and local efforts? More generally, how can we best work with state and local regulators to get broadband infrastructure operational after a natural disaster? We seek comment on our legal authority to preempt state and local laws in this context, including our authority under sections 253 and 332(c)(7) of the Act and section 6409 of

the Spectrum Act. If we should preempt certain state or local laws, should we do so by rule or by adjudication? Should we limit the scope of any preemption in this context only to periods in which a community is recovering from a natural disaster, and if so how should we delimit that timeframe?

II. Initial Regulatory Flexibility Analysis

28. As required by the Regulatory Flexibility Act (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities by the policies on which the Commission seeks comment in this FNPRM of Proposed Rule Making (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 in paragraph 133 of this Notice. The Commission will send a copy of this FNPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration (SBA). In addition, the FNPRM and IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

29. The FNPRM proposes to adopt streamlined treatment for all carriers seeking to grandfather data services with download/upload speeds of less than 25 Mbps/3 Mbps, so long as the applying carrier provides data services of equivalent quality at speeds of at least 25 Mbps/3 Mbps or higher throughout the affected service area. It proposes to adopt a uniform reduced public comment period of 10 days and an auto-grant period of 25 days, and require that such services be grandfathered for a period of no less than 180 days before a carrier may submit an application to the Commission seeking authorization to discontinue such services. The FNPRM also seeks comment on whether applications to discontinue higher-speed grandfathered data services should be subject to a streamlined 10-day comment period and a 31-day auto-grant period upon inclusion of a certification that the carrier has received Commission authorization to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. The FNPRM also seeks comment on the appropriate utility treatment of requests by attachers to: (1) Overlash new wires and cables onto existing wires and cables already on a utility pole; or (2) connect service from an attacher's facilities on an existing utility pole directly to a customer location (also known as a drop). The FNPRM asks whether the Commission should codify or better explain its policies with regard to this type of pole work in order to spur broadband deployment. The FNPRM also seeks comment on a variety of recommendations for additional reforms to the Commission's network change disclosure rules and the section 214(a) discontinuance authorization process. First, the FNPRM seeks comment on a proposal to revise the rule governing short-term network change notices to calculate the effective date of such notices from the date the incumbent LEC files its notice or certification of the change rather than from the date the Commission releases its public notice. Second, the FNPRM seeks comment on a proposal to eliminate the requirement that incumbent LECs provide public notice of network changes affecting the interoperability of customer premises equipment. Third, the FNPRM seeks comment on extending the streamlined notice procedures applicable to *force majeure* and other unforeseen events adopted in today's Order for copper retirements to all types of network changes. Fourth, the FNPRM seeks comment on whether we should forbear from requiring compliance with the discontinuance requirements of section 214(a) in all instances where a carrier seeks to discontinue, reduce, or impair services with no existing customers. Alternatively, the FNPRM seeks comment on whether we should further streamline the discontinuance process for all ''no customer'' applications, regardless of the speed of the services being discontinued. Fifth, the FNPRM seeks comment on ways to further streamline the section 214(a) discontinuance process for legacy voice services. In particular, we seek comment on Verizon's proposal that the Commission streamline processing of section 214(a) discontinuance applications for legacy voice services where a carrier certifies: (1) That it provides interconnected VoIP service throughout the affected service area; and (2) that at least one other alternative voice service is available in the affected service area. We also seek comment on Verizon's request that we forbear from applying section 214(a)'s discontinuance requirements to carriers seeking to transition from legacy voice services to next-generation replacement services. Sixth, the FNPRM seeks comment on whether we should eliminate the outreach requirements adopted by the Commission in the *2016 Technology Transitions Order.* Lastly, in light of the important and complementary roles that local, state, and federal authorities play in facilitating swift recovery from disasters such as Hurricanes Harvey, Irma, and Maria, we seek comment on whether there are targeted circumstances in which we can and should use our authority to preempt state or local laws that inhibit restoration of communications infrastructure.

B. Legal Basis

30. The proposed action is authorized under sections 1–4, 201, 202, 214, 224, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–54, 201, 202, 214, 224, 251, and 303(r).

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules Will Apply

31. The RFA directs agencies to provide a description and, where feasible, an estimate of the number of small entities that may be affected by the proposals on which the FNPRM seeks comment, if adopted. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small-business concern'' under the Small Business Act. A ''small-business concern'' is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the SBA.

32. The majority of the proposals on which we seek comment in the FNPRM will affect obligations on incumbent LECs and, in some cases, competitive LECs, and telecommunications carriers. Our actions, over time, may affect small entities that are not easily categorized at present. Other entities, however, that choose to object to network change notifications for copper retirement under the proposals on which we seek comment and section 214 discontinuance applications may be economically impacted by the proposals in this FNPRM.

33. *Small Businesses, Small Organizations, Small Governmental Jurisdictions.* Our actions, over time, may affect small entities that are not easily categorized at present. We therefore describe here, at the outset, three comprehensive small entity size standards that could be directly affected herein. First, while there are industry specific size standards for small businesses that are used in the regulatory flexibility analysis, according to data from the SBA's Office of

Advocacy, in general a small business is an independent business having fewer than 500 employees. These types of small businesses represent 99.9% of all businesses in the United States which translates to 28.8 million businesses.

34. Next, the type of small entity described as a ''small organization'' is generally ''any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.'' Nationwide, as of Aug 2016, there were approximately 356,494 small organizations based on registration and tax data filed by nonprofits with the Internal Revenue Service (IRS).

35. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, counties, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data from the 2012 Census of Governments indicates that there were 90,056 local governmental jurisdictions consisting of general purpose governments and special purpose governments in the United States. Of this number there were 37,132 General purpose governments (county, municipal and town or township) with populations of less than 50,000 and 12,184 Special purpose governments (independent school districts and special districts) with populations of less than 50,000. The 2012 U.S. Census Bureau data for most types of governments in the local government category shows that the majority of these governments have populations of less than 50,000. Based on this data we estimate that at least 49,316 local government jurisdictions fall in the category of ''small governmental jurisdictions.''

36. *Wired Telecommunications Carriers.* The U.S. Census Bureau defines this industry as ''establishments primarily engaged in operating and/or providing access to transmission facilities and infrastructure that they own and/or lease for the transmission of voice, data, text, sound, and video using wired communications networks. Transmission facilities may be based on a single technology or a combination of technologies. Establishments in this industry use the wired telecommunications network facilities that they operate to provide a variety of services, such as wired telephony services, including VoIP services, wired (cable) audio and video programming distribution, and wired broadband internet services. By exception, establishments providing satellite television distribution services using facilities and infrastructure that they operate are included in this industry.'' The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such companies having 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this size standard, the majority of firms in this industry can be considered small.

37. *Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to local exchange services. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 36 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 show that there were 3,117 firms that operated that year. Of this total, 3,083 operated with fewer than 1,000 employees. The Commission therefore estimates that most providers of local exchange carrier service are small entities that may be affected by the rules adopted.

38. *Incumbent Local Exchange Carriers (incumbent LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The closest applicable NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 36 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 3,117 firms operated in that year. Of this total, 3,083 operated with fewer than 1,000 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by the rules and policies adopted. One thousand three hundred and seven (1,307) Incumbent Local Exchange Carriers reported that they were incumbent local exchange service providers. Of this total, an estimated 1,006 have 1,500 or fewer employees.

39. *Competitive Local Exchange Carriers (competitive LECs), Competitive Access Providers (CAPs), Shared-Tenant Service Providers, and Other Local Service Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate NAICS Code category is Wired Telecommunications Carriers, as defined in paragraph 36 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. U.S. Census data for 2012 indicate that 3,117 firms operated during that year. Of that number, 3,083 operated with fewer than 1,000 employees. Based on this data, the Commission concludes that the majority of Competitive LECs, CAPs, Shared-Tenant Service Providers, and Other Local Service Providers are small entities. According to Commission data, 1,442 carriers reported that they were engaged in the provision of either competitive local exchange services or competitive access provider services. Of these 1,442 carriers, an estimated 1,256 have 1,500 or fewer employees. In addition, 17 carriers have reported that they are Shared-Tenant Service Providers, and all 17 are estimated to have 1,500 or fewer employees. In addition, 72 carriers have reported that they are Other Local Service Providers. Of this total, 70 have 1,500 or fewer employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, Shared-Tenant Service Providers, and Other Local Service Providers are small entities that may be affected by the adopted rules.

40. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a definition for Interexchange Carriers. The closest NAICS Code category is Wired Telecommunications Carriers as defined in paragraph 36 of this IRFA. The applicable size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. According to Commission data, 359 companies reported that their primary telecommunications service activity was the provision of interexchange services. Of this total, an estimated 317 have 1,500 or fewer employees and 42 have more than 1,500 employees. Consequently, the Commission estimates that the majority of interexchange service providers are small entities that may be affected by rules adopted.

41. *Other Toll Carriers.* Neither the Commission nor the SBA has developed a size standard for small businesses specifically applicable to Other Toll Carriers. This category includes toll carriers that do not fall within the categories of interexchange carriers, operator service providers, prepaid calling card providers, satellite service carriers, or toll resellers. The closest applicable NAICS Code category is for Wired Telecommunications Carriers, as defined in paragraph 36 of this IRFA. Under that size standard, such a business is small if it has 1,500 or fewer employees. Census data for 2012 shows that there were 3,117 firms that operated

that year. Of this total, 3,083 operated with fewer than 1,000 employees. Thus, under this category and the associated small business size standard, the majority of Other Toll Carriers can be considered small. According to Commission data, 284 companies reported that their primary telecommunications service activity was the provision of other toll carriage. Of these, an estimated 279 have 1,500 or fewer employees. Consequently, the Commission estimates that most Other Toll Carriers that may be affected by our rules are small.

42. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves, such as cellular services, paging services, wireless internet access, and wireless video services. The appropriate size standard under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, Census data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had fewer than 1,000 employees. Thus under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities. Similarly, according to internally developed Commission data, 413 carriers reported that they were engaged in the provision of wireless telephony, including cellular service, Personal Communications Service (PCS), and Specialized Mobile Radio (SMR) services. Of this total, an estimated 261 have 1,500 or fewer employees. Consequently, the Commission estimates that approximately half of these firms can be considered small. Thus, using available data, we estimate that the majority of wireless firms can be considered small.

43. *Cable Companies and Systems (Rate Regulation).* The Commission has developed its own small business size standards for the purpose of cable rate regulation. Under the Commission's rules, a ''small cable company'' is one serving 400,000 or fewer subscribers nationwide. Industry data indicate that there are currently 4,600 active cable systems in the United States. Of this total, all but nine cable operators nationwide are small under the 400,000-subscriber size standard. In addition, under the Commission's rate regulation rules, a ''small system'' is a cable system serving 15,000 or fewer subscribers. Current Commission records show 4,600 cable systems nationwide. Of this total, 3,900 cable systems have fewer than 15,000 subscribers, and 700 systems have 15,000 or more subscribers, based on the same records. Thus, under this standard as well, we estimate that most cable systems are small entities.

44. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than one percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000 are approximately 52,403,705 cable video subscribers in the United States today. Accordingly, an operator serving fewer than 524,037 subscribers shall be deemed a small operator if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, we find that all but nine incumbent cable operators are small entities under this size standard. We note that the Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million. Although it seems certain that some of these cable system operators are affiliated with entities whose gross annual revenues exceed $250,000,000, we are unable at this time to estimate with greater precision the number of cable system operators that would qualify as small cable operators under the definition in the Communications Act.

45. *All Other Telecommunications.* ''All Other Telecommunications'' is defined as follows: ''This U.S. industry is comprised of establishments that are primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing internet services or voice over internet protocol (VoIP) services via client supplied telecommunications connections are also included in this industry.'' The SBA has developed a small business size standard for ''All Other Telecommunications,'' which consists of all such firms with gross annual receipts of $32.5 million or less. For this category, Census Bureau data for 2012 show that there were 1,442 firms that operated for the entire year. Of those firms, a total of 1,400 had annual receipts less than $25 million. Consequently, we conclude that the majority of All Other Telecommunications firms can be considered small.

46. *Electric Power Generation, Transmission and Distribution.* The Census Bureau defines this category as follows: ''This industry group comprises establishments primarily engaged in generating, transmitting, and/or distributing electric power. Establishments in this industry group may perform one or more of the following activities: (1) Operate generation facilities that produce electric energy; (2) operate transmission systems that convey the electricity from the generation facility to the distribution system; and (3) operate distribution systems that convey electric power received from the generation facility or the transmission system to the final consumer.'' This category includes electric power distribution, hydroelectric power generation, fossil fuel power generation, nuclear electric power generation, solar power generation, and wind power generation. The SBA has developed a small business size standard for firms in this category based on the number of employees working in a given business. According to Census Bureau data for 2012, there were 1,742 firms in this category that operated for the entire year.

47. *Natural Gas Distribution.* This economic census category comprises: ''(1) Establishments primarily engaged in operating gas distribution systems (*e.g.,* mains, meters); (2) establishments known as gas marketers that buy gas from the well and sell it to a distribution system; (3) establishments known as gas brokers or agents that arrange the sale of gas over gas distribution systems operated by others; and (4) establishments primarily engaged in transmitting and distributing gas to final consumers.'' The SBA has developed a small business size standard for this industry, which is all such firms having 1,000 or fewer employees. According to Census Bureau data for 2012, there were 422 firms in this category that operated for the entire year. Of this total, 399 firms had employment of fewer than 1,000 employees, 23 firms had employment of 1,000 employees or more, and 37 firms were not operational. Thus, the majority of firms in this category can be considered small.

48. *Water Supply and Irrigation Systems.* This economic census category

''comprises establishments primarily engaged in operating water treatment plants and/or operating water supply systems. The water supply system may include pumping stations, aqueducts, and/or distribution mains. The water may be used for drinking, irrigation, or other uses.'' The SBA has developed a small business size standard for this industry, which is all such firms having $27.5 million or less in annual receipts. According to Census Bureau data for 2012, there were 3,261 firms in this category that operated for the entire year. Of this total, 3,035 firms had annual sales of less than $25 million. Thus, the majority of firms in this category can be considered small.

D. Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

49. The FNPRM seeks comment on a number of proposals that would affect reporting, recordkeeping, and other compliance requirements. We would expect the proposals on which the FNPRM seeks comment to reduce reporting, recordkeeping, and other compliance requirements. The proposals taken as a whole would have a beneficial reporting, recordkeeping, or compliance impact on small entities because all carriers would be subject to fewer such burdens. Each of these changes is described below.

50. The FNPRM proposes to adopt a uniform reduced public comment period of 10 days and an auto-grant period of 25 days for all carriers seeking to grandfather data services with download/upload speeds of less than 25 Mbps/3 Mbps, so long as the applying carrier provides data services of equivalent quality at speeds of at least 25 Mbps/3 Mbps or higher throughout the affected service area. Under this proposal, such services must be grandfathered for a period of no less than 180 days before a carrier may submit an application to the Commission seeking authorization to discontinue such services. We seek comment on these proposals, and on whether applications to discontinue these higher-speed data services after they have been grandfathered for a period of at least 180 days should be subject to a streamlined 10-day comment period and a 31-day auto-grant period upon inclusion of a certification that the carrier has received Commission authorization to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application. The FNPRM seeks comment on the appropriate regulatory treatment (if any) for pole work that is not subject to the standard Commission pole attachment timeline (*e.g.,* overlashing, drops), including whether to require prior written notice to utilities when attachers attempt such work.

51. The FNPRM also seeks comment on a variety of recommendations for additional reforms to the Commission's network change disclosure rules and the section 214(a) discontinuance authorization process. First, the FNPRM seeks comment on a proposal to revise the rule governing short-term network change notices to calculate the effective date of such notices from the date the incumbent LEC files its notice or certification of the change rather than from the date the Commission releases its public notice. Second, the FNPRM seeks comment on a proposal to eliminate the requirement that incumbent LECs provide public notice of network changes affecting the interoperability of customer premises equipment. Third, the FNPRM seeks comment on extending the streamlined notice procedures applicable to *force majeure* and other unforeseen events adopted in today's Order for copper retirements to all types of network changes. Fourth, the FNPRM seeks comment on whether we should forbear from requiring compliance with the discontinuance requirements of section 214(a) in all instances where a carrier seeks to discontinue, reduce, or impair services with no existing customers. Alternatively, the FNPRM seeks comment on whether we should further streamline the discontinuance process for all ''no customer'' applications, regardless of the speed of the services being discontinued. Fifth, the FNPRM seeks comment on ways to further streamline the section 214(a) discontinuance process for legacy voice services. In particular, we seek comment on Verizon's proposal that the Commission streamline processing of section 214(a) discontinuance applications for legacy voice services where a carrier certifies: (1) That it provides interconnected VoIP service throughout the affected service area; and (2) that at least one other alternative voice service is available in the affected service area. We also seek comment on Verizon's request that we forbear from applying section 214(a)'s discontinuance requirements to carriers seeking to transition from legacy voice services to next-generation replacement services. Sixth, the FNPRM seeks comment on whether we should eliminate the outreach requirements adopted by the Commission in the *2016 Technology Transitions Order.* Lastly, in light of the important and complementary roles that local, state, and federal authorities play in facilitating swift recovery from disasters such as Hurricanes Harvey, Irma, and Maria, we seek comment on whether there are targeted circumstances in which we can and should use our authority to preempt state or local laws that inhibit restoration of communications infrastructure.

E. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

52. 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 or reporting requirements under the rule for 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.

53. In the FNPRM, we propose to adopt a uniform reduced public comment period of 10 days and an auto-grant period of 25 days for all carriers seeking to grandfather data services with download/upload speeds of less than 25 Mbps/3 Mbps, so long as the applying carrier provides data services of equivalent quality at speeds of at least 25 Mbps/3 Mbps or higher throughout the affected service area. Under this proposal, such services must be grandfathered for a period of no less than 180 days before a carrier may submit an application to the Commission seeking authorization to discontinue such services. We seek comment on these proposals, and on whether applications to discontinue these higher-speed data services after they have been grandfathered for a period of at least 180 days should be subject to a streamlined 10-day comment period and a 31-day auto-grant period upon inclusion of a certification that the carrier has received Commission authorization to grandfather the services at issue at least 180 days prior to the filing of the discontinuance application.

54. In the FNPRM, we further seek comment on how best to treat pole work that is not subject to our standard required pole attachment timeline. While one of the proposals on which we seek comment would impose a notice burden on attachers before attempting such work, such a burden potentially

could be offset by not requiring such work to be pre-approved by the utility pole owner or regulated pursuant to the Commission's standard pole attachment timeline.

55. In the FNPRM, we also seek comment on several proposals to reform the Commission's network change disclosure rules and the section 214(a) discontinuance authorization process. If adopted, many of these proposals would reduce the economic impact on small entities by significantly reducing the reporting, recordkeeping, and additional compliance burdens on such entities. To that end, the Commission seeks comment on proposals to (1) revise the rule governing short-term network change notices to calculate the effective date of such notices from the date the incumbent LEC files its notice or certification of the change rather than from the date the Commission releases its public notice, and (2) eliminate the requirement that incumbent LECs provide public notice of network changes affecting the interoperability of customer premises equipment. The FNPRM also seeks comment extending the streamlined notice procedures applicable to *force majeure* and other unforeseen events adopted in today's Order for copper retirements to all types of network changes. In addition, the FNPRM seeks comment on whether we should forbear from requiring compliance with the discontinuance requirements of section 214(a) in all instances where a carrier seeks to discontinue, reduce, or impair services with no existing customers. Alternatively, the FNPRM seeks comment on whether we should further streamline the discontinuance process for all ''no customer'' applications, regardless of the speed of the services being discontinued. The FNPRM also seeks comment on ways to further streamline the section 214(a) discontinuance process for legacy voice services. In particular, we seek comment on Verizon's proposal that the Commission streamline processing of section 214(a) discontinuance applications for legacy voice services where a carrier certifies: (1) That it provides interconnected VoIP service throughout the affected service area; and (2) that at least one other alternative voice service is available in the affected service area. Alternatively, we seek comment on Verizon's request that we forbear from applying section 214(a)'s discontinuance requirements to carriers seeking to transition from legacy voice services to next-generation replacement services. The FNPRM also seeks comment on whether the Commission should eliminate the outreach requirements adopted by the Commission in the *2016 Technology Transitions Order.* Lastly, in light of the important and complementary roles that local, state, and federal authorities play in facilitating swift recovery from disasters such as Hurricanes Harvey, Irma, and Maria, the FNPRM seeks comment on whether there are targeted circumstances in which we can and should use our authority to preempt state or local laws that inhibit restoration of communications infrastructure.

56. The Commission believes that the proposals upon which the FNPRM seeks comment will benefit all carriers, regardless of size. The proposals would further the goal of reducing regulatory burdens, thus facilitating investment in next-generation networks and promoting broadband deployment. We anticipate that a more modernized regulatory scheme will encourage carriers to invest in and deploy even more advanced technologies as they evolve. We also believe that preempting state or local laws that inhibit the restoration of communications infrastructure will help to facilitate swifter and more effective recoveries from natural disasters such as hurricanes.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

57. None.

III. Procedural Matters

A. Paperwork Reduction Act of 1995 Analysis

58. This document contains proposed modified information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and the Office of Management and Budget to comment on the information collection requirements contained in this document, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we seek specific comment on how we might further reduce the information collection burden for small business concerns with fewer than 25 employees.

B. Initial Regulatory Flexibility Analysis

59. An initial regulatory flexibility analysis (IRFA) is contained in Appendix D of the Further Notice of Proposed Rulemaking. Comments to the IRFA must be identified as responses to the IRFA and filed by the deadlines for comments on the Further Notice of Proposed Rulemaking. The Commission will send a copy of the Further Notice of Proposed Rulemaking, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration.

C. Filing Instructions

60. Pursuant to sections 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). *See Electronic Filing of Documents in Rulemaking Proceedings,* 63 FR 24121 (1998).

- *Electronic Filers:* Comments may be filed electronically using the internet by accessing the 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.

61. *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).

D. Ex Parte Information

62. This proceeding shall be treated as a ''permit-but-disclose'' proceeding in accordance with the Commission's *ex parte* rules. 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 list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and summarize all data presented and arguments made during the presentation. 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 must be filed consistent with section 1.1206(b) of the Commission's rules. In proceedings governed by section 1.49(f) of the Commission's 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.

E. Contact Person

63. For further information about this proceeding, please contact Michele Levy Berlove, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C313, 445 12th Street SW, Washington, DC 20554, at (202) 418–1477, *Michele.Berlove@fcc.gov,* or Michael Ray, FCC Wireline Competition Bureau, Competition Policy Division, Room 5–C235, 445 12th Street SW, Washington, DC 20554, (202) 418–0357, *Michael.Ray@fcc.gov.*

IV. Ordering Clauses

64. Accordingly, *it is ordered* that, pursuant to sections 1–4, 201, 202, 214, 224, 251, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151–154, 201, 202, 214, 224, 251, and 303(r), the Further Notice of Proposed Rulemaking *is adopted*.

65. *It is further ordered* that the Commission's Consumer & Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the Further Notice of Proposed Rulemaking, including the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 63

Extension of lines, new lines, and discontinuance, reduction, outage and impairment of service by common carriers; and Grants of recognized private operating agency status.

Federal Communications Commission.

Marlene H. Dortch,

Secretary. Office of the Secretary.

Proposed Rules

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 63 as follows:

PART 63—EXTENSION OF LINES, NEW LINES, AND DISCONTINUANCE, REDUCTION, OUTAGE AND IMPAIRMENT OF SERVICE BY COMMON CARRIERS; AND GRANTS OF RECOGNIZED PRIVATE OPERATING AGENCY STATUS

■ 1. The authority for part 63 continues to read as follows:

Authority: Sections 1, 4(i), 4(j), 10, 11, 201–205, 214, 218, 403 and 651 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i), 154(j), 160, 201–205, 214, 218, 403, and 571, unless otherwise noted.

■ 2. Section 63.71 is amended by adding paragraph (l) to read as follows:

§ 63.71 Procedures for discontinuance, reduction or impairment of service by domestic carriers.

* * * * *

(l) The following requirements are applicable to data service operating at download/upload speeds of less than 25 Mbps/3 Mbps in a service area in which the carrier provides alternative data services of equivalent quality at download/upload speeds of 25 Mbps/3 Mbps or higher:

(1) Notwithstanding paragraphs (a)(5)(i)–(ii) and (k)(1) of this section, if any carrier, dominant or non-dominant, seeks to grandfather data service operating at download/upload speeds of less than 25 Mbps/3 Mbps in a service area in which the carrier provides data services of equivalent quality at speeds of 25 Mbps/3 Mbps or higher, the notice shall state: The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that customers would be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is otherwise adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 10 days after the Commission releases public notice of the proposed discontinuance. You may file your comments electronically through the FCC's Electronic Comment Filing System using the docket number established in the Commission's public notice for this proceeding, or you may address them to the Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and include in your comments a reference to the § 63.71 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon you or your company, including any inability to acquire reasonable substitute service.

(2) An application filed by any carrier seeking to grandfather data service operating at download/upload speeds of less than 25 Mbps/3 Mbps for existing customers in a service area in which the carrier provides data services of equivalent quality at speeds of 25 Mbps/3 Mbps or higher shall be automatically granted on the 25th day after its filing with the Commission without any Commission notification to the applicant unless the Commission has notified the applicant that the grant will not be automatically effective. Such service must be grandfathered for a minimum of 180 days before a carrier can file an application with the Commission to discontinue, reduce, or impair the previously grandfathered service.

[FR Doc. 2017–27199 Filed 12–27–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

49 CFR Part 395

[Docket No. FMCSA–2017–0336]

Hours of Service of Drivers: Application for Exemption; Agricultural Retailers Association

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Application for exemption; request for comments.

SUMMARY: FMCSA announces that the Agricultural Retailers Association (ARA) has requested an exemption on behalf of its members from the requirement that motor carriers and their drivers of commercial motor vehicles (CMVs) use an electronic logging device (ELD) to record the driver hours-of-service (HOS). ARA states that the ELD requirement imposes undue economic and other burdens on its member retailers and distributors of farm-related products and services. It asserts that ELDs fail to properly record the complex HOS data, are not properly certified by the FMCSA, and do not provide appropriate cyber-security safeguards. ARA also asserts that ELDs will not function properly in many locations in rural America because of poor internet and cellular connectivity. ARA states that the operations of its members under exemption from the ELD requirements will achieve a level of safety equivalent to, or greater than, the level that would be achieved absent the proposed exemption. FMCSA requests public comment on ARA's application for exemption.

DATES: Comments must be received on or before January 29, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2017–0336 by any of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* See the *Public Participation and Request for Comments* section below for further information.
- *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, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* 1–202–493–2251
- Each submission must include the Agency name and the docket number for this notice. Note that DOT posts all comments received without change to *www.regulations.gov,* including any personal information included in a comment. Please see the *Privacy Act* heading below.

Docket: For access to the docket to read background documents or comments, go to *www.regulations.gov* at any time or visit Room W12–140 on the ground level of the West Building, 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., ET, Monday through Friday, except Federal holidays. The on-line FDMS is available 24 hours each day, 365 days each year.

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.*

FOR FURTHER INFORMATION CONTACT: For information concerning this notice, contact Mr. Tom Yager, Chief, FMCSA Driver and Carrier Operations Division; Office of Carrier, Driver and Vehicle Safety Standards; Telephone: 614–942–6477. Email: *MCPSD@dot.gov.* If you have questions on viewing or submitting material to the docket, contact Docket Services, telephone (202) 366–9826.

SUPPLEMENTARY INFORMATION:

I. Public Participation and Request for Comments

FMCSA encourages you to participate by submitting comments and related materials.

Submitting Comments

If you submit a comment, please include the docket number for this notice (FMCSA–2017–0336), indicate the specific section of this document to which the comment applies, and provide a reason for suggestions or recommendations. You may submit your comments and material online or by fax, mail, or hand delivery, but please use only one of these means. FMCSA recommends that you include your name and a mailing address, an email address, or a phone number in the body of your document so the Agency can contact you if it has questions regarding your submission.

To submit your comments online, go to *www.regulations.gov* and put the docket number, ''FMCSA–2017–0336'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period.

II. Legal Basis

FMCSA has authority under 49 U.S.C. 31136(e) and 31315 to grant exemptions from certain parts of the Federal Motor Carrier Safety Regulations (FMCSRs). FMCSA must publish a notice of each exemption request in the **Federal Register** (49 CFR 381.315(a)). The Agency must provide the public an opportunity to inspect the information relevant to the application, including any safety analyses that have been conducted. The Agency must also provide an opportunity for public comment on the request.

The Agency reviews safety analyses and public comments submitted, and determines whether granting the exemption would likely achieve a level of safety equivalent to, or greater than, the level that would be achieved by the current regulation (49 CFR 381.305). The decision of the Agency must be published in the **Federal Register** (49 CFR 381.315(b)) with the reasons for denying or granting the application and, if granted, the name of the person or class of persons receiving the exemption, and the regulatory provision from which the exemption is granted. The document must also specify the effective period and explain the terms and conditions of the exemption. The exemption may be renewed (49 CFR 381.300(b)).

III. Request for Exemption

The hours of service (HOS) rules (49 CFR part 395) prescribe the duty-time limits and rest requirements for interstate drivers of commercial motor vehicles (CMVs), and provide various exceptions to the HOS rules for CMV drivers engaged in certain agricultural operations. Beginning December 18, 2017, most motor carriers and drivers of CMVs in interstate commerce will be required to use electronic logging devices (ELDs), not handwritten logbooks, to document their HOS duty status (49 CFR 395.8(a)(1)(i)). The HOS rules and the various agricultural exceptions will not change—only the manner of recording compliance with them.

ARA applies for exemption from the ELD requirement on behalf of its member retailers and distributors of farm-related products and services. ARA members rely on CMVs to deliver their products and services to farms. ARA does not estimate the number of drivers that would be exempt if its application would be granted.

ARA asserts that its members are not fully prepared to meet the December 18, 2017 deadline. It seeks exemption to obtain a postponement of the approaching deadline. ATA recommends that the time created by the postponement be used by FMCSA to correct what ARA perceives to be shortcomings of the ELD rule. ARA states that its members need additional information and guidance about the ELD rule, but also asserts that the ELD rule as currently constituted is unduly burdensome for its members. It asserts that ELD vendors and manufacturers do not offer ELD products that address the needs of ARA members. ARA explains that the ELD systems being offered do not accommodate the various exceptions from the HOS rules that agricultural drivers routinely employ. ARA also believes that FMCSA has complicated the search for quality ELDs by allowing ELD manufacturers to certify their products themselves; ARA believes the FMCSA should be certifying ELD devices.

ARA asserts that poor internet and cellular service in certain parts of the country calls the technological feasibility of ELDs in the agriculture industry into question. In addition, ARA is concerned that ELDs are vulnerable to both cybersecurity attack and illicit monitoring of the movements of member CMVs, some of which transport hazardous materials. ARA also asserts that ELDs contribute to driver distraction and thus negatively affect safety. A copy of ARA's application for exemption is available for review in the docket for this notice.

ARA states that its application will achieve a level of safety equivalent to, or greater than, the level that would be achieved absent the proposed exemption.

Issued on: December 14, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–27884 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–EX–P

Notices

Federal Register

Vol. 82, No. 248

Thursday, December 28, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service (AMS)

Designation for the Essex, Illinois; Savage, Minnesota; Alabama; and Washington Areas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of designation.

SUMMARY: AMS is announcing the designations of Kankakee Grain Inspection, Inc. (Kankakee); State Grain Inspection, Inc. (State Grain); Alabama Department of Agriculture and Industries (Alabama); and the Washington Department of Agriculture (Washington) to provide official services under the United States Grain Standards Act (USGSA), as amended. The realignment of offices within the U.S. Department of Agriculture authorized by the Secretary's Memorandum dated November 14, 2017, eliminates the Grain Inspection, Packers and Stockyards Administration (GIPSA) as a standalone agency. The grain inspection activities formerly part of GIPSA are now organized under the Agricultural Marketing Service (AMS).

DATES: *Applicable Date:* January 1, 2018.

ADDRESSES: Jacob Thein, Compliance Officer, USDA, AMS, FGIS, QACD, 10383 North Ambassador Drive, Kansas City, MO 64153

FOR FURTHER INFORMATION CONTACT: Jacob Thein, 816–866–2223, *Jacob.D.Thein@usda.gov* or *FGIS.QACD@usda.gov*.

Read Applications: All applications and comments are available for public inspection at the office above during regular business hours (7 CFR 1.27(c)).

SUPPLEMENTARY INFORMATION: In the July 3, 2017, **Federal Register** (82 FR 30817–30820), GIPSA requested applications for designation to provide official services in the geographic areas presently serviced by Kankakee, State Grain, Alabama, and Washington. Applications were due by August 2, 2017.

Because the current official agencies, Kankakee, State Grain, Alabama, and Washington, were the only applicants for designation to provide official services in these areas, GIPSA did not ask for additional comments.

GIPSA evaluated the designation criteria in section 7(f) of the USGSA (7 U.S.C. 79(f)) and determined that Kankakee, State Grain, Alabama, and Washington are qualified to provide official services in the geographic areas specified in the **Federal Register** on July 3, 2017. These designations to provide official services in the specified areas of Kankakee, Alabama, and Washington are effective January 1, 2018, to December 31, 2022. The designation to provide official services in the specified area of State Grain is effective January 1, 2018, to December 31, 2018.

Interested persons may obtain official services by contacting this agency at the following telephone number:

Official agency	Headquarters location and telephone	Designation start	Designation end
Kankakee	Essex, IL, 815–365–2268	1/1/2018	12/31/2022
State Grain	Savage, MN, 952–808–8566	1/1/2018	12/31/2018
Alabama	Montgomery, AL, 251–438–2549	1/1/2018	12/31/2022
Washington	Olympia, WA, 253–820–3756	1/1/2018	12/31/2022

Section 7(f) of the USGSA authorizes the Secretary to designate a qualified applicant to provide official services in a specified area after determining that the applicant is better able than any other applicant to provide such official services (7 U.S.C. 79 (f)).

Dated: December 21, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–28033 Filed 12–27–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Kootenai National Forest, Lincoln County, Montana Montanore Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: The Kootenai National Forest (KNF) will prepare a Supplemental Environmental Impact Statement (SEIS) on a proposed federal action, which is approval of a Plan of Operations for the Evaluation Phase of the Montanore Project (Project) The Project is a proposed underground copper and silver mine located about 18 miles south of Libby, near the Cabinet Mountains within the Libby Ranger District, Kootenai National Forest, Lincoln County, Montana. The Montanore Project is proposed by Montanore Minerals Corp. (MMC), a subsidiary of Hecla Mining Co.

DATES: Scoping is not required for an SEIS (40 CFR 1502.9(c)(4)). The Forest Service is not inviting comments at this time. The draft SEIS is expected to be available for public review and comment in the first quarter of 2018 and the final SEIS is expected to be issued in the second quarter of 2018. The comment period for the draft SEIS will be for 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

ADDRESSES: Kootenai National Forest, 31374 U.S. Highway 2, Libby, MT 59923.

FOR FURTHER INFORMATION CONTACT: Lynn Hagarty, Project Coordinator, Kootenai National Forest, Supervisor's Office, 31374 U.S. Highway 2, Libby, MT 59923–3022. Inquiries can be made by phone at (406) 293–6211 or via email at *lhagarty@fs.fed.us.*

SUPPLEMENTARY INFORMATION: This SEIS and related proposed federal action, which is the approval of a Plan of Operations for the Evaluation Phase of the Montanore Project, is being completed consistent with the Organic Administration Act, the Locatable Minerals Regulations (36 CFR 228 Subpart A), and the Multiple Use Mining Act. The KNF issued a Joint Final Environmental Impact Statement (JFEIS) in December 2015 and a Record of Decision (ROD) in February 2016. The Montana Department of Environmental Quality (DEQ) also issued a ROD in February 2016 that provided the State's approval of the Evaluation Phase of the project. In a U.S. District Court opinion issued on May 30, 2017 in a consolidated case (*Save Our Cabinets* v. *U.S. Dep't of Agric.,* No. CV–16–53–M–DWM and *Libby Placer Mining Co.* v. *U.S. Forest Serv.,* No. CV 16–56–M–DWM), the U.S. District Court ruled that the Forest Service violated, in various respects, the Clean Water Act, the Organic Administration Act, the National Forest Management Act, and the National Environmental Policy Act by approving the Montanore Project. In a separate opinion in *Save Our Cabinets* v. *U.S. Fish & Wildlife Serv.* (No. CV 15–69–M–DWM) issued concurrently with the first, the Court ruled that the U.S. Fish and Wildlife Service violated the Endangered Species Act (ESA) because the No Jeopardy conclusions regarding bull trout and grizzly bears were flawed and that the Forest Service violated the ESA by relying on the flawed Biological Opinions. The Court vacated the Forest Service decision approving the project and remanded the 2016 ROD and JFEIS back to the Forest Service for further action, ''*either through issuing a new Record of Decision that approves only the Evaluation Phase or one that again addresses the entire project.*'' Furthermore, the Court stated that the primary problem with the 2016 ROD was that it approved the entire project, not just the Evaluation Phase. The Court also remanded to the U.S. Fish and Wildlife Service its 2014 Biological Opinions. The SEIS will describe the activities that would occur during the Evaluation Phase of the Montanore Project, clarify what effects would occur as a result of those activities, and update resource analyses if there are significant new circumstances or information relevant to environmental concerns and bearing on the Evaluation Phase or its impacts in order to ensure a complete analysis of the environmental effects of the proposed federal action.

Following is a brief summary of the Evaluation Phase of the Montanore Project, as it would occur under Alternative 3 selected by the KNF in its 2016 ROD. Detailed descriptions of the alternatives studied in detail are provided in the Joint FEIS and ROD, which can be can be viewed or downloaded from the following website: *https://www.fs.usda.gov/projects/kootenai/landmanagement/projects.*

Evaluation Phase

The purposes of the Evaluation Phase would be to: (1) Expand the knowledge of the mineralized zones of the deposit; (2) assess and define the mineralized zone within established valid existing rights; and (3) collect, provide, and analyze additional geotechnical, hydrological, and other information necessary for preparation of a mine plan for subsequent phases. An updated mine Plan of Operations would be required should MMC decide, based on the assessment of the orebody and other information collected during the Evaluation Phase, to pursue subsequent phases of the project. Information collected during the Evaluation Phase would be used to confirm and update the analysis for subsequent phases that was provided in the JFEIS, should the KNF receive an updated mine Plan of Operations for subsequent project phases.

The Evaluation Phase is anticipated to last 18 to 24 months. MMC would dewater the full extent of the existing Libby Adit and develop an additional 10,500 feet of drifts and 35 drill stations above the currently defined ore zones. MMC would drill ahead of the drifts and keep all drill stations 300 feet from the Rock Lake Fault and 1,000 feet from Rock Lake. The drill core would be used to support resource modeling, mine planning, metallurgical testing, preliminary hydrology assessment, and rock mechanic studies for the full Montanore Project. An estimated 287,000 tons (140,000 cubic yards) of waste rock would be generated and stored on private land at the Libby Adit Site. The waste rock storage areas would be lined to collect runoff from the area and seepage through the waste rock.

Water from the Libby Adit and from the waste rock storage area would be treated before discharging to MPDES-permitted outfalls. The MPDES permit MT0030279, which the DEQ issued in 2017, sets effluent limits and establishes monitoring for wastewater discharges from the Libby Adit Water Treatment Plant. Treated water would be discharged to a percolation pond located at the Libby Adit Site.

MMC would use Tier 4 generators, if available, or Tier 3 generators for all Evaluation Phase activities and would be subject to the limits, emission controls, and mitigations required by its Air Quality Permit (MAQP #3788–00). MMC would also use Tier 4 engines, if available, or Tier 3 engines on underground mobile equipment and use ultra-low sulfur diesel fuel in generator and underground mobile equipment engines during the Evaluation Phase.

In addition to underground activities, MMC would conduct field studies on National Forest System lands between Poorman and Little Cherry Creeks. The field studies would include a site reconnaissance and a drilling and sampling program to evaluate site geology, groundwater conditions and water quality. Surface disturbances would be reclaimed.

If MMC does not pursue subsequent phases of the project or if those phases are not approved by the Forest Service, MMC would install a concrete-reinforced hydraulic plug in the adit, reconstruct the original adit plug, remove all surface facilities, and regrade and revegetate the disturbed areas. Monitoring that would occur during the Evaluation Phase is described in Appendix C of the JFEIS.

Lead and Cooperating Agencies

The USDA Forest Service is the Lead Agency for this project. Other agencies may become a Cooperating Agency as the SEIS progresses.

Responsible Official

Christopher Savage, Forest Supervisor Kootenai National Forest, 31374 U.S. Highway 2, Libby, MT 59923 is the Responsible Official for the Montanore Project.

Dated: December 8, 2017.

Chris French,

Associate Deputy Chief, National Forest System.

[FR Doc. 2017–28060 Filed 12–27–17; 8:45 am]

BILLING CODE 3411–15–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Annual Business Survey.

OMB Control Number: 0607–XXXX.

Form Number(s): ABS–1 Worksheet, ABS–2 Worksheet.

Type of Request: New collection.

Number of Respondents: 850,000.

Average Hours per Response: 52 minutes.

Burden Hours: 735,934.

Needs and Uses: In an effort to improve the measurement of business dynamics in the United States, the Census Bureau plans to conduct the Annual Business Survey (ABS). The ABS is a new survey designed to combine Census Bureau firm-level collections to reduce respondent burden, increase data quality, reduce operational costs, and operate more efficiently. The ABS replaces the five-year Survey of Business Owners (SBO) for employer businesses, the Annual Survey of Entrepreneurs (ASE), and the Business R&D and Innovation for Microbusinesses (BRDI–M) surveys. ABS estimates will include the number of firms, sales/receipts, annual payroll, and employment by gender, ethnicity, race, and veteran status as well as R&D and Innovation and various other relevant topics. The ABS will be conducted jointly by the National Center for Science and Engineering Statistics (NCSES) within the National Science Foundation (NSF) and the Census Bureau for five reference years (2017–2021).

The ABS universe includes all nonfarm employer businesses filing Internal Revenue Service (IRS) tax forms as individual proprietorships, partnerships, or any type of corporation, and with receipts of $1,000 or more. The ABS will sample approximately 850,000 employer businesses in 2017 and approximately 300,000 employer businesses in years 2018–2021. The sample is stratified by state, frame, and industry. The Census Bureau selects certain companies with certainty based on volume of sales, payroll, number of paid employees or NAICS. All certainty cases are sure to be selected and represent only themselves.

The ABS is designed to incorporate new content each survey year based on topics of relevance. Each year a new module of questions is submitted to the Office of Management and Budget (OMB) for approval. Topics for the 2017 ABS include: Owner & Business Characteristics; R&D from microbusiness; Innovation; and Technology.

The ABS collection is electronic only. Those selected for the survey receive an initial letter informing the respondents of their requirement to complete the survey as well as instructions on accessing the survey. The 2017 ABS initial mailout is scheduled for June 2018. Responses will be due approximately 40 days from initial mailout. Select respondents will receive a due date reminder approximately one week before responses are due. Additionally, there will be two follow-up letter mailings to nonrespondents after the due date. Select nonrespondents may receive a certified mailing for the second follow-up if needed. Closeout of mail operations is scheduled for December 2018. Upon the close of the collection period, the response data will be processed, edited, reviewed, tabulated, and released publicly.

Statistics from the ABS will be used by government program officials, industry organization leaders, economic and social analysts, business entrepreneurs, and domestic and foreign researchers in academia, business, and government. Estimates produced on owner demographic data may be used to assess business assistance needs, allocate available program resources, and create a framework for planning, directing, and assessing programs that promote the activities of disadvantaged groups; to assess minority-owned businesses by industry and area and to educate industry associations, corporations, and government entities; to analyze business operations in comparison to similar firms, compute market share, and assess business growth and future prospects. Estimates produced on research and development and innovation may be used to compare R&D costs across industries, determine where R&D activity is conducted geographically, and identify the types of businesses with R&D; to contribute to the Bureau of Economic Analysis (BEA) system of national accounts; to increase investments in research and development, strengthen education, and encourage entrepreneurship; and to compare business innovation in the United States to that of other countries, including those in the European Union.

Additionally, the data will help provide insight into the technology sector based on how businesses respond to questions about technology usage and approximate costs of technology usage.

Historical ASE and SBO data have been widely used by private firms and individuals to evaluate their own businesses and markets. The ABS will be able to provide most of the same continuity as previous statistics, with enhanced content, to provide a more comprehensive view of domestic employer businesses, their owners and corresponding characteristics and activities. Additional examples of data use include:

- The Small Business Administration (SBA) and the Minority Business Development Agency (MBDA) to assess business assistance needs and allocate available program resources.
- Local government commissions on small and disadvantaged businesses to establish and evaluate contract procurement practices.
- Federal, state and local government agencies as a framework for planning, directing and assessing programs that promote the activities of disadvantaged groups.
- The National Women's Business Council to assess the state of women's business ownership for policymakers, researchers, and the public at large.
- Consultants and researchers to analyze long-term economic and demographic shifts, and differences in ownership and performance among geographic areas.
- Individual business owners to analyze their operations in comparison to similar firms, compute their market share, and assess their growth and future prospects.

Affected Public: Business or other for-profit.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 13 United States Code, Sections 8(b), 131, and 182, Title 42 United States Code, Section 1861–76 (National Science Foundation Act of 1950, as amended), and Section 505 within the America COMPETES Reauthorization Act of 2010 authorize this collection. Sections 224 and 225 of Title 13 United States Code requires response from sampled firms.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–28012 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

Agency: U.S. Census Bureau.

Title: Survey of Housing Starts, Sales & Completions.

OMB Control Number: 0607–0110.

Form Number(s): SOC–Q1/SF.1, SCO–Q1/MF.1.

Type of Request: Revision of a currently approved collection.

Number of Respondents: 19,440.

Average Hours per Response: 5 minutes.

Burden Hours: 150,066.

Needs and Uses: The U.S. Census Bureau is requesting a revision and extension of the currently approved collection for the Survey of Housing Starts, Sales, and Completions, otherwise known as the Survey of Construction (SOC). Government agencies and private companies use statistics from SOC to monitor and evaluate the large and dynamic housing construction industry. Data for two Principal Federal Economic Indicators are produced from the SOC: New Residential Construction (housing starts and housing completions) and New Residential Sales. In addition, a number of other statistical series are produced, including extensive information on the physical characteristics of new residential buildings, and indexes measuring rates of inflation in the price of new buildings. The collection of data on housing units sold and completed and physical characteristics is funded by the Department of Housing and Urban Development (HUD) via a reimbursable agreement with the Census Bureau. HUD uses data on housing market conditions to inform its policies. These statistics are based on a sample of residential buildings in permit-issuing places and a road canvass in a sample of land areas not covered by building permit systems.

The respondents are homebuilders, real estate agents, rental agents, or new homeowners of sampled residential buildings. Field Representatives contact respondents multiple times based on the number of projects in the sample and the number of months required to complete the project (usually about 8 months).

After discussions with HUD and other key data users, we identified one new data item on ceiling height to be added to the single-family questionnaire.

The Census Bureau uses the information collected in the SOC to publish estimates of the number of new residential housing units started, under construction, completed, and the number of new houses sold and for sale. The Census Bureau also publishes many financial and physical characteristics of new housing units. Government agencies use these statistics to evaluate economic policy, measure progress towards the national housing goal, make policy decisions, and formulate legislation. For example, the Board of Governors of the Federal Reserve System uses data from this survey to evaluate the effect of interest rates in this interest-rate sensitive area of the economy. The Bureau of Economic Analysis uses the data in developing the Gross Domestic Product (GDP). The private sector uses the information for estimating the demand for building materials and the many products used in new housing and to schedule production, distribution, and sales efforts. The financial community uses the data to estimate the demand for short-term (construction loans) and long-term (mortgages) borrowing.

Affected Public: Individuals; Businesses.

Frequency: Monthly.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

This information collection request may be viewed at *www.reginfo.gov.* Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Sheleen Dumas,

Departmental PRA Lead, Office of the Chief Information Officer.

[FR Doc. 2017–28021 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Joseph Esequiel-Gonzalez, Inmate Number: 04655–479, FCI Bastrop Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602; Order Denying Export Privileges

On August 30, 2016, in the U.S. District Court for the Southern District of Texas, Joseph Esequiel-Gonzalez (''Esequiel-Gonzalez'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Esequiel-Gonzalez was convicted of knowingly and willfully exporting, attempting to export, and causing to be exported from the United States to Mexico a .380 caliber pistol, which was designated as a defense article on the United States Munitions List, without the required U.S. Department of State license. Esequiel-Gonzalez was sentenced to 55 months in prison, three years of supervised release, and a special assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Export Administration Act (''EAA'' or ''the Act'') or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Esequiel-Gonzalez's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Esequiel-Gonzalez to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Esequiel-Gonzalez.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Esequiel-

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Gonzalez's export privileges under the Regulations for a period of 10 years from the date of Esequiel-Gonzalez's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Esequiel-Gonzalez had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until August 30, 2026, Joseph Esequiel-Gonzalez, with a last known address of Inmate Number 04655–479, FCI Bastrop Federal Correctional Institution, P.O. Box 1010, Bastrop, TX 78602, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Esequiel-Gonzalez by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Esequiel-Gonzalez may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Esequiel-Gonzalez and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until August 30, 2026.

Issued this 19th day of December 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–28006 Filed 12–27–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Hunter Perry, 173 Red Hawk Drive, Vine Grove, KY 40175; Order Denying Export Privileges

On July 20, 2016, in the U.S. District Court for the Western District of Kentucky, Hunter Perry (''Perry'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Perry was convicted of knowingly and willfully exporting or causing to be exported from the United States to the United Kingdom defense articles on the United States Munitions List, without the required U.S. Department of State licenses, including, inter alia, a D–760 night vision scope, a PAS–13 thermal scope, a PAS–23 mini-thermal scope, and a PVS–15 night vision binocular. Perry was sentenced to one day in prison, one year of supervised release, and a special assessment of $500.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'')[1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Export Administration Act (''EAA'' or ''the Act'') or the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Perry's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Perry to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Perry.

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Perry's export privileges under the Regulations for a period of five years from the date of Perry's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Perry had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until July 20, 2021, Hunter Perry, with a last known address of 173 Red Hawk Drive, Vine Grove, KY 40175, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Perry by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Perry may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Perry and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until July 20, 2021.

Issued this 19th day of December 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–28005 Filed 12–27–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Gerardo Trevino-Moncivais, Inmate Number: 13375–479, D. Ray James Correctional Institution, P.O. Box 2000, Folkston, GA 31537; Order Denying Export Privileges

On October 18, 2016, in the U.S. District Court for the Southern District of Texas, Gerardo Trevino-Moncivais (''Trevino-Moncivais'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Trevino-Moncivais was convicted of knowingly and willfully aiding and abetting the export, attempting to export, and causing to be exported from the United States to Mexico defense articles designated on the United States Munitions List, namely two .22 caliber rifles, a .223 caliber rifle, three .270 caliber rifles, a .308 caliber rifle, a 7MM–08 caliber rifle, three .22 caliber pistols, a .380 caliber pistol and approximately 1,570 rounds of ammunition of various calibers, without the required U.S. Department of State licenses. Trevino-Moncivais was sentenced to 36 months in prison and a special assessment of $100.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Export Administration Act (''EAA'' or ''the Act'') or the Regulations in

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

which the person had an interest at the time of his/her conviction.

BIS has received notice of Trevino-Moncivais's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Trevino-Moncivais to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Trevino-Moncivais.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Trevino-Moncivais's export privileges under the Regulations for a period of 10 years from the date of Trevino-Moncivais's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Trevino-Moncivais had an interest at the time of his conviction.

Accordingly, it is hereby *ordered*:

First, from the date of this Order until October 18, 2026, Gerardo Trevino-Moncivais, with a last known address of Inmate Number 13375–479, D. Ray James Correctional Institution, P.O. Box 2000, Folkston, GA 31537, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Trevino-Moncivais by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Trevino-Moncivais may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Trevino-Moncivais and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until October 18, 2026.

Issued this 19th day of December 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–28003 Filed 12–27–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

In the Matter of: Papa Faal, 6308 Decatur Avenue North, Brooklyn Park, MN 55428; Order Denying Export Privileges

On May 12, 2016, in the U.S. District Court for the District of Minnesota, Papa Faal (''Faal'') was convicted of violating Section 38 of the Arms Export Control Act (22 U.S.C. 2778 (2012)) (''AECA''). Specifically, Faal was convicted of knowingly and willfully conspiring to export from the United States to Gambia semi-automatic rifles designated as defense articles on the United States Munitions List, without the required U.S. Department of State licenses. Faal was sentenced to time served, three years of supervised release, and a $200 assessment.

Section 766.25 of the Export Administration Regulations (''EAR'' or ''Regulations'') [1] provides, in pertinent part, that ''[t]he Director of the Office of Exporter Services, in consultation with the Director of the Office of Export Enforcement, may deny the export privileges of any person who has been convicted of a violation of the EAA [Export Administration Act], the EAR, or any order, license, or authorization issued thereunder; any regulation, license or order issued under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706); 18 U.S.C. 793, 794 or 798; section 4(b) of the Internal Security Act of 1950 (50 U.S.C. 783(b)); or section 38 of the Arms Export Control Act (22 U.S.C. 2778).'' 15 CFR 766.25(a); *see also* Section 11(h) of the EAA, 50 U.S.C. 4610(h). The denial of export privileges under this provision may be for a period of up to 10 years from the date of the conviction. 15 CFR 766.25(d); *see also* 50 U.S.C. 4610(h). In

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The Regulations issued pursuant to the Export Administration Act (50 U.S.C. 4601–4623 (Supp. III 2015) (available at *http://uscode.house.gov*)) (''EAA'' or ''the Act''). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.* (2012)).

addition, Section 750.8 of the Regulations states that the Bureau of Industry and Security's Office of Exporter Services may revoke any Bureau of Industry and Security (''BIS'') licenses previously issued pursuant to the Export Administration Act (''EAA'' or ''the Act''), or pursuant to the Regulations in which the person had an interest at the time of his/her conviction.

BIS has received notice of Faal's conviction for violating Section 38 of the AECA, and has provided notice and an opportunity for Faal to make a written submission to BIS, as provided in Section 766.25 of the Regulations. BIS has not received a submission from Faal.

Based upon my review and consultations with BIS's Office of Export Enforcement, including its Director, and the facts available to BIS, I have decided to deny Faal's export privileges under the Regulations for a period of ten (10) years from the date of Faal's conviction. I have also decided to revoke all licenses issued pursuant to the Act or Regulations in which Faal had an interest at the time of his conviction.

Accordingly, it is hereby *ordered:*

First, from the date of this Order until May 12, 2026, Papa Faal, with a last known address of 6308 Decatur Avenue North, Brooklyn Park, MN 55428, and when acting for or on his behalf, his successors, assigns, employees, agents or representatives (''the Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

Second, no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any other person, firm, corporation, or business organization related to Faal by ownership, control, position of responsibility, affiliation, or other connection in the conduct of trade or business may also be made subject to the provisions of this Order in order to prevent evasion of this Order.

Fourth, in accordance with Part 756 of the Regulations, Faal may file an appeal of this Order with the Under Secretary of Commerce for Industry and Security. The appeal must be filed within 45 days from the date of this Order and must comply with the provisions of Part 756 of the Regulations.

Fifth, a copy of this Order shall be delivered to Faal and shall be published in the **Federal Register**.

Sixth, this Order is effective immediately and shall remain in effect until May 12, 2026.

Issued this 19th day of December 2017.

Karen H. Nies-Vogel,

Director, Office of Exporter Services.

[FR Doc. 2017–28004 Filed 12–27–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[17–BIS–0002]

In the Matter of: Saeid Yahya Charkhian, Villa 5, Street 1, Arabian Ranches, Dubai, United Arab Emirates, and Caspian Industrial Machinery Supply LLC, No. 2509 Churchill Executive Tower, Business Bay, Dubai, United Arab Emirates, Attention: Saeid Yahya Charkhian; Respondents; Order Relating to Saeid Yahya Charkhian and Caspian Industrial Machinery Supply LLC

The Bureau of Industry and Security, U.S. Department of Commerce (''BIS''), has notified Saeid Yahya Charkhian, of Dubai, United Arab Emirates (''Charkhian''), and Caspian Industrial Machinery Supply LLC of Dubai, United Arab Emirates (''Caspian'') (collectively the ''Respondents''), that it has initiated an administrative proceeding against Respondents pursuant to Section 766.3 of the Export Administration Regulations (the ''Regulations''),[1] and Section 13(c) of the Export Administration Act of 1979, as amended (the ''Act''),[2] through the issuance of a Charging Letter to Respondents that allege that Charkhian committed four (4) violations of the Regulations and Caspian committed three (3) violations of the Regulations. Specifically, the charges are:

As to both Charkhian and Caspian:

Charges 1–3 15 CFR 764.2(e)—Acting With Knowledge

1. On at least three occasions between on or about March 27, 2012, and on or about October 5, 2013, Charkhian and Caspian (collectively, the ''Respondents'') transferred,

[1] The Regulations are currently codified in the Code of Federal Regulations at 15 CFR parts 730–774 (2017). The violations alleged occurred in 2012–2013. The Regulations governing the violations at issue are found in the 2012–2013 version of the Code of Federal Regulations, 15 CFR parts 730–774 (2012–2013). The 2017 Regulations govern the procedural aspects of this case.

[2] 50 U.S.C. 4601–4623 (Supp. III 2015). Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 15, 2017 (82 FR 39005 (Aug. 16, 2017)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701, *et seq.*) (2012).

forwarded, ordered, bought and/or sold items subject to the Regulations and exported or to be exported from the United States to Iran, via the Netherlands and the United Arab Emirates (''UAE''), with knowledge[3] that a violation of the Regulations had occurred or was about or intended to occur in connection with the items. Specifically, the Respondents acted with knowledge of a violation of the Regulations when they sold, transferred and/or forwarded to, and/or ordered or bought for, end users in Iran items that the Respondents procured from the United States through an intermediary company located in the Netherlands. These U.S.-origin items, including masking wax, lithium batteries, and zirconia crucibles, were designated EAR99 under the Regulations[4] and valued in total at nearly $190,000.

2. The Respondents' actions violated the long-standing and widely-known U.S. embargo against Iran. Under Section 746.7 of the Regulations, BIS prohibits the export or reexport to Iran of any item subject to both the Regulations and the Iranian Transactions and Sanctions Regulations (''ITSR''), if the transaction is prohibited by the ITSR and has not been authorized by the U.S. Department of the Treasury's Office of Foreign Assets Control (''OFAC''), which administers the ITSR.[5] At all times pertinent hereto, the ITSR prohibited, *inter alia,* the unauthorized exportation, reexportation, sale or supply, directly or indirectly, from the United States to Iran of any goods, technology, or services. This broad prohibition included restrictions on the exportation, reexportation, sale or supply of any goods, technology, or services from the United States to a third country, such as the Netherlands or the UAE, undertaken with knowledge or reason to know that they were intended for supply, transshipment, or reexportation, directly or indirectly, to Iran. 31 CFR 560.204. As set further below, the Respondents knew that the items at issue were ultimately destined for Iran and they knew of the U.S. embargo against Iran, but they did not seek or obtain the required U.S. Government authorizations in connection with any of the exports or reexports described herein.

3. Charkhian, an Iranian national, personally participated in each of the transactions at issue and, in addition, was Managing Director and part owner of Caspian, a UAE trading company, at all times pertinent hereto. Upon information and belief, Charkhian has, in fact, been Managing Director of Caspian since in or about May 2001, when Caspian was formed in the UAE. Through the Respondents' many years of business in the UAE, they were aware of the U.S. embargo against Iran at the times of the transactions at issue in 2012–2013. Moreover, the Respondents had specifically acknowledged the existence of the embargo, for example, when they completed an end-user agreement with a European subsidiary of a U.S. company that included statements related to the need for compliance with ''U.S. Export Administration Regulations.''

4. Despite this knowledge, the Respondents sought to procure for and supply to customers in Iran U.S.-origin items without the required U.S. Government authorization and did so through transactions that they structured to conceal from U.S. suppliers the Respondents' actual role in the transactions and that the items were ultimately destined for Iran. On or about March 27, 2012, the Respondents transferred or forwarded masking wax, an item subject to the Regulations and the ITSR and valued at $2,570, from the UAE to Iran without the required U.S. Government authorization. The events leading to this knowing violation began in or about November 2011, when the Respondents received an inquiry from an Iranian entity seeking masking wax, a protective, strippable coating used in electroplating, for capping ends of tubing, and for sealing the ends of electric cables. The Respondents provided the request to a company in the Netherlands, which indicated that it ''only [had a] source in USA for this product'' but that the product was ''on stock in the U.S.'' and could be delivered in about two weeks. The Respondents' Iranian customer Mavadkaran Jahed Noavar Company (''Mavadkaran''), which is part of the Iran-based conglomerate the MAPNA Group, subsequently issued a purchase order on or about February 13, 2012, to the Respondents for 100 lbs. of masking wax, which the Respondents then purchased from the United States through the Dutch reseller. Payment information indicates that the Respondents sold the items to Mavadkaran on or about February 21, 2012. The items were exported from the United States on or about February 23, 2012. After arriving in the Netherlands, the items were transshipped on or about March 14, 2012, to the Respondents in the UAE. On or about March 27, 2012, the Respondents then transferred or forwarded the items to Iran.

5. On a second occasion, between in or about July 2012, and in or about October 2012, the Respondents similarly ordered and bought lithium batteries from the United States through the same Dutch intermediary company and then sold, transferred and/or forwarded the batteries to an end user in Iran. The lithium batteries were subject to the Regulations and the ITSR and were valued in total at $75,000. In or about January 2012, the Respondents had asked the Dutch company to provide a quote for six orders of 1,000 batteries which the Respondents' customer had tested and sought for a pending project in Iran. After receiving pricing information from the Dutch company, the Respondents bought or ordered the 1,000 lithium batteries on or about July 15, 2012, which was followed by a pro forma invoice from the Dutch company to the Respondents for the 1,000 batteries about one month later. On or about October 3, 2012, the U.S. supplier, which had not been informed that the items were to be transshipped to Iran, filed an Automated Export System (''AES'') record indicating that 1,000 lithium batteries were being exported from the United States for the ultimate destination of the Netherlands. As part of email correspondence between on or about October 15–17, 2012, following the transshipment of the items from the Netherlands to the Respondents in the UAE, the Dutch company provided the Respondents a certificate of origin from the U.S. company confirming the items were of U.S.-origin, as well as an invoice identifying the items as manufactured in the United States. A Caspian invoice and packing list dated October 17, 2012, indicated that the Respondents were selling, transferring and/or forwarding 1,000 lithium batteries to a buyer in Tehran, Iran, that was related to the Iran National Oil Company[6] and Iran National Drilling Company,[7] both of which are Iranian-Government owned corporations. The invoice also confirmed that the items were of U.S.-origin. A few days later, in an email dated on or about October 29, 2012, an Iranian party confirmed that it had received the 1,000 lithium batteries from the Respondents.

6. Finally, on a third occasion, between in or about August 2013, and in or about October 2013, the Respondents ordered and bought approximately 196 flat bottom zirconia crucibles from the United States through the same Dutch intermediary company and then sold, transferred or forwarded the crucibles to an end user in Iran. The crucibles are subject to the Regulations and the ITSR, can be used in nuclear material casting, such as casting uranium, and were valued at $112,000. The events leading up to this knowing violation began when the Respondents received an order request from Iranian company Mavadkaran on or about April 23, 2013. Mavadkaran requested that the purchase order be issued to Mapna International F.Z.E. (''Mapna''), a related company in the UAE, which was listed as the buyer instead of Mavadkaran. The Respondents' pro forma invoice dated April 23, 2013, indicated that the items would be of U.S.-origin. On or about May 9, 2013, the Respondents forwarded the order request to the Dutch company, and approximately one week later the Respondents received a price quote for the items. On or about June 3, 2013, Mapna issued a purchase order to the Respondents stating that the items were to be delivered by vessel to Iran and that the Respondents should provide a certification of origin confirming the items were of U.S.-origin, certified by the local chamber of commerce. After the Dutch company placed a

[3] Title 15 CFR 772.1 defines ''knowledge'' as ''[k]nowledge of a circumstance (the term may be a variant, such as ''know,'' ''reason to know,'' or ''reason to believe'') includes not only positive knowledge that the circumstance exists or is substantially certain to occur, but also an awareness of a high probability of its existence or future occurrence. Such awareness is inferred from evidence of the conscious disregard of facts known to a person and is also inferred from a person's willful avoidance of facts.

[4] ''EAR99'' is a designation for items subject to the Regulations but not listed on the Commerce Control List. 15 CFR 734.3(c).

[5] 31 CFR part 560 (2012–2013). The ITSR formerly were known as the Iranian Transactions Regulations (''ITR''). On October 22, 2012, OFAC renamed the ITR as the ITSR and reissued them in relevant part. *See* 77 FR 64664 (Oct. 22, 2012).

[6] Also known as National Iranian Oil Company or ''NIOC.'' NIOC was designated a Specially Designated National (''SDN'') by OFAC on December 4, 2008, but was removed from the SDN List on January 16, 2016, as part of the Joint Comprehensive Plan of Action (''JCPOA'').

[7] Also known as the National Iranian Drilling Company or ''NIDC.''

corresponding order with a U.S. supplier at the Respondents' request, the zirconia crucibles were exported from the United States to the Netherlands on or about August 20, 2013. The Dutch company transshipped the items to the UAE on or about September 17, 2013. An email dated on or about October 5, 2013, from Charkhian to a customs broker indicated that the Respondents had forwarded or transferred the items for delivery to Iran.

7. In so doing, the Respondents committed three (3) violations of Section 764.2(e) of the Regulations and are jointly and severally liable for those violations.

As to Charkhian only:

Charge 4 15 CFR 764.2(g)—False or Misleading Statement

8. On or about December 16, 2014, Charkhian made a false or misleading statement to BIS and other U.S. Government officials in connection with an action subject to the Regulations and/or in connection with effecting an export, reexport or other activity subject to the Regulations. While being interviewed by BIS on that date as part of a post-shipment verification (unrelated to Charges 1–3 above), Charkhian represented that he had never conducted any business with Iran at any time since 2001, and had not purchased anything from the United States during that time period. These statements contradicted the transactions and related transaction documents and correspondence detailed in Charges 1–3 above, which clearly indicate that at least on three occasions during 2012–2013, Charkhian and his company, Caspian, knowingly procured items from the United States or of U.S.-origin for Iranian customers through an intermediary party in the Netherlands.

9. Pursuant to Section 764.2(g) of the Regulations, no person may make any false or misleading representation or statement, or falsify or conceal any material fact, either directly or indirectly to BIS or any official of any other U.S. Government agency in connection with an action subject to the Regulations as set forth in (g)(1)(i) or in connection with effecting an export, reexport or other activity subject to the Regulations as set forth in (g)(1)(iii).

10. In so doing, Charkhian committed one (1) violation of Section 764.2(g) of the Regulations.

Whereas, BIS and Respondents have entered into a Settlement Agreement pursuant to Section 766.18(b) of the Regulations, whereby they agreed to settle this matter in accordance with the terms and conditions set forth therein; and

Whereas, I have approved of the terms of such Settlement Agreement; *it is therefore ordered:*

FIRST, that for a period of twelve (12) years from the date of this Order, Saeid Yahya Charkhian, with a last known address of Villa 5, Street 1, Arabian Ranches, Dubai, United Arab Emirates, and Caspian Industrial Machinery Supply LLC, No. 2509 Churchill Executive Tower, Business Bay, Dubai, United Arab Emirates, and when acting for or on their behalf, their successors, assigns, directors, officers, employees, representatives, or agents (each a ''Denied Person'' and collectively the ''Denied Persons''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, license exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or engaging in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or from any other activity subject to the Regulations.

SECOND, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of a Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by a Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby a Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from a Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from a Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and which is owned, possessed or controlled by a Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by a Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

THIRD, that, after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to a Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of the Order.

FOURTH, all licenses issued pursuant to the Act or Regulations in which any of the Respondents had an interest as of the date of this Order are revoked.

FIFTH, Respondents shall not take any action or make or permit to be made any public statement, directly or indirectly, denying the allegations in the Charging Letter or the Order. The foregoing does not affect Respondents' testimonial obligations in any proceeding, nor does it affect its right to take legal or factual positions in civil litigation or other civil proceedings in which the U.S. Department of Commerce is not a party.

SIXTH, that the Charging Letter, the Settlement Agreement, and this Order shall be made available to the public.

SEVENTH, that this Order shall be served on Respondents, and shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Issued this 21st day of December, 2017.

Richard R. Majauskas,

Deputy Assistant Secretary of Commerce for Export Enforcement performing the non-exclusive functions and duties of the Assistant Secretary of Commerce for Export Enforcement.

[FR Doc. 2017–28112 Filed 12–27–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Availability of Final Evaluation Findings of State Coastal Programs and National Estuarine Research Reserves

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: Notice is hereby given of the availability of final evaluation findings of state coastal programs and national estuarine research reserves. The NOAA Office for Coastal Management has completed review of the Coastal Zone Management Program evaluations for the states of New York, New Hampshire, Washington, and Maine. The states were found to be implementing and enforcing their federally approved Coastal Zone Management Programs, addressing the national coastal management objectives identified in CZMA Section 303(2)(A)–(K), and adhering to the programmatic terms of their financial assistance awards.

The NOAA Office for Coastal Management has completed review of the National Estuarine Research Reserve evaluations for South Slough, Jacques Cousteau, Wells, and Narragansett Bay. The reserves were found to be adhering to programmatic requirements of the National Estuarine Research Reserve System. Copies of these final evaluation findings may be downloaded at *http://coast.noaa.gov/czm/evaluations/evaluation_findings/index.html* or by submitting a written request to the person identified under **FOR FURTHER INFORMATION CONTACT**.

FOR FURTHER INFORMATION CONTACT: Carrie Hall, Evaluator, Planning and Performance Measurement Program, Office for Coastal Management, NOS/NOAA, 1305 East-West Highway, 11th Floor, N/OCM1, Silver Spring, Maryland 20910, or *Carrie.Hall@noaa.gov.*

Dated: December 19, 2017.

Keelin Kuipers,

Acting Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

Federal Domestic Assistance Catalog 11.419

Coastal Zone Management Program Administration

[FR Doc. 2017–28111 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration (NOAA)

Marine Protected Areas Federal Advisory Committee; Public Meeting

AGENCY: Office of National Marine Sanctuaries (ONMS), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice of open meeting.

SUMMARY: Notice is hereby given of a meeting of the Marine Protected Areas Federal Advisory Committee (Committee) in San Francisco, California.

DATES: The meeting will be held on Wednesday, January 17, 2018, from 9:00 a.m. to 5:00 p.m. through Friday, January 19, 2018, at 1 p.m. These times and the agenda topics described below are subject to change. Refer to the web page listed below for the most up-to-date meeting agenda.

ADDRESSES: The meeting will be held at the Argonaut Hotel, 495 Jefferson Street at Hyde, San Francisco, CA 94109.

FOR FURTHER INFORMATION CONTACT: Charles M. Wahle, Ph.D., Designated Federal Officer, MPA FAC, National Marine Protected Areas Center, 99 Pacific St., Suite 100–F, Monterey, CA 93940. (Phone: 831–647–6460; Fax: 831–647–1732; email: *charles.wahle@noaa.gov*; or visit the National MPA Center website at *http://marineprotectedareas.noaa.gov/fac*).

SUPPLEMENTARY INFORMATION: The Committee, composed of external, knowledgeable representatives of stakeholder groups, was established by the Department of Commerce (DOC) to provide advice to the Secretaries of Commerce and the Interior on implementation of Section 4 of Executive Order 13158, on marine protected areas (MPAs). The meeting is open to the public, and public comment will be accepted from 4:30 p.m. to 5:00 p.m. on Wednesday, January 17, 2018. In general, each individual or group will be limited to a total time of five (5) minutes. If members of the public wish to submit written statements, they should be submitted to the Designated Federal Officer by Friday, January 12, 2018.

Matters To Be Considered: This meeting will focus on: (i) Refining the Committee's charge and work plans for 2018–2019; (ii) identifying ways to enhance the impact of the Committee's recommendations and products; (iii) engaging with National Marine Sanctuary Advisory Council Chairs and other MPA programs to explore common approaches to emerging issues facing US MPAs; and, (iv) establishing subcommittees and working groups, as needed, to address the Committee's new charge. The agenda is subject to change. The latest version will be posted at *http://marineprotectedareas.noaa.gov/fac.*

Dated: December 21, 2017.

Rebecca Holyoke,

Deputy Director, Office of National Marine Sanctuaries, National Ocean Service, National Oceanic and Atmospheric Administration.

[FR Doc. 2017–28108 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–NK–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Evaluation of National Estuarine Research Reserve

AGENCY: Office for Coastal Management (OCM), National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Department of Commerce (DOC).

ACTION: Notice.

SUMMARY: The National Oceanic and Atmospheric Administration (NOAA), Office for Coastal Management will hold a public meeting to solicit comments for the performance evaluation of the Padilla Bay National Estuarine Research Reserve.

DATES: *Padilla Bay National Estuarine Research Reserve Evaluation:* The public meeting will be held on Wednesday, February 28, 2018, and written comments must be received on or before Friday, March 9, 2018.

For the specific date, time, and location of the public meetings, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: You may submit comments on the reserves and coastal program NOAA intends to evaluate by any of the following methods:

Public Meeting and Oral Comments: A public meeting will be held in Mt. Vernon, Washington for the Padilla Bay Reserve. For the specific location, see **SUPPLEMENTARY INFORMATION**.

Written Comments: Please direct written comments to Ralph Cantral, Senior Advisor, NOAA Office for Coastal Management, 1305 East West Highway N/OCM1, Silver Spring, MD 20910, or via email to *Ralph.Cantral@noaa.gov.*

FOR FURTHER INFORMATION CONTACT: Ralph Cantral, Senior Advisor, Policy, NOAA Office for Coastal Management, (240) 543–0729, 2234 South Hobson Avenue, Charleston, South Carolina 29405–2413, or via email to *Ralph.Cantral@noaa.gov.* Copies of the previous evaluation findings, Management Plan, and Site Profile may be viewed and downloaded on the internet at *http://coast.noaa.gov/czm/evaluations.* A copy of the evaluation notification letter and most recent performance report may be obtained upon request by contacting Ralph Cantral.

SUPPLEMENTARY INFORMATION: Sections 312 and 315 of the Coastal Zone Management Act (CZMA) require NOAA to conduct periodic evaluations of federally-approved National Estuarine Research Reserves. The process includes a public meeting, consideration of written public comments and consultations with interested Federal, state, and local agencies and members of the public. For the evaluation of National Estuarine Research Reserves, NOAA will consider the extent to which the state has met the national objectives, adhered to its management plan approved by the Secretary of Commerce, and adhered to the terms of financial assistance under the Coastal Zone Management Act. When the evaluation is completed, NOAA's Office for Coastal Management will place a notice in the **Federal Register** announcing the availability of the Final Evaluation Findings.

Specific information on the periodic evaluation of reserves that are the subject of this notice are detailed below as follows:

Padilla Bay National Estuarine Research Reserve Evaluation

You may participate or submit oral comments at the public meeting scheduled as follows:

Date: Wednesday, February 28, 2018.

Time: 7:00 p.m., local time.

Location: Padilla Bay Reserve Interpretive Center, 10441 Bayview-Edison Road, Mt. Vernon, WA 98273.

Written comments must be received on or before March 9, 2018.

Dated: December 18, 2017.

Keelin Kuipers,

Acting Deputy Director, Office for Coastal Management, National Ocean Service, National Oceanic and Atmospheric Administration.

Federal Domestic Assistance Catalog 11.419

Coastal Zone Management Program Administration

[FR Doc. 2017–28110 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–08–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF460

Taking and Importing Marine Mammals; Taking Marine Mammals Incidental to a Pile Driving Activities for Waterfront Repairs at the U.S. Coast Guard Station Monterey, Monterey, California

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

ACTION: Notice; issuance of an incidental harassment authorization.

SUMMARY: In accordance with the regulations implementing the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that NMFS has issued an incidental harassment authorization (IHA) to the U.S. Coast Guard (USCG) to incidentally harass, by Level B harassment only, marine mammals during pile driving activities associated with waterfront repairs at the USCG Monterey Station in Monterey, California.

DATES: This Authorization is applicable from December 20, 2017 through October 15, 2018.

FOR FURTHER INFORMATION CONTACT: Stephanie Egger, Office of Protected Resources, NMFS, (301) 427–8401. Electronic copies of the applications and supporting documents, as well as a list of the references cited in this document, may be obtained online at *www.nmfs.noaa.gov/pr/permits/incidental/construction.htm.* In case of problems accessing these documents, please call the contact listed above.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (as delegated to NMFS) to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

An authorization for incidental takings shall be granted if NMFS finds that the taking will have a negligible impact on the species or stock(s), will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

The MMPA states that the term ''take'' means to harass, hunt, capture, or kill, or attempt to harass, hunt, capture, or kill any marine mammal.

Except with respect to certain activities not pertinent here, the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

National Environmental Policy Act

In compliance with the National Environmental Policy Act of 1969 (NEPA; 42 U.S.C. 4321 *et seq.*) and NOAA Administrative Order (NAO) 216–6A, NMFS reviewed our action (*i.e.,* the issuance of an incidental harassment authorization) with respect to potential impacts on the human environment. Accordingly, NMFS reviewed and adopted the USCG's Supplemental Environmental Assessment entitled *Supplemental Environmental Assessment for Waterfront Repairs at U.S. Coast Guard Station Monterey, Monterey, California,* and signed a Finding of No Significant Impact on November 9, 2017.

Summary of Request

On February 10, 2017, NMFS received a request from the USCG for an IHA to take marine mammals incidental to pile driving activities for waterfront restoration, at the USCG Station Monterey in Monterrey, California. USCG's request is for take of eight species of marine mammals, by Level B harassment. Neither USCG nor NMFS expect mortality to result from this activity and, therefore, an IHA is appropriate.

NMFS previously issued an IHA to the USCG for similar work (79 FR 57052; September 24, 2014). However, no work was conducted under that IHA.

Description of Specific Activity

USCG Station Monterey occupies an upland site and adjacent waterside structures including a 1,700-foot breakwater, a wharf constructed over the breakwater, and floating docks to the east of the wharf in Monterey Harbor, Monterey, California. The USCG intends to conduct maintenance on the existing wharf, which is used to berth vessels that are critical to support USCG Station Monterey's mission.

The planned project requires replacement of 17 timber (16 to 18-in in diameter) piles including removal of the existing timber deck, replacing stringers, steel pipe caps, steel support beams, and hardware in order to access the timber piles. The timber piles will be removed using vibratory pile driving. Each timber pile will be replaced with a 14-in steel pipe pile installed using a vibratory hammer (the preferred method) and each pipe pile will be positioned and installed in the footprint of the extracted timber pile. Pile proofing will be conducted via impact hammer. If, due to substrate or breakwater armor, a pipe pile is unable to be driven to 30 feet below the mud line using a vibratory hammer, then an impact hammer will be used; and if the pile cannot be driven with an impact hammer, the pipe pile would be posted onto the armor stone. The steel pipe piles would not be filled with concrete. Pile installation would be adjacent to a rock jetty that would provide substantial underwater shielding of sound transmission to areas north (or through the jetty).

Pile-driving activities are expected to occur for an estimated minimum of three to a maximum of eight days of the total construction time. It is assumed that driving time would be approximately 20 minutes (min) per pile for vibratory or impact pile driving. It is assumed that vibratory extraction of the existing piles would take approximately 10 min per pile. Pile driving and extraction would therefore result in an estimated of 240 min per day (4 hours (hrs)); 510 min for the total project or approximately 8.5 hrs. In-water noise from pile driving activities will result in the take, by Level B harassment only, of eight species of marine mammals.

A detailed description of the planned pile driving project is provided in the **Federal Register** notice for the proposed IHA (82 FR 42986; September 13, 2017). Since that time, no changes have been made to the planned USCG activities. Therefore, a detailed description is not provided here. Please refer to that **Federal Register** notice for the description of the specific activity.

Comments and Responses

A notice of NMFS's proposal to issue an IHA to the USCG was published in the **Federal Register** on September 24, 2014 (79 FR 57052). That notice described, in detail, USCG activity, the marine mammal species that may be affected by the activity, and the anticipated effects on marine mammals. During the 30-day public comment period, NMFS received comments from the Marine Mammal Commission (Commission).

Comment 1: NMFS received a comment from the Commission and while the Commission agrees with NMFS's determinations, it recommends that NMFS follow NMFS's policy of a 24-hour reset for enumerating the number of marine mammals that could be taken during the planned activities by applying standard rounding rules before summing the numbers of estimated takes across survey sites and survey days.

Response 1: Calculating predicted take is not an exact science and there are arguments for using different mathematical approaches in different situations, and for making qualitative adjustments in other situations. NMFS is currently engaged in developing a protocol to help guide its take calculations given particular situations and circumstances. We believe, however, that the methodology for this action is appropriate and is not at odds with the 24-hour reset policy the Commission references.

Comment 2: The Commission recommends NMFS include previous mitigation and monitoring measures from the 2014 IHA (*e.g.,* vessel based monitoring, additional baseline monitoring) as well as clarifying the number of Protected Species Observers (PSOs) that will be used for the project and where the PSOs would be positioned for the most effective monitoring.

Response: As discussed with the Commission, NMFS has incorporated or expanded on these measures in the IHA.

- USCG shall conduct in-situ monitoring during the installation of five piles and removal of five piles. USCG shall adjust Level B harassment zones of influence (ZOIs) as necessary where received underwater sound pressure levels (SPLs) are higher than 160 decibels (dB) root mean square (rms) and 120 dB (rms) re 1 micro Pascal (μPa) for impulse noise sources (impact pile driving) and non-impulses noise sources (vibratory pile driving), respectively. USCG shall adjust Level A harassment zones based on measured SELs as necessary.
- USCG shall employ at least three NMFS-approved PSOs to conduct marine mammal monitoring for its construction project.
- PSOs shall conduct baseline monitoring for two days during the week prior to pile removal and driving.
- During pile removal or installation, at least three PSOs shall be used, and positioned such that each monitor has the best vantage point available, including the USCG pier, jetty, adjacent docks within the harbor, to maintain an excellent view of the exclusion zone and adjacent areas during the survey period. Monitors would be equipped with radios or cell phones for maintaining contact with work crews.
- Vessel-based visual marine mammal monitoring within the 120 dB and 160 dB ZOIs shall be conducted during 10 percent of the vibratory pile driving and removal and impact pile driving activities, respectively.

Comment 3: The Commission and NMFS discussed effectiveness of the sound attenuation devices, which resulted in a change from a 10 dB reduction to 5 dB during impact pile driving. The adjusted source levels decreased the zones for both Level A and Level B harassment, but did not change the number of authorized takes.

Response 3: As agreed upon with the Commission, NMFS outlined the justification for the adjusted sources levels in the final IHA.

Comment 4: The Commission also recommended the NMFS re-evaluate the USCG hydroacoustic monitoring plan to ensure the acoustic thresholds, various metrics, and methods are current.

Response 4: As agreed upon with the Commission, NMFS requested the USCG update their hydroacoustic monitoring plan to ensure it is current. Those revisions included ensuring the appropriate thresholds and weighting parameters, hearing ranges, and functional hearing group delineations are used and distances reported accordingly (including for cumulative sound exposure levels), increasing the measurement capabilities from 10 to 20 kHz, ensuring ambient conditions are recorded appropriately (*e.g.,* in continuous 10-minute intervals), ensuring the impulse duration is reported and represents the duration that contains 90 percent of pulse energy (including using the appropriate recording devices to obtain those measurements), and reporting the depth of the 10-m hydrophone.

Description of Marine Mammals in the Area of Specified Activities

The marine mammal species under NMFS's jurisdiction that have the potential to occur in the construction area include California sea lion (*Zalophus californianus*), Pacific harbor seal (*Phoca vitulina*), harbor porpoise (*Phocoena phocoena*), Risso's dolphin (*Grampus griseus*), bottlenose dolphin (*Tursiops truncates*), killer whale (*Orcinus orca*), gray whale (*Megaptera novaengliae*), humpback whale (*Eschrichtius robustus*), and southern sea otters (*Enhydra lutris nereis*). The southern sea otter is managed by the U.S. Fish and Wildlife Service and not discussed further in this authorization. Humpback whales are protected under the Endangered Species Act (ESA). Pertinent information for each of these species is presented in this document to provide the necessary background to understand their demographics and distribution in the area.

TABLE 1—MARINE MAMMAL SPECIES POTENTIALLY PRESENT IN REGION OF ACTIVITY

Common name	Scientific name	Stock	ESA/MMPA status; strategic (Y/N) [1]	Stock abundance (CV, N_{min}, most recent abundance survey) [2]	PBR	Annual M/SI [3]
Order Cetartiodactyla—Cetacea—Superfamily Mysticeti (baleen whales)						
Family Eschrichtiidae						
Gray whale	*Eschrichtius robustus*	Eastern North Pacific	-; N	20,990 (0.05; 20,125; 2011)	624	132
Family Balaenidae						
Humpback whale	*Megaptera novaeangliae novaeangliae.*	California/Oregon/Washington	E; D	1,918 (0.03; 1,855; 2011)	11.0	≥5.5
Superfamily Odontoceti (toothed whales, dolphins, and porpoises)						
Family Delphinidae						
Killer whale	*Orcinus orca*	Eastern North Pacific Offshore.	-; N	240 (0.49; 162; 2008)	1.6	0
Killer whale	*Orcinus orca*	West Coast Transient	-; N	243 (na; 243; 2009)	2.4	0
Risso's dolphin	*Grampus griseus*	California/Oregon/Washington	-; N	6,336 (0.32; 4,817; 2014)	46	≥3.7
Bottlenose dolphin	*Tursiops truncatus*	California Coastal	-; N	453 (0.06; 346; 2011)	2.7	≥2.0
Family Phocoenidae (porpoises)						
Harbor Porpoise	*Phocoena phocoena*	Monterey Bay	-; N	3,715 (0.51; 2,480; 2011)	25	0
Order Carnivora—Superfamily Pinnipedia						
Family Otariidae (eared seals and sea lions)						
California sea lion	*Zalophus californianus*	U.S.	-; N	296,750 (na; 153,337; 2011)	9,200	389
Family Phocidae (earless seals)						
Harbor seal	*Phoca vitulina*	California	-; N	30,968 (na; 27,348; 2012)	1,641	43

[1] Endangered Species Act (ESA) status: Endangered (E), Threatened (T)/MMPA status: Depleted (D). A dash (-) indicates that the species is not listed under the ESA or designated as depleted under the MMPA. Under the MMPA, a strategic stock is one for which the level of direct human-caused mortality exceeds PBR or which is determined to be declining and likely to be listed under the ESA within the foreseeable future. Any species or stock listed under the ESA is automatically designated under the MMPA as depleted and as a strategic stock.

[2] NMFS marine mammal stock assessment reports online at: *www.nmfs.noaa.gov/pr/sars/.* CV is coefficient of variation; N_{min} is the minimum estimate of stock abundance. In some cases, CV is not applicable.

[3] These values, found in NMFS's SARs, represent annual levels of human-caused mortality plus serious injury from all sources combined (*e.g.,* commercial fisheries, ship strike). Annual mortality/serious injury (M/SI) often cannot be determined precisely and is in some cases presented as a minimum value or range. A CV associated with estimated mortality due to commercial fisheries is presented in some cases.

A detailed description of the of the species likely to be affected by the USCG's waterfront project, including brief introductions to the species and relevant stocks as well as available information regarding population trends and threats, and information regarding local occurrence, were provided in the **Federal Register** notice for the proposed IHA (82 FR 42986; September 13, 2017). Since that time, we are not aware of any changes in the status of these species and stocks; therefore, detailed descriptions are not provided here. However, information on a recent rare occurrence of offshore killer whales was not previously included in the proposed IHA and therefore is described below.

Although more of a rare occurrence, approximately 25 offshore killer whales were observed in December 2016 in Monterey Bay. Offshore pods are usually found in groups of 30–60 or more individuals and they are seldom seen in protected coastal waters. However, when observed in Monterey Bay, offshore killer whales have been observed during the winter.

Please refer to that **Federal Register** notice for all other species descriptions. Please also refer to NMFS' website (*www.nmfs.noaa.gov/pr/species/mammals/*) for generalized species accounts.

Potential Effects of Specified Activities on Marine Mammals and Their Habitat

The effects of underwater noise from pile driving activities for the USCG's waterfront restoration project have the potential to result in behavioral harassment of marine mammals in the vicinity of the action area. The project would not result in permanent impacts to habitats used directly by marine mammals, such as the adjacent jetty that is used as a haulout site by pinnipeds, but may have potential short-term impacts to food sources such as forage fish and minor impacts on turbidity during installation and removal of piles, *etc.* In addition, a concurrence letter was issued by NMFS (2013) (and still applies) concluding that the USCG's action would adversely affect EFH for various Federally managed fish species, including a temporary increase in suspended sediments in the water column from pile driving and removal, conversion of soft bottom habitat to artificial substrate, and an increase in underwater sound levels in the water column associated with pile driving. However, the project includes measures to avoid, minimize, or otherwise offset adverse effects, such that NMFS has no further EFH conservation recommendations to provide (NOAA 2013).

The **Federal Register** notice for the proposed IHA (82 FR 42986; September 13, 2017) included additional discussion of the effects of anthropogenic noise on marine mammals, therefore that information is not repeated here; please refer to the **Federal Register** notice (82 FR 42986; September 13, 2017) for that information.

Estimated Take

This section provides an estimate of the number of incidental takes for authorization through this IHA, which will inform both NMFS's consideration of whether the number of takes is ''small'' and the negligible impact determination.

Harassment is the only type of take expected to result from these activities. Except with respect to certain activities not pertinent here, section 3(18) of the MMPA defines ''harassment'' as any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering (Level B harassment).

Authorized takes would be by Level B harassment only, in the form of disruption of behavioral patterns for individual marine mammals resulting from exposure to noise from pile driving and removal activities. Based on the nature of the activity and the anticipated effectiveness of the mitigation measures (*i.e.,* shutdown measures—discussed in detail below in Mitigation section), Level A harassment is neither anticipated nor authorized.

As described previously, no mortality is anticipated or authorized for this activity. Below we describe how the take is estimated.

Described in the most basic way, we estimate take by considering: (1) Acoustic thresholds above which NMFS believes the best available science indicates marine mammals will be behaviorally harassed or incur some degree of hearing impairment; (2) the area or volume of water that will be ensonified above these levels in a day; (3) the density or occurrence of marine mammals within these ensonified areas; and, (4) and the number of days of activities. Below, we describe these components in more detail and present the take estimate.

Acoustic Thresholds

Using the best available science, NMFS has developed acoustic thresholds that identify the received level of underwater sound above which exposed marine mammals would be reasonably expected to be behaviorally harassed (equated to Level B harassment) or to incur PTS of some degree (equated to Level A harassment).

Level B Harassment for non-explosive sources—Though significantly driven by received level, the onset of behavioral disturbance from anthropogenic noise exposure is also informed to varying degrees by other factors related to the source (*e.g.,* frequency, predictability, duty cycle), the environment (*e.g.,* bathymetry), and the receiving animals (hearing, motivation, experience, demography, behavioral context) and can be difficult to predict (Southall *et al.,* 2007, Ellison *et al.,* 2011). Based on what the available science indicates and the practical need to use a threshold based on a factor that is both predictable and measurable for most activities, NMFS uses a generalized acoustic threshold based on received level to estimate the onset of behavioral harassment. NMFS predicts that marine mammals are likely to be behaviorally harassed in a manner we consider Level B harassment when exposed to underwater anthropogenic noise above received levels of 120 dB re 1 μPa (rms) for continuous (*e.g.,* vibratory pile-driving, drilling) sources and above 160 dB re 1 μPa (rms) for non-explosive impulsive (*e.g.,* seismic airguns) or intermittent (*e.g.,* scientific sonar) sources. USCG's planned activity includes the use of continuous (vibratory pile driving and removal) and impulsive (impact pile driving) sources, and, therefore, the 120 and 160 dB re 1 μPa (rms) are applicable.

Level A harassment for non-explosive sources—NMFS's Technical Guidance for Assessing the Effects of Anthropogenic Sound on Marine Mammal Hearing (NMFS, 2016a) identifies dual criteria to assess auditory injury (Level A harassment) to five different marine mammal groups (based on hearing sensitivity) as a result of exposure to noise from two different types of sources (impulsive or non-impulsive). USCG's planned activity includes the use of non-impulsive (vibratory pile driving and removal) and impulsive (impact pile driving) sources.

These thresholds were developed by compiling and synthesizing the best available science and soliciting input multiple times from both the public and peer reviewers to inform the final product, and are provided in Table 2 below. The references, analysis, and methodology used in the development of the thresholds are described in NMFS 2016 Technical Guidance, which may be accessed at: *http://www.nmfs.noaa.gov/pr/acoustics/guidelines.htm.*

TABLE 2—THRESHOLDS IDENTIFYING THE ONSET OF PERMANENT THRESHOLD SHIFT

Hearing group	PTS onset thresholds	
	Impulsive	Non-impulsive
Low-Frequency (LF) Cetaceans	$L_{pk,flat}$: 219 dB; $L_{E,LF,24h}$: 183 dB	$L_{E,LF,24h}$: 199 dB.
Mid-Frequency (MF) Cetaceans	$L_{pk,flat}$: 230 dB; $L_{E,MF,24h}$: 185 dB	$L_{E,MF,24h}$: 198 dB.
High-Frequency (HF) Cetaceans	$L_{pk,flat}$: 202 dB; $L_{E,HF,24h}$: 155 dB	$L_{E,HF,24h}$: 173 dB.
Phocid Pinnipeds (PW) (Underwater)	$L_{pk,flat}$: 218 dB; $L_{E,PW,24h}$: 185 dB	$L_{E,PW,24h}$: 201 dB.
Otariid Pinnipeds (OW) (Underwater)	$L_{pk,flat}$: 232 dB; $L_{E,OW,24h}$: 203 dB	$L_{E,OW,24h}$: 219 dB.

* Dual metric acoustic thresholds for impulsive sounds: Use whichever results in the largest isopleth for calculating PTS onset. If a non-impulsive sound has the potential of exceeding the peak sound pressure level thresholds associated with impulsive sounds, these thresholds should also be considered.

Note: Peak sound pressure (L_{pk}) has a reference value of 1 μPa, and cumulative sound exposure level (L_E) has a reference value of 1μPa2s. In this Table, thresholds are abbreviated to reflect American National Standards Institute standards (ANSI 2013). However, peak sound pressure is defined by ANSI as incorporating frequency weighting, which is not the intent for this Technical Guidance. Hence, the subscript "flat" is being included to indicate peak sound pressure should be flat weighted or unweighted within the generalized hearing range. The subscript associated with cumulative sound exposure level thresholds indicates the designated marine mammal auditory weighting function (LF, MF, and HF cetaceans, and PW and OW pinnipeds) and that the recommended accumulation period is 24 hours. The cumulative sound exposure level thresholds could be exceeded in a multitude of ways (*i.e.,* varying exposure levels and durations, duty cycle). When possible, it is valuable for action proponents to indicate the conditions under which these acoustic thresholds will be exceeded.

Ensonified Area

Here, we describe operational and environmental parameters of the activity that will feed into identifying the area ensonified above the acoustic thresholds.

Background noise is the sound level that would exist without the planned activity (pile driving and removal, in this case), while ambient sound levels are those without human activity (NOAA 2009). Natural actions that contribute to ambient noise include waves, wind, rainfall, current fluctuations, chemical composition, and biological sound sources (*e.g.,* marine mammals, fish, and shrimp, Carr *et al.,* 2006). Background noise levels will be compared to the NOAA/NMFS threshold levels designed to protect marine mammals to determine the Level B Harassment Zones for noise sources. The background noise at Monterey Harbor is relatively high due to boat traffic, foot traffic, and noise from the USCG Monterey Station.

Pile installation would be adjacent to a rock jetty that would provide substantial underwater shielding of sound transmission to areas north (or through the jetty) (see Figure 1–2 of the Application).

For vibratory pile driving in the proposed IHA, to estimate the extent of underwater noise, the software modeling package *SoundPlan* was used by the USCG to simulate sound transmission for the project. However, as part of the final IHA, NMFS considered revised source levels to determine the Level B Harassment zone based on more representative sound sources to project specifics. With a revised source level of 162 dB SPL rms (based on Washington State Department of Transportation (WSDOT) Friday Harbor data (2010) for 24-inch (in) steel piles with a source level of 162 dB rms at 10 meters (m) for vibratory pile driving and removal), the calculated Level B Harassment Zone would be 6,309 m (6.3 kilometers (km)) rather than 15,848 m (15.8 km) that would be calculated with a 168 dB SPL rms in the proposed IHA. NMFS will continue to assume the USCG's conservative method for estimating the range through the breakwater (north), while all other distances are based on the sound hitting the shoreline (Table 3).

Table 3 shows the results of the modeled underwater noise analysis for vibratory pile driving where 120 dB rms (Level B threshold) levels would end, and Figure 5–1 from the application shows the pattern of sound expected from vibratory pile extraction and pile installation, taking into account shielding from the Monterey Breakwater. From these data, a Level B zone of influence (ZOI) was calculated at approximately 7.3 square kilometers (km²). The modeled distances shown in the table below are likely an overestimate of the extent of underwater noise, because practical spreading loss (15 log10) sound propagation were assumed, and the Monterey Breakwater would likely reduce noise considerably faster than assumed. Per the sound assessment completed for the project (included in Appendix A of the application) the following assumptions and parameters were used for the analysis: For vibratory pile installation, it is estimated that it would take approximately 20 minutes (1,200 seconds) to vibrate in each pile.

TABLE 3—MODELED EXTENT OF LEVEL B ZONES FROM VIBRATORY PILE EXTRACTION AND DRIVING

Modeling scenario	Level B Zone (distance to 120 dB rms)
Modeled north	2,000 m
Modeled northeast shoreline	2,400 m
Modeled east to shoreline	1,800 m
Modeled south to shoreline	550 m
Area of Influence	7.3 km²

Notes: dB = decibel, RMS = root mean square.

For impact pile driving in the proposed IHA, to estimate the extent of underwater noise, the software modeling package *SoundPlan* was used by the USCG to simulate sound transmission for the project. However, as part of the final IHA, NMFS considered revised source levels to determine the Level B Harassment zones based on more representative sound sources to project specifics. With a revised source level of 187 SPL rms (based on the California Department of Transportation Compendium of Pile Driving Sound Data Report (Caltrans 2007) for 14-in steel piles with a source level of 187 dB SPL rms (177 dB SEL) at 10 m for impact pile driving) minus 5 dB for using sound attenuated devices, the source level would then be 182 SPL rms and the calculated Level B Harassment Zone would be 293 m rather than 465 m that was calculated in the proposed IHA with a 195 dB SPL rms. A 5 dB reduction was used in the final IHA rather than a 10 dB reduction that was used in the proposed IHA based on the variability of the efficacy of sound attenuation devices. NMFS will continue to assume the USCG's conservative method for estimating the range through the breakwater (north), while all other distances are based on the recalculated distance of 293 m as described above and in Table 4.

TABLE 4—EXTENT OF LEVEL B ZONES FROM IMPACT PILE DRIVING

Modeling scenario	Distance to marine mammal criteria
	rms (dB re: 1μPa)
	160 dB (Level B threshold)
Modeled attenuated noise transmission north and northeast (through breakwater)	76 m
Recalculated attenuated noise transmission in all other directions	293 m
Area of Influence	0.27 km²

Notes: Assumes 5 dB of underwater noise attenuation by using a bubble curtain during pile driving. Distances and method of calculation are presented in Appendix A of the application.
dB = decibel, rms = root mean square (dB re: 1μPa).

The incidental take requested is Level B harassment of any marine mammal occurring within the 160 dB rms disturbance threshold during impact pile driving of 14-in steel pipe piles; the 120 dB rms disturbance threshold for vibratory pile driving of 14-in steel pipe piles; and the 120 dB rms disturbance threshold for vibratory removal of 16-in to 18-in timber piles. Level B harassment zones have been established as described in Tables 3 and 4 that will be in place during active pile removal or installation.

When NMFS Technical Guidance (NMFS 2016) was published, in recognition of the fact that ensonified area/volume could be more technically challenging to predict because of the duration component in the new thresholds, we developed a User Spreadsheet that includes tools to help predict a simple isopleth that can be used in conjunction with marine mammal density or occurrence to help predict takes. We note that because of some of the assumptions included in the methods used for these tools, we anticipate that isopleths produced are typically going to be overestimates of some degree, which will result in some degree of overestimate of Level A take. However, these tools offer the best way to predict appropriate isopleths when more sophisticated 3D modeling methods are not available, and NMFS continues to develop ways to quantitatively refine these tools, and will qualitatively address the output where appropriate. For stationary sources such as vibratory and impact pile driving, NMFS's User Spreadsheet predicts the closest distance at which, if a marine mammal remained at that distance the whole duration of the activity, it would not incur PTS. Inputs used in the User Spreadsheet, and the resulting isopleths are reported below (Tables 5 and 6).

The PTS isopleths were identified for each hearing group for impact and vibratory installation and removal methods that will be used in the Monterey Station Project. The PTS isopleth distances were calculated using the NMFS acoustic threshold calculator (NMFS 2016), with inputs based on measured and surrogate noise measurements. Tables 5 and 6 have been revised since the proposed IHA and uses data that is more representative to project specifics. Data from WSDOT Friday Harbor data (2010) for 24-in steel piles with a source level of 162 dB SPLrms (at 10 m) was used to characterize the sound that would be produced from vibratory pile driving and removal. For impact pile driving, data from the Caltrans (2007) with a source level (in SEL) of 172 dB at a distance of 10 m with an average 30 strikes per pile was used.

TABLE 5—NMFS TECHNICAL ACOUSTIC GUIDANCE USER SPREADSHEET INPUT TO PREDICT PTS ISOPLETHS

[User spreadsheet input]

Spreadsheet Tab Used	Sound source 1	Sound source 2
	(A) Vibratory pile driving (removal and installation)	(E.1) Impact pile driving (installation)
Source Level (rms SPL)	162 dB.	
Source Level (Single Strike/shot SEL)		172 dB
Weighting Factor Adjustment (kHz)	2.5	2
(a) Number of strikes in 1 h		30
(a) Activity Duration (h) within 24-h period	4	5
Propagation (xLogR)	15	15
Distance of source level measurement (meters)⁺	10	10

TABLE 6—NMFS TECHNICAL ACOUSTIC GUIDANCE USER SPREADSHEET OUTPUT FOR PREDICTED PTS ISOPLETHS AND LEVEL A DAILY ENSONIFIED AREAS

[User spreadsheet output]

Sound source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
PTS Isopleth (meters)					
Vibratory (removal and installation)	20.1	1.8	29.7	12.2	0.9

TABLE 6—NMFS TECHNICAL ACOUSTIC GUIDANCE USER SPREADSHEET OUTPUT FOR PREDICTED PTS ISOPLETHS AND LEVEL A DAILY ENSONIFIED AREAS—Continued

[User spreadsheet output]

Sound source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Impact (installation)	52.1	1.9	62.1	27.9	2.0
Daily ensonified area (km²)					
Vibratory (pile removal and installation)	0.00127	0.00001	0.00277	0.00046	0.00000
Impact (installation)	0.00853	0.00001	0.01212	0.00245	0.00001

Table 7 below shows the Level A Harassment exclusion zones that were rounded up slightly from the output generated in the NMFS Technical Acoustic Guidance User Spreadsheet (Table 6).

TABLE 7—LEVEL A HARASSMENT EXCLUSION ZONES

Sound source type	Low-frequency cetaceans	Mid-frequency cetaceans	High-frequency cetaceans	Phocid pinnipeds	Otariid pinnipeds
Exclusion Zone (meters)					
Vibratory (removal and installation)	21	10	30	13	10
Impact (installation)	53	10	63	28	10

Marine Mammal Occurrence and Take Calculation and Estimation

In this section we provide the information about the presence, density, or group dynamics of marine mammals that will inform the take calculation and we describe how the marine mammal occurrence information is brought together to produce a quantitative take estimate.

Take estimates are based on the number of animals per unit area in the project area multiplied by the area size of ensonified zones within which received noise levels exceed certain thresholds (*i.e.,* Level B harassment) from specific activities, then multiplied by the total number of days such activities would occur. Local abundance data are used for take calculations for the authorized take where density is not available or applicable to the project area.

Unless otherwise described, incidental take is estimated by the following equation:

Incidental take estimate = species density * zone of influence (7.3 km²) * days of pile-related activity (8 days).

Harbor Seals

Pacific harbor seals are much less abundant in the project area than California sea lions, and only two annual surveys conducted since 1998 identified any individuals. The 2004 annual pinniped survey conducted by NMFS counted 28 Pacific harbor seals in Monterey Harbor in 2004, and 1 in 2005 (Lowry 2012). Pacific harbor seals hauled-out along Cannery Row, north of the Monterey Breakwater, ranged from 1 to 24 in 2002, 2004, and 2009. During repairs on the Pier in 2009, Pacific harbor seals were occasionally observed in the nearby waters, but were never observed to haul-out on the breakwater (Harvey and Hoover 2009). The density for harbor seals was determined by drawing a 5 km radius in ArcGIS with the jetty haul-out site at the center. The area within this circle was calculated, excluding the land, resulting in a 29 km² foraging area. The calculation for take of harbor seals estimate assumes 28 individuals (the most observed during any single survey) to be in the water at any given time within 5 km of the breakwater (area 29 km²); therefore, the calculated density is 0.97 seals/km². The estimated Level B take is 0.97 seals multiplied by 7.3 km² and 8 days of activity for a total of 57 harbor seals (see Table 7). Since the calculated Level A zones of phocids are small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any harbor seals would be taken by Level A harassment.

California Sea Lions

The calculation for Level B take of California sea lions in the water assumes an average density of 8.62 individuals/km². This density was determined by drawing a 5 km radius in ArcGIS with the jetty haul-out site at the center. The area within this circle was calculated, excluding the land, resulting in a 29 km² foraging area. An average of 250 sea lions were assumed in the water at any given time. Therefore, 250 sea lions divided by 29 km² equals 8.62 sea lions/km². Estimated take is then calculated using 8.62 sea lions multiplied by 7.3 km² and 8 days of activity for a total of 504 California sea lions (see Table 7). For the additional California sea lions that are present on the breakwater (which we would also expect to enter the water during the project): The overall average number of sea lions for all of the surveys of the Monterey Breakwater combined was 250 individuals. Therefore, 250 animals was multiplied by 8 days of activity for a total of 2,000 California sea lions (see Table 7). Since the calculated Level A zones of otariids are all very small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any sea lions would be taken by Level A harassment.

Killer Whale

Due to the low frequency and unpredictability of killer whales entering the project area, the application of a density equation is not reasonable for predicting take. When transient killer whales enter Monterey Bay, they typically are in groups of 3 to 8 at a time (Guzman 2016). To be conservative, the take estimate for Level B harassment is based on a larger group of eight transient killer whales that may enter the area (Table 7). Offshore killer whales are more of a rare occurrence in Monterey Bay; with the most recent documentation of approximately 25 whales in December 2016. Therefore, the take estimate for Level B harassment is based on the possibility that a single occurrence of a smaller pod of 25 whales may enter the area (Table 7). Since the Level A zones of mid-frequency cetaceans are small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any killer whales would be taken by Level A harassment.

Bottlenose Dolphin

Abundance and densities of cetaceans in the California Current ecosystem were conducted from 1991 to 2005 (Barlow, Forney 2007). The results of the surveys indicate that bottlenose dolphin population density throughout the entire west coast shoreline is 1.78 individuals/100 km². During the same survey, the mean group size for bottlenose dolphins observed in Central California was four individuals. Other, more recent data suggest that densities may be up to 0.04/km² (Weller 2016). Even when using the higher density, estimated take results in very low numbers (<1 over the entire period of construction). Rather than using density calculations to estimate take, to be conservative, the Level B take is a small pod of 10 bottlenose dolphins (Table 7). Since the Level A zones of mid-frequency cetaceans are small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any bottlenose dolphins would be taken by Level A harassment.

Risso's Dolphin

Because there is not reliable local data for Monterey Bay, the Level B take estimate for Risso's dolphins is a single occurrence of a small pod of 10 animals (see Table 7) as groups of Risso's dolphins average between 10–30 animals. Since the Level A zones of mid-frequency cetaceans are small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any Risso's dolphin would be taken by Level A harassment.

Harbor Porpoise

An estimate of the density of harbor porpoise in the southern portion of Monterey Bay nearshore is approximately 2.321 per km² (Forney *et al.,* 2014). Therefore, the estimated take for Level B harassment is 2.231 porpoise multiplied by 7.3 km² and 8 days of activity for a total of 136 harbor porpoise (see Table 7). Since the calculated Level A zones of high frequency cetaceans are small and mitigation is in place to avoid Level A take (Table 6), we do not consider it likely that any harbor porpoise would be taken by Level A harassment.

Humpback Whale

Humpback whales are typically found further offshore than gray whales and occurrence is rare; however, since 2014 greater numbers of humpback whales have been observed in and near Monterey Bay by whale-watching vessels. Because USCG will shutdown for all observed humpbacks (in Level A and B zones), no takes of humpback whales are authorized.

Gray Whale

The occurrence of gray whales is extremely rare near shore in the project area. If gray whales would approach the project area they would be more likely to occur during the spring migration north, when they tend to stay closer to shore than during the winter southern migration. The NOAA National Center for Coastal Ocean Science (NCCOS) reported densities of gray whales at 0.1 to 0.5 per km² (NCCOS 2007). Therefore, the estimated take for Level B harassment was calculated using the larger density of 0.5 whales per km² multiplied by 7.3 km² and 8 days of activity for a total of 4 gray whales (see Table 7). Since the Level A zones of low-frequency cetaceans are small and mitigation is in place to avoid Level A take (see Table 6) we do not consider it likely that any gray whales would be taken by Level A harassment during removal or impact installation.

TABLE 7—SUMMARY OF REQUESTED INCIDENTAL TAKE BY LEVEL A AND LEVEL B HARASSMENT

Species	Stock size	Authorized Level B take	Authorized total take	Percent of population
Pacific harbor seal (*Phoca vitulina*)	30,968	57	57	Less than 1.
California sea lion (*Zalophus californianus*)	296,750	504 (Animals already in the water)	2,504	Less than 1.
California sea lion (*Zalophus californianus*)	296,750	2,000 (Animals that enter the water from the breakwater).		
Transient killer whale (*Orcinus orca*)	243	8	8	3.3.
Offshore killer whale (*Orcinus orca*)	240	25 (single occurrence of a small pod)	25	10.42.
Bottlenose dolphin (*Tursiops truncatus*)	453	10 (single occurrence of a small pod)	10	4.19.
Risso's dolphin (*Grampus griseus*)	6,336	10 (single occurrence of a small pod)	10	Less than 1.
Harbor porpoise (*Phocoena phocoena*)	3,715	136	136	3.66.
Gray whale (*Eschrichtius robustus*)	20,990	4	4	Less than 1.

Mitigation Measures

In order to issue an IHA under Section 101(a)(5)(D) of the MMPA, NMFS must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and on the availability of such species or stock for taking for certain subsistence uses (latter not applicable for this action). NMFS regulations require applicants for incidental take authorizations to include information about the availability and feasibility (economic and technological) of equipment, methods, and manner of conducting such activity or other means of effecting the least practicable adverse impact upon the affected species or stocks and their habitat (50 CFR 216.104(a)(11)).

In evaluating how mitigation may or may not be appropriate to ensure the least practicable adverse impact on species or stocks and their habitat, as well as subsistence uses where applicable, we carefully consider two primary factors:

(1) The manner in which, and the degree to which, the successful implementation of the measure(s) is expected to reduce impacts to marine mammals, marine mammal species or stocks, and their habitat. This considers the nature of the potential adverse impact being mitigated (likelihood, scope, range). It further considers the likelihood that the measure will be effective if implemented (probability of accomplishing the mitigating result if implemented as planned) the likelihood

of effective implementation (probability implemented as planned), and;

(2) the practicability of the measures for applicant implementation, which may consider such things as cost, impact on operations, and, in the case of a military readiness activity, personnel safety, practicality of implementation, and impact on the effectiveness of the military readiness activity.

Several measures for mitigating effects on marine mammals from the pile installation and removal activities at for the USCG Monterey Station and are described below.

Timing Restrictions

All work will be conducted during daylight hours.

Noise Attenuation

A bubble curtain and cushion pads will be used during pile driving activities with an impact hammer to reduce sound levels. In addition, the USCG will perform ''pre-drilling.'' Pre-drilling will be performed and discontinued when the pile tip is approximately five feet (ft) above the required pile tip elevation. Pre-drilling is a method that starts the ''hole'' for the new pile; the pile is inserted after the hole has been pre-drilled which creates less friction and overall noise and turbidity during installation.

Exclusion Zones

Exclusion Zones calculated from the PTS isopleths (Table 7) will be implemented to protect marine mammals from Level A harassment (refer to Table 6). If a marine mammal is observed at or within the Exclusion Zone (Table 7), work will shut down (stop work) until the individual has been observed outside of the zone, or has not been observed for at least 15 minutes for pinnipeds and small cetaceans and 30 minutes for large whales.

Additional Shutdown Measures

If a humpback whale is observed within the Level A or Level B zones, the USCG will implement shutdown measures. Work would not commence until 30-minutes after the last sighting of a humpback within these zones.

USCG will implement shutdown measures if the number of authorized takes for any particular species reaches the limit under the IHA and if such marine mammals are sighted within the vicinity of the project area and are approaching the Level B harassment zone during in-water construction activities.

If a marine mammal species under NMFS' jurisdiction is observed within the Level A or B zones that has not been authorized for take, the USCG will implement shutdown measures.

Level B Harassment Zones

USCG will monitor the Level B harassment ZOIs as described in Tables 3 and 4.

Soft-Start for Impact Pile Driving

For impact pile installation, contractors will provide an initial set of three strikes from the impact hammer at 40 percent energy, followed by a one-minute waiting period, then two subsequent three-strike sets. Each day, USCG will use the soft-start technique at the beginning of impact pile driving, or if impact pile driving has ceased for more than 30 minutes.

Based on our evaluation of the applicant's planned measures, as well as other measures considered by NMFS, NMFS has determined that the mitigation measures provide the means of effecting the least practicable impact on the affected species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Monitoring and Reporting

In order to issue an IHA for an activity, Section 101(a)(5)(D) of the MMPA states that NMFS must set forth, requirements pertaining to the monitoring and reporting of such taking. The MMPA implementing regulations at 50 CFR 216.104(a)(13) indicate that requests for authorizations must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and of the level of taking or impacts on populations of marine mammals that are expected to be present in the action area. Effective reporting is critical both to compliance as well as ensuring that the most value is obtained from the required monitoring.

Monitoring and reporting requirements prescribed by NMFS should contribute to improved understanding of one or more of the following:

- Occurrence of marine mammal species or stocks in the area in which take is anticipated (*e.g.,* presence, abundance, distribution, density);
- Nature, scope, or context of likely marine mammal exposure to potential stressors/impacts (individual or cumulative, acute or chronic), through better understanding of: (1) Action or environment (*e.g.,* source characterization, propagation, ambient noise); (2) affected species (*e.g.,* life history, dive patterns); (3) co-occurrence of marine mammal species with the action; or (4) biological or behavioral context of exposure (*e.g.,* age, calving or feeding areas);
- Individual marine mammal responses (behavioral or physiological) to acoustic stressors (acute, chronic, or cumulative), other stressors, or cumulative impacts from multiple stressors;
- How anticipated responses to stressors impact either: (1) Long-term fitness and survival of individual marine mammals; or (2) populations, species, or stocks;
- Effects on marine mammal habitat (*e.g.,* marine mammal prey species, acoustic habitat, or other important physical components of marine mammal habitat); and
- Mitigation and monitoring effectiveness.

Marine mammal monitoring will be conducted in strategic locations around the area of potential effects at all times during in-water pile driving and removal as described below:

- During pile removal or installation the observer will monitor from the most practicable vantage point possible (*i.e.,* the pier itself, the breakwater, adjacent boat docks in the harbor, or a boat) to determine whether marine mammals enter the Exclusion Zone and to record take when marine mammals enter the relevant Level B Harassment Zones based on type of construction activity; and
- If a marine mammal approaches an Exclusion Zone, the observation will be reported to the Construction Manager and the individual will be watched closely. If the marine mammal crosses into an Exclusion Zone, a stop-work order will be issued. In the event that a stop-work order is triggered, the observed marine mammal(s) will be closely monitored while it remains in or near the Exclusion Zone, and only when it moves well outside of the Exclusion Zone or has not been observed for at least 15 minutes for pinnipeds and 30 minutes for whales will the lead monitor allow work to recommence.

Protected Species Observers

USCG shall employ a minimum of three NMFS-approved protected species observers (PSOs) to conduct marine mammal monitoring for its Monterey Station Project. The PSOs will observe and collect data on marine mammals in and around the project area for 30 minutes before, during, and for 30 minutes after all pile removal and pile installation work. NMFS-approved

PSOs shall meet the following requirements:

1. Visual acuity in both eyes (correction is permissible) sufficient for discernment of moving targets at the water's surface with ability to estimate target size and distance. Use of binoculars may be necessary to correctly identify the target;

2. Advanced education in biological science, wildlife management, mammalogy or related fields (Bachelors degree or higher is preferred), but not required;

3. Experience or training in the field identification of marine mammals (cetaceans and pinnipeds);

4. Sufficient training, orientation or experience with the construction operation to provide for personal safety during observations;

5. Ability to communicate orally, by radio or in person, with project personnel to provide real time information on marine mammals observed in the area as necessary;

6. Experience and ability to conduct field observations and collect data according to assigned protocols (this may include academic experience);

7. Writing skills sufficient to prepare a report of observations that would include such information as the number and type of marine mammals observed; the behavior of marine mammals in the project area during construction, dates and times when observations were conducted; dates and times when in-water construction activities were conducted; and dates and times when marine mammals were present at or within the defined ZOI;

8. If a team of three or more observers are required, one observer should be designated as lead observer or monitoring coordinator. The lead observer must have prior experience working as an observer;

9. NMFS will require submission and approval of observer CVs; and

10. PSOs will monitor marine mammals around the construction site using high-quality binoculars *(e.g.,* Zeiss, 10 x 42 power) and/or spotting scopes.

11. If marine mammals are observed, the following information will be documented:

(A) Date and time that monitored activity begins or ends;

(B) Construction activities occurring during each observation period;

(C) Weather parameters (*e.g.,* percent cover, visibility);

(D) Water conditions (*e.g.,* sea state, tide state);

(E) Species, numbers, and, if possible, sex and age class of marine mammals;

(F) Description of any observable marine mammal behavior patterns, including bearing and direction of travel and distance from pile driving activity;

(G) Distance from pile driving activities to marine mammals and distance from the marine mammals to the observation point;

(H) Locations of all marine mammal observations; and

(I) Other human activity in the area.

Reporting Measures

Marine Mammal Monitoring Report

USCG will be required to submit a draft marine mammal monitoring report within 90 days after completion of the in-water construction work or the expiration of the IHA (if issued), whichever comes earlier. The report will include data from marine mammal sightings as described: Date, time, location, species, group size, and behavior, any observed reactions to construction, distance to operating pile hammer, and construction activities occurring at time of sighting and environmental data for the period (*i.e.,* wind speed and direction, sea state, tidal state, cloud cover, and visibility). The marine mammal monitoring report will also include total takes, takes by day, and stop-work orders for each species. NMFS will have an opportunity to provide comments on the report, and if NMFS has comments, USCG will address the comments and submit a final report to NMFS within 30 days.

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the IHA (if issued), such as an injury (Level A harassment), serious injury, or mortality, USCG will immediately cease the specified activities and immediately report the incident to the Permits and Conservation Division, Office of Protected Resources, NMFS and the NMFS' West Coast Stranding Coordinator. The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Description of the incident;
- Status of all sound source use in the 24 hrs preceding the incident;
- Water depth;
- Environmental conditions (*e.g.,* wind speed and direction, sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hrs preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

Activities will resume until NMFS is able to review the circumstances of the prohibited take. NMFS will work with USCG to determine what is necessary to minimize the likelihood of further prohibited take and ensure MMPA compliance. USCG may not resume their activities until notified by NMFS via letter, email, or telephone.

Reporting of Injured or Dead Marine Mammals

In the event that the USCG discovers an injured or dead marine mammal, and the lead PSO determines that the cause of the injury or death is unknown and the death is relatively recent (*i.e.,* in less than a moderate state of decomposition as described in the next paragraph), USCG will immediately report the incident to the Permits and Conservation Division, Office of Protected Resources, NMFS and the NMFS' West Coast Stranding Coordinator. The report must include the same information identified in the paragraph above. Activities may continue while NMFS reviews the circumstances of the incident. NMFS will work with USCG to determine whether modifications in the activities are appropriate.

In the event that USCG discovers an injured or dead marine mammal, and the lead PSO determines that the injury or death is not associated with or related to the activities authorized in the IHA (*e.g.,* previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), USCG will report the incident to the Permits and Conservation Division, Office of Protected Resources, NMFS and the NMFS Stranding Hotline and/or by email to the NMFS' West Coast Stranding Coordinator within 24 hrs of the discovery. USCG will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to NMFS. Activities may continue while NMFS reviews the circumstances of the incident.

Negligible Impact Analysis and Determination

NMFS has defined negligible impact as an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival (50 CFR 216.103). A negligible impact finding is based on the lack of likely adverse effects on annual rates of recruitment or survival (*i.e.,* population-level effects). An estimate of the number of takes alone is not enough information on which to base an impact determination. In addition to considering estimates of the number of marine mammals that might be ''taken'' through harassment, NMFS considers other factors, such as the likely nature of any responses (*e.g.,* intensity, duration), the context of any responses (*e.g.,* critical reproductive time or location, migration), as well as effects on habitat, and the likely effectiveness of the mitigation. We also assess the number, intensity, and context of estimated takes by evaluating this information relative to population status. Consistent with the 1989 preamble for NMFS's implementing regulations (54 FR 40338; September 29, 1989), the impacts from other past and ongoing anthropogenic activities are incorporated into this analysis via their impacts on the environmental baseline (*e.g.,* as reflected in the regulatory status of the species, population size and growth rate where known, ongoing sources of human-caused mortality, or ambient noise levels).

No injury, serious injury or mortality is anticipated or authorized for the Monterey Station Project. Takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral) only. Marine mammals present in the vicinity of the action area and taken by Level B harassment would most likely show overt brief disturbance (startle reaction) and avoidance of the area from elevated noise levels during pile driving and pile removal.

There is one endangered species that may occur in the project area, humpback whales. However, if any humpbacks are detected within the Level B harassment zone of the project area, the USCG will shut down.

The Monterey Breakwater is a haulout location for approximately 250 California sea lions. There no other known critical habitat areas, haulouts or import feeding areas in close proximately to the project area.

The project also is not expected to have significant adverse effects on affected marine mammals' habitat, as analyzed in detail in the ''Potential Effects of Specified Activities on Marine Mammals and their Habitat'' section. Project activities would not permanently modify existing marine mammal habitat. The activities may kill some fish and cause other fish to leave the area temporarily, thus impacting marine mammals' foraging opportunities in a limited portion of the foraging range; but, because of the short duration of the activities and the relatively small area of the habitat that may be affected, the impacts to marine mammal habitat are not expected to cause significant or long-term negative consequences. Therefore, given the consideration of potential impacts to marine mammal prey species and their physical environment, USCG's Monterey Station project would not adversely affect marine mammal habitat.

In summary and as described above, the following factors primarily support our determination that the impacts resulting from this activity are not expected to adversely affect the species or stock through effects on annual rates of recruitment or survival:

- No injury, serious injury or mortality is anticipated or authorized;
- Takes that are anticipated and authorized are expected to be limited to short-term Level B harassment (behavioral);
- The project also is not expected to have significant adverse effects on affected marine mammals' habitat;
- There are no known important feeding or pupping areas. There is one haulout (the breakwater) within the project area. There are no other known important areas for marine mammals with the footprint of the project area; and
- For four out of the seven species, take is less than one percent of the stock abundance. Instances of take for the other three species (killer whale, bottlenose dolphin, and harbor porpoise) range from 3–10 percent of the stock abundance.

Based on the analysis contained herein of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the monitoring and mitigation measures, NMFS finds that the total marine mammal take from the activity will have a negligible impact on all affected marine mammal species or stocks.

Small Numbers

As noted above, only small numbers of incidental take may be authorized under Section 101(a)(5)(D) of the MMPA for specified activities other than military readiness activities. The MMPA does not define small numbers and so, in practice, where estimated numbers are available, NMFS compares the number of individuals taken to the most appropriate estimation of abundance of the relevant species or stock in our determination of whether an authorization is limited to small numbers of marine mammals. Additionally, other factors may be considered in the analysis, such as the temporal or spatial scale of the activities.

For four out of the seven species, take is less than one percent of the stock abundance. Instances of take for the other three species (killer whale, bottlenose dolphin, and harbor porpoise) range from 3–10 percent of the stock abundance. Based on the analysis contained herein of the planned activity (including the mitigation and monitoring measures) and the anticipated take of marine mammals, NMFS preliminarily finds that small numbers of marine mammals will be taken relative to the population sizes of the affected species or stocks.

Unmitigable Adverse Impact Analysis and Determination

There are no relevant subsistence uses of the affected marine mammal stocks or species implicated by this action. Therefore, NMFS has determined that the total taking of affected species or stocks would not have an unmitigable adverse impact on the availability of such species or stocks for taking for subsistence purposes.

Endangered Species Act (ESA)

Section 7(a)(2) of the ESA of 1973 (16 U.S.C. 1531 *et seq.*) requires that each Federal agency insure that any action it authorizes, funds, or carries out is not likely to jeopardize the continued existence of any endangered or threatened species or result in the destruction or adverse modification of designated critical habitat. To ensure ESA compliance for the issuance of IHAs, NMFS consults internally, in this case with the West Coast Regional Office, whenever we propose to authorize take for endangered or threatened species.

NMFS is not authorizing take of humpback whales, which are listed under the ESA, as the applicant will implement shutdown measures whenever humpbacks are observed (Level A or B). Therefore, consultation under section 7 of the ESA is not required.

Authorization

NMFS has issued an IHA to USCG for the potential harassment of small numbers of seven marine mammal species incidental to pile driving and removal activities at the USCG Monterey Station, Monterey, California from December 2017 to October 2018, provided the previously mentioned mitigation, monitoring, and reporting requirements.

Dated: December 22, 2017.

Donna S. Wieting,

Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2017–28029 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF930

Mid-Atlantic Fishery Management Council (MAFMC); Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The Northeast Trawl Advisory Panel (NTAP) of the Mid-Atlantic and New England Fishery Management Councils (Councils) will hold a meeting.

DATES: The meeting will be held on Tuesday, January 16, 2018, beginning at 9 a.m. and conclude by 4:40 p.m. For agenda details, see **SUPPLEMENTARY INFORMATION**.

ADDRESSES: *Meeting address:* The meeting will at the Hilton Garden Inn Boston Logan, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Council address: Mid-Atlantic Fishery Management Council, 800 N. State Street, Suite 201, Dover, DE 19901; telephone: (302) 674–2331 or on their website at *www.mafmc.org.*

FOR FURTHER INFORMATION CONTACT: Christopher M. Moore, Ph.D., Executive Director, Mid-Atlantic Fishery Management Council, telephone: (302) 526–5255.

SUPPLEMENTARY INFORMATION: The NTAP is a joint advisory panel of the Mid-Atlantic and New England Fishery Management Councils composed of Council members, fishing industry, academic, and government and non-government fisheries experts. The NTAP was established to bring commercial fishing, fisheries science, and fishery management professionals in the northeastern US together to identify concerns about regional research survey performance and data, to identify methods to address or mitigate these concerns, and to promote mutual understanding and acceptance of the results of this work among their peers and in the broader community.

Topics to be discussed at the meeting by the NTAP include: NTAP membership; status of the Northeast Trawl Advisory Panel (NTAP) and NEFSC commitment to continuing to participate on NTAP; review recent gear efficiency work; discuss capability of PISCES to conduct the Autumn NEFSC Bottom Trawl Survey; discuss net efficiency work developed through NTAP collaborations presented at the TRAC Assessments and the Groundfish Operational Assessments; discuss challenges-faced and lessons-learned in trying to advance the goals of NTAP; identify solutions to improve communications between NTAP and the NEFSC; identify how the NEFSC can improve support to NTAP as a body and be more responsive to short and long-term needs; identify approaches to address or mitigate concerns about regional research survey performance and data.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aid should be directed to M. Jan Saunders, (302) 526–5251, at least 5 days prior to the meeting date.

Dated: December 21, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–27968 Filed 12–27–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF ENERGY

[FE Docket No. 17–161–LNG]

Sabine Pass Liquefaction, LLC; Application for Blanket Authorization To Export Liquefied Natural Gas to Non-Free Trade Agreement Countries on a Short-Term Basis

AGENCY: Office of Fossil Energy, DOE.

ACTION: Notice of application.

SUMMARY: The Office of Fossil Energy (FE) of the Department of Energy (DOE) gives notice (Notice) of receipt of an application (Application), filed on December 20, 2017, by Sabine Pass Liquefaction, LLC (Sabine Pass), requesting blanket authorization to export liquefied natural gas (LNG) in an amount up to the equivalent of 600 billion cubic feet (Bcf) of natural gas on a cumulative basis over a two-year period commencing on the date of first short-term export or January 16, 2018, whichever is later. The LNG would be exported from the Sabine Pass Liquefaction Project (Liquefaction Project) located in Cameron Parish, Louisiana, to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. To date, Sabine Pass has been granted four final long-term orders under section 3 of the Natural Gas Act (NGA) to export LNG from Stages 1 and 2 of the Liquefaction Project in a volume equivalent to 1,006 Bcf per year of natural gas to countries with which the United States has not entered into a free trade agreement requiring national treatment for trade in natural gas (non-FTA countries), for a 20-year term.[1] Additionally, Sabine Pass currently holds a short-term blanket authorization to export LNG in a volume equivalent to 600 Bcf of natural gas over a two-year period to any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy. Sabine Pass is requesting this authorization on its own behalf and as agent for other entities who hold title to the natural gas at the time of export. Sabine Pass's existing blanket authorization will expire on January 15, 2018.[2] The current Application in effect is a request to extend Sabine Pass's current short-term blanket authorization issued in FE Docket No. 15–171–LNG for another two-year period beginning January 16, 2018 and extending through January 15, 2020.

DATES: Protests, motions to intervene, or notices of intervention, as applicable, requests for additional procedures, and written comments are to be filed using procedures detailed in the Public Comment Procedures section no later than 4:30 p.m., Eastern time, January 29, 2018.

ADDRESSES: Additional details can be found in Sabine Pass's Application, posted on the DOE/FE website at: *https://energy.gov/fe/2017-lng-export-compressed-natural-gas-cng-re-exports-long-term-natural-gas-applications*.

Protests, motions to intervene, notices of intervention, and written comments are invited.

Electronic Filing by email: fergas@hq.doe.gov.

Regular Mail: U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, P.O. Box 44375, Washington, DC 20026–4375.

Hand Delivery or Private Delivery Services (e.g., FedEx, UPS, etc.) U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000

[1] *See* App. at notes 3 and 6 (describing the various DOE/FE authorizations granted for the first four liquefaction trains comprising Stages 1 and 2 of the Liquefaction Project).

[2] *Sabine Pass Liquefaction, LLC,* Order Granting Blanket Authorization to Export Liquefied Natural Gas by Vessel from the Sabine Pass LNG Terminal Located in Cameron Parish, Louisiana, DOE/FE Order No. 3767, Docket No. 15–171–LNG (Jan. 13, 2016).

Independence Avenue SW, Washington, DC 20585.

FOR FURTHER INFORMATION CONTACT: Larine Moore, U.S. Department of Energy (FE–34), Office of Regulation and International Engagement, Office of Fossil Energy, Forrestal Building, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9478.

Cassandra Bernstein or Ronald (R.J.) Colwell, U.S. Department of Energy (GC–76), Office of the Assistant General Counsel for Electricity and Fossil Energy, Forrestal Building, 1000 Independence Avenue SW, Washington, DC 20585, (202) 586–9793 or (202) 586–8499.

SUPPLEMENTARY INFORMATION:

DOE/FE Evaluation

In the Application, Sabine Pass requests authorization to export LNG from its Liquefaction Project located in Cameron Parish, Louisiana, to both FTA and non-FTA countries (*i.e.,* any country with the capacity to import LNG via ocean-going carrier and with which trade is not prohibited by U.S. law or policy). This Notice applies only to the portion of the Application requesting authority to export LNG to non-FTA countries pursuant to section 3(a) of the NGA, 15 U.S.C. 717b(a). DOE separately will review the portion of the Application requesting authority to export LNG to FTA countries pursuant to section 3(c) of the NGA, 15 U.S.C. 717b(c).

In reviewing Sabine Pass's request for a non-FTA export authorization, DOE will consider any issues required by law or policy. DOE will consider domestic need for the natural gas, as well as any other issues determined to be appropriate, including whether the arrangement is consistent with DOE's policy of promoting competition in the marketplace by allowing commercial parties to freely negotiate their own trade arrangements. As part of this analysis, DOE will consider the following two studies examining the cumulative impacts of exporting domestically produced LNG:

- *Effect of Increased Levels of Liquefied Natural Gas on U.S. Energy Markets,* conducted by the U.S. Energy Information Administration upon DOE's request (2014 EIA LNG Export Study); [3] and
- *The Macroeconomic Impact of Increasing U.S. LNG Exports,* conducted jointly by the Center for Energy Studies at Rice University's Baker Institute for Public Policy and Oxford Economics, on behalf of DOE (2015 LNG Export Study).[4]

Additionally, DOE will consider the following environmental documents:

- *Addendum to Environmental Review Documents Concerning Exports of Natural Gas From the United States,* 79 FR 48132 (Aug. 15, 2014); [5] and
- *Life Cycle Greenhouse Gas Perspective on Exporting Liquefied Natural Gas From the United States,* 79 FR 32260 (June 4, 2014).[6]

Parties that may oppose this Application should address these issues and documents in their comments and/or protests, as well as other issues deemed relevant to the Application in their responses on these issues.

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321 *et seq.,* requires DOE to give appropriate consideration to the environmental effects of its proposed decisions. No final decision will be issued in this proceeding until DOE has met its environmental responsibilities.

Public Comment Procedures

In response to this Notice, any person may file a protest, comments, or a motion to intervene or notice of intervention, as applicable, regarding the non-FTA export portion of the Application. Interested persons will be provided 30 days from the date of publication of this Notice in which to submit comments, protests, motions to intervene, or notices of intervention.

Any person wishing to become a party to the proceeding must file a motion to intervene or notice of intervention. The filing of comments or a protest with respect to the Application will not serve to make the commenter or protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate action to be taken on the Application. All protests, comments, motions to intervene, or notices of intervention must meet the requirements specified by the regulations in 10 CFR part 590.

Filings may be submitted using one of the following methods: (1) Emailing the filing to *fergas@hq.doe.gov,* with FE Docket No. 17–161–LNG in the title line; (2) mailing an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**; or (3) hand delivering an original and three paper copies of the filing to the Office of Regulation and International Engagement at the address listed in **ADDRESSES**. All filings must include a reference to FE Docket No. 17–161–LNG. PLEASE NOTE: If submitting a filing via email, please include all related documents and attachments (*e.g.,* exhibits) in the original email correspondence. Please do not include any active hyperlinks or password protection in any of the documents or attachments related to the filing. All electronic filings submitted to DOE must follow these guidelines to ensure that all documents are filed in a timely manner. Any hardcopy filing submitted greater in length than 50 pages must also include, at the time of the filing, a digital copy on disk of the entire submission.

A decisional record on the Application will be developed through responses to this Notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. If an additional procedure is scheduled, notice will be provided to all parties. If no party requests additional procedures, a final Opinion and Order may be issued based on the official record, including the Application and responses filed by parties pursuant to this Notice, in accordance with 10 CFR 590.316.

The Application is available for inspection and copying in the Office of Regulation and International Engagement docket room, Room 3E–042, 1000 Independence Avenue SW, Washington, DC 20585. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The Application and any filed protests, motions to intervene, notices of interventions, and comments will also be available electronically by going to the following DOE/FE web address: *http://www.fe.doe.gov/programs/gasregulation/index.html.*

Issued in Washington, DC, on December 20, 2017.

Robert J. Smith,

Deputy Assistant Secretary for Oil and Natural Gas (Acting), Office of Fossil Energy.

[FR Doc. 2017–27970 Filed 12–27–17; 8:45 am]

BILLING CODE 6450–01–P

[3] The 2014 EIA LNG Export Study, published on Oct. 29, 2014, is available at: *https://www.eia.gov/analysis/requests/fe/.*

[4] The 2015 LNG Export Study, dated Oct. 29, 2015, is available at: *http://energy.gov/sites/prod/files/2015/12/f27/20151113_macro_impact_of_lng_exports_0.pdf.*

[5] The Addendum and related documents are available at: *http://energy.gov/fe/draft-addendum-environmental-review-documents-concerning-exports-natural-gas-united-states.*

[6] The Life Cycle Greenhouse Gas Report is available at: *http://energy.gov/fe/life-cycle-greenhouse-gas-perspective-exporting-liquefied-natural-gas-united-states.*

DEPARTMENT OF ENERGY

[OE Docket No. EA–442]

Application to Export Electric Energy; Fisterra Generación, S. de R.L. de C.V.

AGENCY: Office of Electricity Delivery and Energy Reliability, DOE.

ACTION: Notice of application.

SUMMARY: Fisterra Generación, S. de R.L. de C.V. (Applicant) has applied for authority to transmit electric energy from the United States to Mexico pursuant to the Federal Power Act.

DATES: Comments, protests, or motions to intervene must be submitted on or before January 29, 2018.

ADDRESSES: Comments, protests, motions to intervene, or requests for more information should be addressed to: Office of Electricity Delivery and Energy Reliability, Mail Code: OE–20, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585–0350. Because of delays in handling conventional mail, it is recommended that documents be transmitted by overnight mail, by electronic mail to *Electricity.Exports@hq.doe.gov,* or by facsimile to 202–586–8008.

SUPPLEMENTARY INFORMATION: Exports of electricity from the United States to a foreign country are regulated by the Department of Energy (DOE) pursuant to sections 301(b) and 402(f) of the Department of Energy Organization Act (42 U.S.C. 7151(b), 7172(f)) and require authorization under section 202(e) of the Federal Power Act (16 U.S.C. § 824a(e)).

On November 7, 2017, DOE received an application from the Applicant for authority to transmit electric energy from the United States to Mexico as a power marketer for a five-year term using existing international transmission facilities. The Applicant will register with the Electric Reliability Council of Texas (ERCOT) to make sells in Mexico, and will also be applying with the Federal Energy Regulatory Commission (FERC) for authorization to sell energy at wholesale market-based rates in the U.S.

In its application, the Applicant states that it does not own or control any electric generation or transmission facilities, and it does not have a franchised service area. The electric energy that the Applicant proposes to export to Mexico would be surplus energy purchased from third parties such as electric utilities and Federal power marketing agencies pursuant to voluntary agreements. The existing international transmission facilities to be utilized by the Applicant have previously been authorized by Presidential Permits issued pursuant to Executive Order 10485, as amended, and are appropriate for open access transmission by third parties.

Procedural Matters: Any person desiring to be heard in this proceeding should file a comment or protest to the application at the address provided above. Protests should be filed in accordance with Rule 211 of the Federal Energy Regulatory Commission's (FERC) Rules of Practice and Procedures (18 CFR 385.211). Any person desiring to become a party to these proceedings should file a motion to intervene at the above address in accordance with FERC Rule 214 (18 CFR 385.214). Five copies of such comments, protests, or motions to intervene should be sent to the address provided above on or before the date listed above.

Comments and other filings concerning the Applicant's application to export electric energy to Mexico should be clearly marked with OE Docket No. EA–442. An additional copy is to be provided to Brooksany Barrowes, Baker Botts L.L.P., 1299 Pennsylvania Ave. NW, Washington, DC 20004.

A final decision will be made on this application after the environmental impacts have been evaluated pursuant to DOE's National Environmental Policy Act Implementing Procedures (10 CFR part 1021) and after a determination is made by DOE that the proposed action will not have an adverse impact on the sufficiency of supply or reliability of the U.S. electric power supply system.

Copies of this application will be made available, upon request, for public inspection and copying at the address provided above, by accessing the program website at *http://energy.gov/node/11845,* or by emailing Angela Troy at *Angela.Troy@hq.doe.gov.*

Issued in Washington, DC, on November 27, 2017.

Christopher Lawrence,

Electricity Policy Analyst, Office of Electricity Delivery and Energy Reliability.

[FR Doc. 2017–28028 Filed 12–27–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1403–063]

Notice of Application Accepted for Filing, Soliciting Comments, Protests and Motions To Intervene; Pacific Gas and Electric Company

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Proceeding:* Extension of License Term.

b. *Project No.:* P–1403–063.

c. *Date Filed:* December 20, 2017.

d. *Licensee:* Pacific Gas and Electric Company.

e. *Name and Location of Project:* Narrows Hydroelectric Project, located on the Yuba River in Nevada County, California.

f. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a-825r.

g. *Licensee Contact Information:* Ms. Annette Faraglia, Chief Counsel, Hydro Generation, Pacific Gas and Electric Company, P.O. Box 7442, MC B30A–3005, San Francisco, CA 94120, Phone: (415) 973–7145, Email: *ARF3@pge.com* and Mr. John A. Whittaker, IV, Winston & Strawn LLP, 1700 K Street NW, Washington, DC 20006, Phone: (202) 282–5766, Email: *jwhittaker@winston.com.*

h. *FERC Contact:* Mr. Ashish Desai, (202) 502–8370, *Ashish.Desai@ferc.gov.*

i. Deadline for filing comments, motions to intervene and protests, is January 18, 2018. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, and recommendations, using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426. The first page of any filing should include docket number P–1403–063.

j. *Description of Proceeding:* The licensee seeks Commission approval to extend the current 30-year term of the license for the Narrows Project by three years. The current term of the license expires January 31, 2023. The licensee wants to extend the term so it expires on January 31, 2026. The licensee has been working on a potential transfer of the Narrows Project to the Yuba County Water Agency (Yuba County). The Narrows Project is located within a half mile of Yuba County's Yuba River Hydroelectric Project No. 2246, which is currently in relicensing. The licensee wants the extension so it has more time to complete its negotiations with Yuba County and potentially transfer the project before the Narrows Project enters relicensing. Should the transfer occur, Yuba County could then potentially relicense the Narrows Project as part of the Yuba River Project.

k. This notice is available for review and reproduction at the Commission in the Public Reference Room, Room 2A, 888 First Street NE, Washington, DC 20426. The filing may also be viewed on the Commission's website at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the Docket number (P–1403–063) excluding the last three digits in the docket number field to access the notice. 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 toll-free 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov.* For TTY, call (202) 502–8659.

l. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

m. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

n. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title COMMENTS, PROTEST, or MOTION TO INTERVENE as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene, or protests should relate to the request to extend the license term. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28092 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–33–000]

Notice of Institution of Section 206 Proceeding and Refund Effective Date; New York Independent System Operator, Inc.

On December 21, 2017, the Commission issued an order in Docket No. EL18–33–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether New York Independent System Operator, Inc.'s practices regarding the pricing of fast-start resources may be unjust and unreasonable. *New York Independent System Operator, Inc.,* 161 FERC 61,294 (2017).

The refund effective date in Docket No. EL18–33–000, 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. EL18–33–000 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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28088 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–31–000]

Dominion Energy Questar Pipeline, LLC; Notice of Request Under Blanket Authorization

Take notice that on December 15, 2017, Dominion Energy Questar Pipeline, LLC (Dominion Energy), 333 South State Street, Salt Lake City, Utah 84111, filed a prior notice application pursuant to sections 157.205, 157.208(c) and 157.213(b) of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act (NGA), and Dominion Energy's blanket certificate issued in Docket No. CP82–491–000,[1] to modify existing facilities and install surface and subsurface facilities located at its existing Clay Basin storage facility, in Daggett County, Utah (the Clay Basin Delivery Project), all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, Dominion Energy proposes to modify two previously certificated storage injection/withdrawal wells (an existing operational storage-injection well and an existing inactive storage-injection/withdrawal well), and to install limited surface and subsurface facilities within the previously disturbed (non-vegetated) well-pad sites to restore functional service of the wells. Dominion Energy states that the project will enable it to convert 1.1 billion cubic feet (Bcf) of the existing 2.7 Bcf of interruptible storage capacity into firm storage capacity, with an associated

[1] *Mountain Fuel Resources, Inc.,* 20 FERC 62,580 (1982).

increase of 9.2 million cubic feet per day in the minimum required deliverability (MRD) without increasing the overall storage capacity of the field. Dominion Energy states that the project will not affect the contracted firm capacity and MRD rights held by existing firm storage customers at Clay Basin. Dominion Energy estimates that the cost of the proposed project is approximately $3.6 million.

Any questions regarding this application should be directed L. Bradley Burton, Director-Regulatory, Rates, Certificates and Tariffs Dominion Energy Questar Corporation, 333 South State Street, P.O. Box 45360, Salt Lake City, Utah 84145–0360, by telephone at (801) 324–2459, by fax at (801) 324–2905, or by email at *brad.burton@dominionenergy.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenter will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions 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.

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28087 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. P–14862–000]

Douglas Leen; Notice of Intent To File License Application, Filing of Pre-Application Document, and Approving Use of the Traditional Licensing Process

a. *Type of Filing:* Notice of Intent to File License Application and Request to Use the Traditional Licensing Process.

b. *Project No.:* P–14862–000.

c. *Date Filed:* November 14, 2017.

d. *Submitted By:* Douglas Leen.

e. *Name of Project:* Kupeanof Microhydro Project.

f. *Location:* On an unnamed stream, in Petersburg Borough, Alaska. The project occupies 0.1 acres of United States lands administered by U.S. Forest Service.

g. *Filed Pursuant to:* 18 CFR 5.3 of the Commission's regulations.

h. *Potential Applicant Contact:* Douglas Leen, P.O. Box 341, Petersburg, AK 99833; (907) 518–0335; *mail@dougleen.com.*

i. *FERC Contact:* Ryan Hansen at (202) 502–8074; or email at *ryan.hansen@ferc.gov.*

j. Mr. Leen filed his request to use the Traditional Licensing Process on November 14, 2017. Mr. Leen provided public notice of his request on November 16, 2017. In a letter dated December 20, 2017, the Director of the Division of Hydropower Licensing approved Mr. Leen's request to use the Traditional Licensing Process.

k. With this notice, we are initiating informal consultation with the U.S. Fish and Wildlife Service and/or NOAA Fisheries under section 7 of the Endangered Species Act and the joint agency regulations thereunder at 50 CFR, Part 402; and NOAA Fisheries under section 305(b) of the Magnuson-Stevens Fishery Conservation and Management Act and implementing regulations at 50 CFR 600.920. We are also initiating consultation with the Alaska State Historic Preservation Officer, as required by section 106, National Historic Preservation Act, and the implementing regulations of the Advisory Council on Historic Preservation at 36 CFR 800.2.

l. Mr. Leen 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.

m. 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.

n. 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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28094 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP18–30–000]

Notice of Request Under Blanket Authorization; Columbia Gas Transmission, LLC

Take notice that on December 15, 2017, Columbia Gas Transmission, LLC (Columbia), 700 Louisiana Street, Houston, Texas 77002–2700, filed in Docket No. CP18–30–000 a prior notice request pursuant to sections 157.205 and 157.208 of the Commission's regulations under the Natural Gas Act (NGA), and Columbia's blanket certificate issued in Docket No. CP83–76–000, to perform installations and activities to enable the in-line inspection, or pigging, of approximately 53.6 miles of its 20-inch diameter Line D–600 (D600 Launcher & Receiver Project). The majority of the proposed project installations and activities will be located at nine (9) modification points (Mod Points) along the existing Line D–600 right-of-way in Allen, Paulding, and Putnam Counties, Ohio.

Columbia's project will consist of various modification activities necessary to insure that the line is pig-capable, including the installation of one new 24 x 20 bi-directional launcher/receiver at Mod Point 1 in Columbia's existing Cecil Panhandle Station in Paulding County, Ohio, one new 24 x 20 bi-directional launcher/receiver at Mod Point 9 in Columbia's existing Greeley Chapel Station in Allen County, Ohio, and additional appurtenances, including valves, tees, and stopples, at seven other Mod Points in Paulding, Putnam, and Allen Counties, Ohio, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or TTY, contact (202) 502–8659.

Any questions concerning this application may be directed to Linda Farquhar, Manager, Project Determinations & Regulatory Administration, Columbia Gas Transmission, LLC, 700 Louisiana Street, Suite 700, Houston, Texas 77002–2700, by telephone at (832) 320–5685, by facsimile at (832) 320–6685, or by email at *linda_farquhar@transcanada.com.*

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the NGA.

Pursuant to section 157.9 of the Commission's rules, 18 CFR 157.9, within 90 days of this Notice the Commission staff will either: complete its environmental assessment (EA) and place it into the Commission's public record (eLibrary) for this proceeding, or issue a Notice of Schedule for Environmental Review. If a Notice of Schedule for Environmental Review is issued, it will indicate, among other milestones, the anticipated date for the Commission staff's issuance of the final environmental impact statement (FEIS) or EA for this proposal. The filing of the EA in the Commission's public record for this proceeding or the issuance of a Notice of Schedule for Environmental Review will serve to notify federal and state agencies of the timing for the completion of all necessary reviews, and the subsequent need to complete all federal authorizations within 90 days of the date of issuance of the Commission staff's FEIS or EA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commenters will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commenters will not be required to serve copies of filed documents on all other parties. However, the non-party commenters, will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and seven copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28086 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14751–002]

Alpine Pacific Utilities Hydro, LLC; Notice of Application Accepted for Filing With the Commission, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, Intent To Waive Scoping, Soliciting Comments, Terms and Conditions, Recommendations, 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:* Original Minor License.

b. *Project No.:* 14751–002.

c. *Date filed:* February 1, 2017.

d. *Applicant:* Alpine Pacific Utilities Hydro, LLC.

e. *Name of Project:* Fresno Dam Site Water Power Project.

f. *Location:* On the Milk River in Hill County, Montana near the town of Kremlin at the existing Bureau of Reclamation Fresno Dam.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Justin Ahmann, Alpine Pacific Utilities Hydro, LLC, 75 Somers Road, Somers, Montana 59932, (406) 755–1333.

i. *FERC Contact:* John Matkowski, (202) 502–8576 or *john.matkowski@ferc.gov.*

j. *Deadline for filing motions to intervene and protests, comments, terms and conditions, recommendations, 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, terms and conditions, recommendations, 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–14751–002.

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 proposed project would use the existing Fresno Dam, intake with trashrack, and outlet structure owned and operated by the Bureau of Reclamation and consist of the following new facilities: (1) Two penstock adapters consisting of (i) a 72-inch diameter circular section transitioning to (ii) a 72-inch-high by 60-inch wide rectangular section that connects the existing outlet works to (2) a series of rectangular concrete adapter boxes that apportion flow into either the proposed turbines or to the existing gate house; (3) an underground powerhouse containing one 875-kilowatt (kW) and one 625-kW Natel Energy turbine with a total rated capacity of 1.5 megawatts; (4) two 5-foot-wide by 6-foot-high, 85-foot-long concrete tailraces; (5) a 400-square-foot switchyard; (6) an approximately 3.35-mile-long, 12.74-kilovolt underground transmission line; and (7) appurtenant facilities. The proposed project would have an average annual generation of 6,251 megawatt-hours.

m. Due to the applicant's close coordination with state and federal agencies during the preparation of the application and the lack of any study requests submitted during pre-filing consultation and in response to the Commission's tendering notice, we intend to waive scoping. Based on a review of the application, resource agency consultation letters, and comments filed to date, Commission staff intends to prepare a single environmental assessment (EA). The issues that need to be addressed in the EA have been adequately identified during the pre-filing period, which included a public meeting and site visit, and no new issues are likely to be identified through additional scoping. The EA will assess the potential effects of project construction and operation on geology and soils, aquatic, terrestrial, threatened and endangered species, recreation and land use, aesthetic, and cultural and historic resources.

n. 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.

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. Any qualified applicant desiring to file a competing application must submit to the Commission, on or before the specified intervention deadline date, a competing development application, or a notice of intent to file such an application. Submission of a timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified intervention deadline date. Applications for preliminary permits will not be accepted in response to this notice.

A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, and must include an unequivocal statement of intent to submit a development application. A notice of intent must be served on the applicant(s) named in this public notice.

Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title PROTEST, MOTION TO INTERVENE, NOTICE OF INTENT TO FILE COMPETING APPLICATION, COMPETING APPLICATION, 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.

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.

q. *Procedural schedule:* We intend to accept the consultation that has occurred on this project during the pre-filing period as satisfying our requirements for the standard 3-stage consultation process under 18 CFR 4.38 and for National Environmental Policy Act scoping and the application will be processed according to the following procedural schedule. Revisions to the schedule may be made as appropriate.

Milestone	Target date
Comments, recommendations, and terms and conditions due	60 days from issuance of this notice.
Reply comments due	105 days from issuance of this notice.
Notice of the availability of the EA	August 2018.

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28093 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–34–000]

Notice of Institution of Section 206 Proceeding and Refund Effective Date; PJM Interconnection, LLC

On December 21, 2017, the Commission issued an order in Docket No. EL18–34–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether PJM Interconnection, L.L.C.'s practices regarding the pricing of fast-start resources may be unjust and unreasonable. *PJM Interconnection, L.L.C.,* 161 FERC 61,295 (2017).

The refund effective date in Docket No. EL18–34–000, 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. EL18–34–000 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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28089 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ID–4091–000]

Laurito, James P.; Notice of Filing

Take notice that on December 20, 2017, James P. Laurito filed an application for authorization to hold interlocking positions, pursuant to section 305(b) of the Federal Power Act, 16 U.S.C. 825d(b), and Part 45 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR 45.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the eFiling link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the eLibrary link and is available for electronic 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 10, 2018.

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28091 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Filings Instituting Proceedings

Docket Number: PR18–14–000.
Applicants: Columbia Gas of Ohio, Inc.
Description: Tariff filing per 284.123(b),(e)/: COH SOH effective 11–29–2017.
Filed Date: 12/15/17.
Accession Number: 201712155202.
Comments/Protests Due: 5 p.m. ET 1/5/18.

Docket Numbers: RP18–257–000.
Applicants: El Paso Natural Gas Company, L.L.C.
Description: § 4(d) Rate Filing: Negotiated Rate Agreement Update (Pioneer Jan–Mar 2017) to be effective 1/1/2018.
Filed Date: 12/19/17.
Accession Number: 20171219–5203.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–258–000.
Applicants: Natural Gas Pipeline Company of America.
Description: § 4(d) Rate Filing: Amendment to NRA Tenaska Marketing Ventures to be effective 12/20/2017.
Filed Date: 12/20/17.
Accession Number: 20171220–5052.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–259–000.
Applicants: Gulf South Pipeline Company, LP.
Description: § 4(d) Rate Filing: Clean Up Table of Contents for Volume 2 to be effective 1/20/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5073.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–260–000.
Applicants: Eastern Shore Natural Gas Company.
Description: Compliance filing Filing to Comply—CP17–28, Negotiated Rate & Non-Conforming Service Agreements to be effective 12/14/2017.
Filed Date: 12/20/17.
Accession Number: 20171220–5076.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–261–000.

Applicants: Stagecoach Pipeline & Storage Company LL.
Description: § 4(d) Rate Filing: Stagecoach Pipeline & Storage Company LLC—Filing to Add Firm Storage Ratchets to be effective 2/1/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5106.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–262–000.
Applicants: Texas Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Conversion of STF to FT Service Filing to be effective 1/22/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5135.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–263–000.
Applicants: Enable Gas Transmission, LLC.
Description: § 4(d) Rate Filing: Negotiated Rate Filing—January 2018 Continental 1011192 to be effective 1/1/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5155.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–264–000.
Applicants: Destin Pipeline Company, L.L.C.
Description: § 4(d) Rate Filing: Annual Fuel Retention Adjustment to be effective 1/1/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5158.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–265–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Negotiated Rate Service Agreement—EQT Energy Del Point Change 12202017 to be effective 12/20/2017.
Filed Date: 12/20/17.
Accession Number: 20171220–5199.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–266–000.
Applicants: Equitrans, L.P.
Description: § 4(d) Rate Filing: Terminate Negotiated Rate Service Agreement—BP to be effective 1/1/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5202.
Comments Due: 5 p.m. ET 1/2/18.

Docket Numbers: RP18–267–000.
Applicants: Northern Border Pipeline Company.
Description: § 4(d) Rate Filing: Sequent and Continental Neg Rate Agmts to be effective 1/1/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5037.
Comments Due: 5 p.m. ET 1/2/18.

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 date(s). 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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28085 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission (Commission) hereby gives notice that members of the Commission's staff may attend the following meetings related to the transmission planning activities of the New York Independent System Operator, Inc. (NYISO):

NYISO Electric System Planning Working Group Meeting

January 8, 2018, 10:00 a.m.–3:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2018-01-08.*

NYISO Business Issues Committee Meeting

January 17, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic&directory=2018-01-17.*

NYISO Operating Committee Meeting

January 18, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=oc&directory=2018-01-18.*

NYISO Electric System Planning Working Group Meeting

January 24, 2018, 10:00 a.m.–4:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=bic_espwg&directory=2018-01-24.*

NYISO Management Committee Meeting

January 31, 2018, 10:00 a.m.–2:00 p.m. (EST)

The above-referenced meeting will be via web conference and teleconference.

The above-referenced meeting is open to stakeholders.

Further information may be found at: *http://www.nyiso.com/public/committees/documents.jsp?com=mc&directory=2018-01-31.*

The discussions at the meetings described above may address matters at issue in the following proceedings:

New York Independent System Operator, Inc., Docket No. ER13–102.

New York Independent System Operator, Inc., Docket No. ER15–2059.

New York Independent System Operator, Inc., Docket No. ER17–2327.

For more information, contact James Eason, Office of Energy Market Regulation, Federal Energy Regulatory Commission at (202) 502–8622 or *James.Eason@ferc.gov.*

Dated: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28096 Filed 12–27–17; 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: EC18–38–000.
Applicants: Colton Power L.P., Fountain Valley Power, L.L.C., Harbor Cogeneration Company, LLC, KES Kingsburg, L.P., SWG Arapahoe, LLC, SWG Colorado, LLC, Valencia Power, LLC, Goal Line L.P.
Description: Application for Authorization for Disposition of Jurisdictional Facilities and Request for Expedited Action of Colton Power L.P., et al.
Filed Date: 12/20/17.
Accession Number: 20171220–5240.
Comments Due: 5 p.m. ET 1/10/18.

Docket Numbers: EC18–39–000.
Applicants: Access Industries, Inc., Calpine Corporation.
Description: Application for Authorization under Section 203 of the Federal Power Act and Request for Expedited Consideration, et al. of Calpine Corporation, et al.
Filed Date: 12/21/17.
Accession Number: 20171221–5195.
Comments Due: 5 p.m. ET 1/11/18.

Take notice that the Commission received the following exempt wholesale generator filings:

Docket Numbers: EG18–22–000.
Applicants: Hardin Wind Energy LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Hardin Wind Energy LLC.
Filed Date: 12/21/17.
Accession Number: 20171221–5153.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: EG18–23–000.
Applicants: Hardin Wind Energy Holdings LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Hardin Wind Energy Holdings LLC.
Filed Date: 12/21/17.
Accession Number: 20171221–5154.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: EG18–24–000.
Applicants: Beech Ridge Energy II Holdings LLC.
Description: Notice of Self-Certification of Exempt Wholesale Generator Status of Beech Ridge Energy II Holdings LLC.
Filed Date: 12/21/17.
Accession Number: 20171221–5155.
Comments Due: 5 p.m. ET 1/11/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1276–007; ER10–1292–006; ER10–1287–006; ER10–1303–006; ER10–1319–008; ER10–1353–008.
Applicants: Consumers Energy Company, CMS Energy Resource Management Company, Grayling Generation Station Limited Partnership, Genesee Power Station Limited Partnership, CMS Generation Michigan Power, LLC, Dearborn Industrial Generation, L.L.C.
Description: Updated Market Power Analysis for the Central Region of Consumer Energy Company, et al.
Filed Date: 12/19/17.
Accession Number: 20171219–5246.
Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER12–348–006; ER15–1378–002.
Applicants: Mercuria Energy America, Inc., Mercuria Commodities Canada Corporation.
Description: Updated Triennial Market Analysis for the Southeast Region of the Mercuria Sellers.
Filed Date: 12/20/17.
Accession Number: 20171220–5250.
Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER16–323–004.
Applicants: Ohio Valley Electric Corporation.
Description: Updated Market Power Analysis in the MISO Balancing Area Authority of Ohio Valley Electric Corporation.
Filed Date: 12/20/17.
Accession Number: 20171220–5232.
Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER18–487–000.
Applicants: Tampa Electric Company.
Description: § 205(d) Rate Filing: Section 205 Requirements Depreciation Rates—Various Accounts to be effective 12/31/9998.
Filed Date: 12/20/17.
Accession Number: 20171220–5210.
Comments Due: 5 p.m. ET 1/10/18.

Docket Numbers: ER18–488–000.
Applicants: San Diego Gas & Electric Company.
Description: § 205(d) Rate Filing: 2018 SDGE RS Annual Update to Transmission Owner Tariff to be effective 1/1/2018.
Filed Date: 12/20/17.
Accession Number: 20171220–5211.
Comments Due: 5 p.m. ET 1/10/18.

Docket Numbers: ER18–489–000.
Applicants: PJM Interconnection, L.L.C.
Description: Request for Waiver and Shortened Answer Date of PJM Interconnection, L.L.C.
Filed Date: 12/20/17.
Accession Number: 20171220–5242.
Comments Due: 5 p.m. ET 1/3/18.

Docket Numbers: ER18–490–000.
Applicants: Duke Energy Indiana, LLC.
Description: Market-Based Triennial Review Filing: Central Triennial Duke Companies to be effective 2/19/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5055.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–491–000.
Applicants: Hardin Wind Energy LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5091.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–491–001.
Applicants: Hardin Wind Energy LLC.
Description: Tariff Amendment: Supplement to Market-Based Rate Application to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5165.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–492–000.
Applicants: Hardin Wind Energy Holdings LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5095.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–492–001.
Applicants: Hardin Wind Energy Holdings LLC.
Description: Tariff Amendment: Supplement to Market-Based Rate Application to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5166.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–493–000.
Applicants: Virginia Electric and Power Company, PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: VEPCO Submits Revisions to OATT to Add Dominion M–2 to be effective 1/1/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5099.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–494–000.
Applicants: Beech Ridge Energy II Holdings LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5114.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–494–001.
Applicants: Beech Ridge Energy II Holdings LLC.
Description: Tariff Amendment: Supplement to Market-Based Rate Application to be effective 2/20/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5167.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–495–000.

Applicants: Southwestern Public Service Company.
Description: § 205(d) Rate Filing: SPS Notice of Succession RS–136 TCEC to GSEC to be effective 1/1/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5140.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–496–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Service Agreement No. 4856, Queue No. AA2–121/AB2–104 to be effective 11/21/2017.
Filed Date: 12/21/17.
Accession Number: 20171221–5158.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–498–000.
Applicants: PJM Interconnection, L.L.C.
Description: § 205(d) Rate Filing: Original Service Agreement No. 4872, Queue No. AA2–132 to be effective 11/21/2017.
Filed Date: 12/21/17.
Accession Number: 20171221–5237.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–499–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO–HOPE PSA RS#125 A&R Windcatcher to be effective 1/1/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5243.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: ER18–500–000.
Applicants: Southwestern Electric Power Company.
Description: § 205(d) Rate Filing: SWEPCO-Bentonville PSA RS#126 A&R Windcatcher to be effective 1/1/2018.
Filed Date: 12/21/17.
Accession Number: 20171221–5250.
Comments Due: 5 p.m. ET 1/11/18.

Take notice that the Commission received the following public utility holding company filings:

Docket Numbers: PH18–1–000.
Applicants: Énergir Inc.
Description: Energir Inc. submits FERC 65–B Waiver Notification.
Filed Date: 12/21/17.
Accession Number: 20171221–5198.
Comments Due: 5 p.m. ET 1/11/18.

Docket Numbers: PH18–2–000.
Applicants: Valener Inc.
Description: Valener Inc. submits FERC 65–B Waiver Notification.
Filed Date: 12/21/17.
Accession Number: 20171221–5199.
Comments Due: 5 p.m. ET 1/11/18.

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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28084 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–35–000]

Southwest Power Pool, Inc.; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On December 21, 2017, the Commission issued an order in Docket No. EL18–35–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether Southwest Power Pool, Inc.'s (SPP) practices regarding the pricing of quick-start resources may be unjust and unreasonable. *Southwest Power Pool, Inc.,* 161 FERC 61,296 (2017).

The refund effective date in Docket No. EL18–35–000, 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. EL18–35–000 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 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28090 Filed 12–27–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1204]

Information Collection Being Reviewed by the Federal Communications Commission

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees. The FCC may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid Office of Management and Budget (OMB) control number.

DATES: Written PRA comments should be submitted on or before February 26, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection, contact Nicole Ongele at (202) 418–2991.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of

1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collections. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1204.

Title: Deployment of Text-to-911.

Form Number: Not applicable.

Type of Review: Extension of a currently approved collection.

Respondents: Businesses or other-for-profit and state, local and tribal governments.

Number of Respondents and Responses: 2,649 Respondents; 51,730 Responses.

Estimated Time per Response: 1–8 hours.

Frequency of Response: One-time; annual reporting requirements and third-party disclosure requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for these collections is contained in 47 U.S.C. 151, 152, 154(i), 154(j), 154(o), 251(e), 303(b), 303(g), 303(r), 316, and 403.

Total Annual Burden: 69,883 hours.

Total Annual Cost: No Cost.

Privacy Act Impact Assessment: No Impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality.

Needs and Uses: In a Second Report and Order released on August 13, 2014, FCC 14–118, published at 79 FR 55367, September 16, 2014, the Commission adopted final rules—containing information collection requirements—to enable the Commission to implement text-to-911 service. The text-to-911 rules provide enhanced access to emergency services for people with disabilities and fulfilling a crucial role as an alternative means of emergency communication for the general public in situations where sending a text message to 911 as opposed to placing a voice call could be vital to the caller's safety. The Second Report and Order adopted rules to commence the implementation of text-to-911 service with an initial deadline of December 31, 2014 for all covered text providers to be capable of supporting text-to-911 service. The Second Report and Order also provided that covered text providers would then have a six-month implementation period. They must begin routing all 911 text messages to a Public Safety Answering Point (PSAP) by June 30, 2015 or within six months of a valid PSAP request for text-to-911 service, whichever is later. To implement these requirements, the Commission seeks to collect information primarily for a database in which PSAPs voluntarily register that they are technically ready to receive text messages to 911. As PSAPs become text-ready, they may either register in the PSAP database (or submit a notification to PS Docket Nos. 10–255 and 11–153), or provide other written notification reasonably acceptable to a covered text messaging provider. Either measure taken by the PSAP constitutes sufficient notification pursuant to the rules in the Second Report and Order. PSAPs and covered text providers may also agree to an alternative implementation timeframe (other than six months). Covered text providers must notify the FCC of the dates and terms of any such alternate timeframe within 30 days of the parties' agreement. Additionally, the rules adopted by the Second Report and Order include other information collections for third party notifications necessary for the implementation of text-to-911, including notifications to consumers, covered text providers, and the Commission. These notifications are essential to ensure that all affected parties are aware of the limitations, capabilities, and status of text-to-911 services. These information collections enable the Commission to meet the objectives for implementation of text-to-911 service and for compliance by covered text providers with the six-month implementation period in furtherance of the Commission's core mission to ensure the public's safety.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–27980 Filed 12–27–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewals; Comment Request (3064–0022 & –0027)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of existing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on renewal of the information collections described below.

DATES: Comments must be submitted on or before February 26, 2018.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Manny Cabeza (202–898–3767). Counsel, MB 3007, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Manny Cabeza (202–898–3767) at the FDIC address noted above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Uniform Application and Termination Notice for Municipal Securities Principal or Representative Associated with a Bank Municipal Securities Dealer.

OMB Number: 3064–0022.

Form Number: MSD–4 and MSD–5

Affected Public: Individuals and Insured state nonmember banks and state savings associations.

Burden Estimate:

Source and burden type	Number of respondents	Annual frequency	Total responses	Average time per response (minutes)	Estimated annual burden (hours)
Form MSD–4 *Reporting*	2	On Occasion	2	60	2
Form MSD–5 *Reporting*	2	On Occasion	2	15	0.5
Total Estimated Annual Burden					2.5

There is no change in the method or substance of the collection. The overall reduction in burden hours is a result of economic fluctuation. In particular, the number of respondents has decreased while the reporting frequency and the estimated time per response remain the same.

General Description of Collection: The 1975 Amendments to the Securities Exchange Act of 1934 established a comprehensive framework for the regulation of the activities of municipal securities dealers. Under Section 15B(a) of the Securities Exchange Act, municipal securities dealers which are banks, or separately identifiable departments or divisions of banks engaging in municipal securities activities, are required to be registered with the Securities and Exchange Commission in accordance with such rules as the Municipal Securities Rulemaking Board (MSRB), a rulemaking authority established by the 1975 Amendments, may prescribe as necessary or appropriate in the public interest or for the protection of investors.

One of the areas in which the Act directed the MSRB to promulgate rules is the qualifications of persons associated with municipal securities dealers as municipal securities principals and municipal securities representatives. The MSRB Rules require persons who are or seek to be associated with municipal securities dealers as municipal securities principals or municipal securities representatives to provide certain background information and conversely, require the municipal securities dealers to obtain the information from such persons. Generally, the information required to be furnished relates to employment history and professional background including any disciplinary sanctions and any claimed bases for exemption from MSRB examination requirements.

The FDIC and the other two Federal bank regulatory agencies, the Comptroller of the Currency, and the Federal Reserve Board, have prescribed Forms MSD–4 to satisfy these requirements and have prescribed Form MSD–5 for notification by a bank municipal securities dealer that a municipal securities principal's or a municipal securities representative's association with the dealer has terminated and the reason for such termination. State nonmember banks and state savings associations that are municipal security dealers submit these forms, as applicable, to the FDIC as their appropriate regulatory agency for each person associated with the dealer as a municipal securities principal or municipal securities representative.

2. *Title:* Request for Deregistration for Registered Transfer Agents.

OMB Number: 3064–0027

Form Number: 6342/12

Affected Public: Insured state nonmember banks and state savings associations.

Burden Estimate:

Source and burden type	Number of respondents	Annual frequency	Total responses	Average time per response	Estimated annual burden (hours)
Form 6342/12 *Reporting*	1	On Occasion	1	0.42	0.42

There is no change in the method or substance of the collection. There is an overall reduction in burden hours which is the result of (1) economic fluctuation reflected by a decrease in the number of FDIC-supervised institutions and (2) a decrease in the number of requests for deregistration of a registered transfer agent forms submitted to the FDIC.

General Description of Collection: Under the Securities Exchange Act of 1934 (15 U.S.C. 78q–1), an insured nonmember bank (or a subsidiary of such a bank) that functions as a transfer agent may withdraw from registration as a transfer agent by filing a written notice of withdrawal with the FDIC. The FDIC requires such banks to file FDIC Form 6342/12 as the written notice of withdrawal.

Request for Comment: Comments are invited on: (a) Whether the collections of information are necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collections, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collections of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on December 22, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–28068 Filed 12–27–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Information Collection Activities: Proposed Collection Renewal; Comment Request (OMB No. 3064–0084)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: The FDIC, 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 the renewal of the existing information collection, as required by the Paperwork Reduction Act of 1995. Currently, the FDIC is soliciting comment on renewal of the information collection described below.

DATES: Comments must be submitted on or before February 26, 2018.

ADDRESSES: Interested parties are invited to submit written comments to the FDIC by any of the following methods:

- *http://www.FDIC.gov/regulations/laws/federal/notices.html.*
- *Email: comments@fdic.gov.* Include the name and number of the collection in the subject line of the message.
- *Mail:* Jennifer Jones (202–898–6768), Counsel, MB–3105, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429.
- *Hand Delivery:* Comments may be hand-delivered to the guard station at the rear of the 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m.

All comments should refer to the relevant OMB control number. A copy of the comments may also be submitted to the OMB desk officer for the FDIC: Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Jennifer Jones (202–898–6768), at the FDIC address above.

SUPPLEMENTARY INFORMATION:

Proposal to renew the following currently approved collections of information:

1. *Title:* Account Based Disclosures in Connection with Consumer Financial Protection Bureau Regulations E and DD and Federal Reserve Regulation CC.

OMB Number: 3064–0084.

Form Number: None.

Affected Public: FDIC-Supervised Institutions.

Burden Estimate:

SUMMARY OF ANNUAL BURDEN

	Type of burden	Obligation to respond	Estimated number of respondents	Estimated time per response (hours)	Estimated frequency	Frequency of response	Total annual estimated burden
Reg E—12 C.F.R. Part 1005							
Initial disclosures:.							
General (1005.7(b))	Disclosure	Mandatory	3,674	0.025	83	On Occasion	7,624
Payroll cards (1005.18(c)(1))	Disclosure	Mandatory	6	0.025	5,000	On Occasion	750
Change-in-terms (1005.8(a))	Disclosure	Mandatory	3,674	0.017	113	On Occasion	6,919
Transaction disclosures (sections 1005.9(a) and 1005.10).	Disclosure						0
Periodic statements (section 1005.9(b))	Disclosure						0
Error resolution rules:.							
General (1005.8(b) and 1005.11)	Disclosure	Mandatory	3,674	0.500	3	On Occasion	5,511
Payroll cards (1005.18)	Disclosure	Mandatory	6	0.500	8	On Occasion	24
Overdraft opt-in disclosures (1005.17, FRB r–1343):.							
Revise and update initial disclosures (1005.17(c)(2)) for new customers.	Disclosure	Mandatory	3,645	16.000	1	On Occasion	58,320
Prepare and send new opt-in notices to existing customers (1005.17(c)(1)).	Disclosure	Mandatory	3,645	16.000	1	On Occasion	58,320
Consumer response (section 1005.17)	Recordkeeping	Voluntary	3,645	0.083	7,207	On Occasion	2,189,126
Gift card/gift certificate (section 1005.20, FRB R–1377):.							
Exclusion policies & procedures (1005.20(b)(2)) one-time.	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240
Exclusion policies & procedures (1005.20(b)(2)) ongoing.	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48
Policy & procedures (1005.20(e)(1)) one-time	Recordkeeping	Mandatory	6	40.000	1	On Occasion	240
Policy & procedures (1005.20(e)(1)) ongoing	Recordkeeping	Mandatory	6	8.000	1	On Occasion	48
Systems change to implement disclosure update (1005.20(e)(3)).	Disclosure	Mandatory	6	40.000	1	On Occasion	240
Subtotal Reg E Burden							2,327,410
Regulation CC—12 C.F.R. Part 229							
Specific availability policy disclosure (initial notice, upon request, upon change in policy) (sections 229.16, 229.17 and 229.18(d)).	Disclosure	Mandatory	3,674	0.017	140	On Occasion	8,573
Case-by-case hold notice (section 229.16(c))	Disclosure	Mandatory	3,674	0.050	717	On Occasion	131,713
Notice of exceptions to hold policy (section 229.13(g))	Disclosure	Mandatory	3,674	0.050	247	On Occasion	45,374
Notice posted where consumers make deposits (including at ATMs) (sections 229.18(b) and 229.18(c)).	Disclosure	Mandatory	3,674	0.250	1	On Occasion	919
Notice of changes in policy (section 229.18(e))	Disclosure	Mandatory	16	20.000	1	On Occasion	320
Annual notice of new ATMs (section 229.18(e)) (see Appendix E to Part 229, Commentary, section XII, E., comment no. 3).	Disclosure	Mandatory	3,674	5.000	1	On Occasion	18,370
Notice of nonpayment—notice to depositary bank (section 229.33(a) and (d)).	Disclosure	Mandatory	3,674	0.017	2,211	On Occasion	135,387
Response to consumer's recredit claim (validation, denial, reversal) (section 229.54(e)).	Disclosure	Mandatory	3,674	0.250	12	On Occasion	11,022
Bank's claim against an indemnifying bank (section 229.55).	Reporting	Mandatory	3,674	0.250	5	On Occasion	4,593
Consumer awareness disclosure (section 229.57)	Disclosure	Mandatory	3,674	0.017	170	On Occasion	10,410
Reg CC Consumer Burden—Expedited recredit claim notice (section 229.54(a) and (b)(2)).	Reporting	Mandatory	3,674	0.250	8	On Occasion	7,348

SUMMARY OF ANNUAL BURDEN—Continued

	Type of burden	Obligation to respond	Estimated number of respondents	Estimated time per response (hours)	Estimated frequency	Frequency of response	Total annual estimated burden
Subtotal Reg CC Burden							374,027
Regulation DD—12 C.F.R. Part 1030							
Account disclosures (upon request and new accounts) (section 1030.4).	Disclosure	Mandatory	3,674	0.025	170	On Occasion	15,615
Subsequent notices (section 1030.5):.							
Change in terms	Disclosure	Mandatory	3,674	0.017	380	On Occasion	23,269
Prematurity (renewal) notices	Disclosure	Mandatory	3,674	0.017	340	On Occasion	20,819
Disclosures on periodic statements (section 1030.6)	Disclosure	Mandatory	3,674	4.000	12	On Occasion	176,352
Advertising (section 1030.8)	Disclosure	Mandatory	3,674	0.500	12	On Occasion	22,044
Subtotal Reg DD Burden							258,099
Total Burden							2,959,536

General Description of Collection: Regulations E & DD (Consumer Financial Protection Bureau's Regulations) and Regulation CC (the Federal Reserve's Regulation) ensure adequate disclosures regarding accounts, including electronic fund transfer services, availability of funds, and fees and annual percentage yield for deposit accounts. Generally, the Regulation E disclosures are designed to ensure consumers receive adequate disclosure of basic terms, costs, and rights relating to electronic fund transfer (EFT) services provided to them so that they can make informed decisions. Institutions offering EFT services must disclose to consumers certain information, including: initial and updated EFT terms, transaction information, the consumer's potential liability for unauthorized transfers, and error resolution rights and procedures.

Like Regulation E, Regulation CC has consumer protection disclosure requirements. Specifically, Regulation CC requires depository institutions to make funds deposited in transaction accounts available within specified time periods, disclose their availability policies to customers, and begin accruing interest on such deposits promptly. The disclosures are intended to alert customers that their ability to use deposited funds may be delayed, prevent unintentional (and costly) overdrafts, and allow customers to compare the policies of different institutions before deciding at which institution to deposit funds. Depository institutions must also provide an awareness disclosure regarding substitute checks. The regulation also requires notice to the depositary bank and to a customer of nonpayment of a check.

Regulation DD also has similar consumer protection disclosure requirements that are intended to assist consumers in comparing deposit accounts offered by institutions, principally through the disclosure of fees, the annual percentage yield, and other account terms. Regulation DD requires depository institutions to disclose yields, fees, and other terms concerning deposit accounts to consumers at account opening, upon request, and when changes in terms occur. Depository institutions that provide periodic statements are required to include information about fees imposed, interest earned, and the annual percentage yield (APY) earned during those statement periods. It also contains rules about advertising deposit accounts.

There is no change in the method or substance of the collection. The overall reduction in burden hours is the result of economic fluctuation and the reduced number of FDIC-supervised institutions since the last submission in 2014. In particular, the number of respondents has decreased while the hours per response and frequency of responses have remained the same.

Request for Comment: Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. All comments will become a matter of public record.

Dated at Washington, DC, on December 22, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–28067 Filed 12–27–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Update to Notice of Financial Institutions for Which the Federal Deposit Insurance Corporation has Been Appointed Either Receiver, Liquidator, or Manager

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Update listing of financial institutions in liquidation.

SUMMARY: Notice is hereby given that the Federal Deposit Insurance Corporation (Corporation) has been appointed the sole receiver for the following financial institutions effective as of the Date Closed as indicated in the listing.

SUPPLEMENTARY INFORMATION: This list (as updated from time to time in the **Federal Register**) may be relied upon as ''of record'' notice that the Corporation has been appointed receiver for purposes of the statement of policy published in the July 2, 1992, issue of the **Federal Register** (57 FR 29491). For further information concerning the identification of any institutions which have been placed in liquidation, please visit the Corporation website at *www.fdic.gov/bank/individual/failed/banklist.html,* or contact the Manager of Receivership Oversight in the appropriate service center.

INSTITUTIONS IN LIQUIDATION

[In alphabetical order]

FDIC Ref. No.	Bank name	City	State	Date closed
10530	Washington Federal Bank for Savings	Chicago	IL	12/15/2017

Dated: December 22, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–28065 Filed 12–27–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice to All Interested Parties of Intent To Terminate the Receivership of 10344, Citizens Bank of Effingham, Springfield, Georgia

Notice is hereby given that the Federal Deposit Insurance Corporation (''FDIC''), as Receiver for Citizens Bank of Effingham, Springfield, Georgia (''Receiver''), intends to terminate its receivership for said institution. The FDIC was appointed Receiver of Citizens Bank of Effingham on February 18, 2011. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the receiver will be making a final dividend payment to proven creditors. Based upon the foregoing, the receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated at Washington, DC, on December 22, 2017.

Federal Deposit Insurance Corporation.

Valerie J. Best,

Assistant Executive Secretary.

[FR Doc. 2017–28066 Filed 12–27–17; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL MARITIME COMMISSION

Notice of Agreement Filed

The Commission hereby gives notice of the filing of the following agreement under the Shipping Act of 1984. Interested parties may submit comments on the agreement 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 the 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.: 201178–002.

Title: Los Angeles/Long Beach Port/Terminal Operator Administration and Implementation Agreement.

Parties: The West Coast MTO Agreement and its individual marine terminal operator members; The City of Los Angeles, acting by and through its Board of Harbor Commissioners; and The City of Long Beach, acting by and through its Board of Harbor Commissioners.

Filing Party: David F. Smith, Esq.; Cozen O'Conner; 1200 Nineteenth Street NW, Washington, DC 20036.

Synopsis: The amendment updates the membership of the Agreement.

By Order of the Federal Maritime Commission.

Dated: December 22, 2017.

Rachel E. Dickon,

Assistant Secretary.

[FR Doc. 2017–28097 Filed 12–27–17; 8:45 am]

BILLING CODE 6731–AA–P

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission (''FTC'').

ACTION: Notice and request for comment.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, the FTC is seeking public comments on its request to OMB for a three-year extension of the current PRA clearance for information collection requirements contained in its Trade Regulation Rule entitled Power Output Claims for Amplifiers Utilized in Home Entertainment Products (Amplifier Rule or Rule) (OMB Control Number 3084–0105). That clearance expires on January 31, 2018.

DATES: Comments must be received by January 29, 2018.

ADDRESSES: Interested parties may file a comment online or on paper by following the instructions in the Request for Comments part of the **SUPPLEMENTARY INFORMATION** section below. Write ''Amplifier Rule: FTC File No. P974222'' on your comment, and file your comment online at *https://ftcpublic.commentworks.com/ftc/amplifierrulepra2* 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 J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610 (Annex J), Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information requirements should be addressed to Jock K. Chung, Attorney, Division of Enforcement, Bureau of Consumer Protection, Federal Trade Commission, Mail Code CC–9528, 600 Pennsylvania Ave. NW, Washington, DC 20580, (202) 326–2984.

SUPPLEMENTARY INFORMATION:

Title: Amplifier Rule, 16 CFR part 432.

OMB Control Number: 3084–0105.

Type of Review: Extension of a currently approved collection.

Abstract: The Amplifier Rule assists consumers by standardizing the measurement and disclosure of power output and other performance characteristics of amplifiers in stereos and other home entertainment equipment. The Rule also specifies the test conditions necessary to make the disclosures that the Rule requires.

On October 16, 2017, the Commission sought comment on the information collection requirements in the Amplifier Rule. 82 FR 48085. No comments were received. As required by OMB regulations, 5 CFR part 1320, the FTC is providing this second opportunity for public comment.

Estimated Annual Hours Burden: 450 hours (300 testing-related hours; 150 disclosure-related hours).

Likely Respondents and Estimated Burden:

(a) Testing—High fidelity manufacturers—300 new products/year × 1 hour each = 300 hours; and

(b) Disclosures—High fidelity manufacturers—[(300 new products/year × 1 specification sheet) + (300 new products/year x 1 brochure)] × 15 minutes each = 150 hours.

Frequency of Response: Periodic.

Estimated Annual Labor Cost: $23,463 per year ($14,967 for testing + $8,496 for disclosures).

Request for Comment

You can file a comment online or on paper. For the FTC to consider your comment, we must receive it on or before January 29, 2018. Write ''Amplifier Rule: FTC File No. P974222'' 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/amplifierrulepra2* by following the instructions on the web-based form. When this Notice appears at *http://www.regulations.gov,* you also may file a comment through that website.

If you file your comment on paper, write ''Amplifier Rule: FTC File No. P974222'' on your comment and on the envelope, and mail it to the following address: Federal Trade Commission, Office of the Secretary, 600 Pennsylvania Avenue NW, Suite CC–5610 (Annex J), Washington, DC 20580, or deliver your comment to the following address: Federal Trade Commission, Office of the Secretary, Constitution Center, 400 7th Street SW, 5th Floor, Suite 5610, Washington, DC 20024. If possible, submit your paper comment to the Commission by courier or overnight service. Comments on the information collection requirements subject to review under the PRA should additionally be submitted to OMB. If sent by U.S. mail, they should be addressed to Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Federal Trade Commission, New Executive Office Building, Docket Library, Room 10102, 725 17th Street NW, Washington, DC 20503. Comments sent to OMB by U.S. postal mail are subject to delays due to heightened security precautions. Thus, comments can also be sent via email to *wliberante@omb.eop.gov.*

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). 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.

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 January 29, 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.*

David C. Shonka,

Acting General Counsel.

[FR Doc. 2017–28064 Filed 12–27–17; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0001; Docket No. 2017–0053; Sequence 14]

Submission for OMB Review; Standard Form 28, Affidavit of Individual Surety

AGENCY: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice.

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement concerning the Standard Form (SF) 28, Affidavit of Individual Surety.

DATES: Submit comments on or before January 29, 2018.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number 9000–0001. Select the link that corresponds with ''Information Collection 9000–0001, SF 28, Affidavit of Individual Surety''. Follow the instructions provided on the screen.

Please include your name, company name (if any), and ''Information Collection 9000–0001, SF 28, Affidavit of Individual Surety'', on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405. ATTN: Ms. Mandell/IC 9000–0001, SF 28, Affidavit of Individual Surety.

Instructions: Please submit comments only and cite Information Collection 9000–0001, SF 28, Affidavit of Individual Surety, in all correspondence related to this collection. All comments received will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided.

FOR FURTHER INFORMATION CONTACT: Ms. Zenaida Delgado, Procurement Analyst, Federal Acquisition Policy Division, GSA, 202–969–7207 or *zenaida.delgado@gsa.gov.*

SUPPLEMENTARY INFORMATION:

A. Purpose

The Standard Form (SF) 28, Affidavit of Individual Surety, is used by all executive agencies, including the Department of Defense, to obtain information from individuals wishing to serve as sureties to Government bonds. Offerors and contractors may use an individual surety as security for bonds required under a solicitation/contract for supplies or services (including construction). It is an elective decision on the part of the offeror/contractor to use individual sureties instead of other available sources of surety or sureties for Government bonds. The information on the SF 28 is used to assist the contracting officer in determining the acceptability of individuals proposed as sureties.

B. Public Comment

A 60 day notice was published in the **Federal Register** at 82 FR 48231, on October 17, 2017. No comments were received.

C. Annual Reporting Burden

The number of solicitations and contracts requiring the submission of bid guarantees, performance, or payment bonds, correlate roughly to the number of contract awards containing FAR clause 52.228–11, Pledge of Assets. Fiscal year 2016 data on the number of contracts containing FAR clause 52.228–11 was obtained from the Electronic Document Access system (DoD official contract file system) to estimate burdens for this information collection notice. The following is a summary of the FY 2016 data:

Respondents: 244.

Responses Per Respondent: 2.

Total Responses: 488.

Hours Per Response: 0.3.

Total Burden Hours: 146.

Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW, Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 9000–0001, SF 28, Affidavit of Individual Surety, in all correspondence.

Dated: December 21, 2017.

Lorin S. Curit,

Director, Federal Acquisition Policy Division, Office of Government-wide Acquisition Policy, Office of Acquisition Policy, Office of Government-wide Policy.

[FR Doc. 2017–28025 Filed 12–27–17; 8:45 am]

BILLING CODE 6820–EP–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Board of Scientific Counselors, National Center for Injury Prevention and Control, (BSC, NCIPC). This meeting is open to the public limited only by the 75 telephone ports available. There will be a public comment period at the end of the meeting day from 3:30 p.m.–3:45 p.m., February 26, 2018.

DATES: The meeting will be held on February 26, 2018, 01:00 p.m.–04:00 p.m., EST.

ADDRESSES: Teleconference: Dial-In Number: 1–877–492–3517, Participant Code: 2576415.

FOR FURTHER INFORMATION CONTACT: Gwendolyn H. Cattledge, Ph.D., M.S.E.H., Deputy Associate Director for Science, NCIPC, CDC, 4770 Buford Highway NE, Mailstop F–63, Atlanta, GA 30341, Telephone (770) 488–1430. Email address: *GCattledge@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose

The Board will: (1) Conduct, encourage, cooperate with, and assist other appropriate public health authorities, scientific institutions, and scientists in the conduct of research, investigations, experiments, demonstrations, and studies relating to the causes, diagnosis, treatment, control, and prevention of physical and mental diseases, and other impairments; (2) assist States and their political subdivisions in preventing and suppressing communicable and non-communicable diseases and other preventable conditions and in promoting health and well-being; and (3) conduct and assist in research and control activities related to injury. The Board of Scientific Counselors makes recommendations regarding policies, strategies, objectives, and priorities; and reviews progress toward injury prevention goals and provides evidence in injury prevention-related research and programs. The Board also provides advice on the appropriate balance of intramural and extramural research, the structure, progress and performance of intramural programs. The Board is designed to provide guidance on extramural scientific program matters, including the: (1) Review of extramural research concepts for funding opportunity announcements; (2) conduct of Secondary Peer Review of extramural research grants, cooperative agreements, and contracts applications received in response to the funding opportunity announcements as it relates to the Center's programmatic balance and mission; (3) submission of secondary review recommendations to the Center Director of applications to be considered for funding support; (4) review of research portfolios, and (5) review of program proposals.

Matters to be Considered: The agenda will include updates from the Center and Policy Directors, as well as discussions on use of social media in suicide prevention. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–28070 Filed 12–27–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Office for State, Tribal, Local and Territorial Support (OSTLTS), Tribal Advisory Committee (TAC) Meeting and 18th Biannual Tribal Consultation Session

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: The Centers for Disease Control and Prevention (CDC)/Agency for Toxic Substances and Disease Registry (ATSDR), announces the following meeting and Tribal Consultation Session. The meetings are being hosted by CDC/ATSDR in-person only and are open to the public. Attendees must pre-register for the event by March 2, 2018, at the following link: *www.cdc.gov/tribal/meetings.html.*

DATES:

March 13, 2018

- 8:00 a.m.–5:00 p.m., EDT—Tribal Caucus (Open only to elected tribal leaders and by invitation)

March 14, 2018

- 8:00 a.m.–5:00 p.m., EDT—TAC Meeting (Open to the public)

ADDRESSES: CDC, Global Communications Center Auditorium B3, 1600 Clifton Road NE, Atlanta, Georgia 30329.

FOR FURTHER INFORMATION CONTACT: Carmen Clelland, PharmD, MPA, MPH, Associate Director for Tribal Support, Office for State, Tribal, Local and Territorial Support, CDC, 4770 Buford Highway, Mailstop E–70, Atlanta, GA 30341–3717; (404) 498–2205; *cclelland@cdc.gov.*

SUPPLEMENTARY INFORMATION: This meeting is being held in accordance with Presidential Executive Order No. 13175, November 6, 2000, and the Presidential Memorandum of November 5, 2009, and September 23, 2004, Consultation and Coordination with Indian Tribal Governments.

Purpose: The purpose of the TAC and consultation meetings is to advance CDC/ATSDR support for and collaboration with American Indian and Alaska Native (AI/AN) tribes and to improve the health of AI/AN tribes by pursuing goals that include assisting in eliminating the health disparities faced by AI/AN tribes; ensuring that access to critical health and human services and public health services is maximized to advance or enhance the social, physical, and economic status of AI/ANs; and promoting health equity for all Indian people and communities. To advance these goals, CDC/ATSDR conducts government-to-government consultations with elected tribal officials or their authorized representatives. Consultation is an enhanced form of communication that emphasizes trust, respect, and shared responsibility. It is an open and free exchange of information and opinion among parties that leads to mutual understanding.

Matters To Be Considered: The agenda will include discussions on tribal priorities for the CDC and ATSDR, public health capacity in Indian Country, AI/AN public health concerns, budget and funding opportunities, and programmatic highlights. Agenda items are subject to change as priorities dictate.

Tribal nations also will have an opportunity to present testimony about tribal health issues. All tribal leaders are encouraged to submit written testimony by 5:00 p.m. (EST) Friday, February 16, 2018, to CDC's Tribal Support Unit via mail to 4770 Buford Highway NE, MS E–70, Atlanta, GA 30341–3717, or email to *TribalSupport@cdc.gov.* Tribal leaders can find guidance to assist in developing tribal testimony for CDC and ATSDR at *www.cdc.gov/tribal/consultation/index.html.*

Based on the number of tribal leaders giving testimony and the time available, it may be necessary to limit the time for each.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention, and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–28071 Filed 12–27–17; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices (ACIP); Notice of Charter Amendment

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of charter amendment.

SUMMARY: This gives notice under (the Federal Advisory Committee Act of October 6, 1972, that the Advisory Committee on Immunization Practices (ACIP), Centers for Disease Control and Prevention, Department of Health and Human Services, has amended their charter to include a non-voting liaison representative; American Immunization Registry Association. The amended filing date is October 17, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Thomas, ACIP Committee Management Specialist, CDC, NCIRD, Email *ACIP@cdc.gov.*

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–28069 Filed 12–27–17; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

AGENCY: Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, the CDC announces the following meeting for the Healthcare Infection Control Practices Advisory Committee (HICPAC). This meeting is open to the public, limited only by audio phone lines available. The public is also welcome to listen to the meeting by

dialing 888–946–7207, passcode: 5023213. A total of 200 lines will be available. To register for this call, please go to *www.cdc.gov/hicpac.*

DATES: The meeting will be held on February 15, 2018, 12:00 p.m. to 2:00 p.m., EST.

ADDRESSES: Teleconference Number: 888–946–7207, passcode: 5023213

FOR FURTHER INFORMATION CONTACT: Erin Stone, M.A., HICPAC, Division of Healthcare Quality Promotion, NCEZID, CDC, 1600 Clifton Road NE, Mailstop A–31, Atlanta, Georgia 30333; Email: *HICPAC@cdc.gov.*

SUPPLEMENTARY INFORMATION:

Purpose: The Committee is charged with providing advice and guidance to the Director, Division of Healthcare Quality Promotion (DHQP), the Director, National Center for Emerging and Zoonotic Infectious Diseases (NCEZID), the Director, CDC, the Secretary, Health and Human Services regarding (1) the practice of healthcare infection prevention and control; (2) strategies for surveillance, prevention, and control of infections, antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of CDC guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters To Be Considered: The agenda will include discussions from the recommendation categorization update workgroup, the guidelines for infection prevention in healthcare personnel workgroup, and the guidelines for infection prevention in patients of neonatal intensive care units workgroup. Agenda items are subject to change as priorities dictate.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Claudette Grant,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. 2017–28072 Filed 12–27–17; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6888]

Neurological Devices Panel of the Medical Devices Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Neurological Devices Panel of the Medical Devices Advisory Committee. The general function of the committee is to provide advice and recommendations to the Agency on FDA's regulatory issues. The meeting will be open to the public.

DATES: The meeting will be held on March 1, 2018, from 8 a.m. to 6 p.m.

ADDRESSES: Hilton Washington, DC North/Gaithersburg, 620 Perry Pkwy., Salons A, B, C, and D, Gaithersburg, MD 20877. The hotel's telephone number is 301–977–8900. Answers to commonly asked questions including information regarding special accommodations due to a disability, visitor parking, and transportation may be accessed at: *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm408555.htm.*

FOR FURTHER INFORMATION CONTACT: Aden Asefa, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. G642, Silver Spring, MD 20993–0002, *Aden.Asefa@fda.hhs.gov,* 301–796–0400, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area). A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the Agency's website at *https://www.fda.gov/AdvisoryCommittees/default.htm* and scroll down to the appropriate advisory committee meeting link, or call the advisory committee information line to learn about possible modifications before coming to the meeting.

SUPPLEMENTARY INFORMATION:

Agenda: On March 1, 2018, the committee will discuss, make recommendations, and advise FDA regarding the evaluation of clinical study data to support the safety and effectiveness of intracranial aneurysm treatment devices and factors that can affect clinical outcomes such as aneurysm morphology, size, and location in the neurovasculature. FDA is also convening this committee to seek expert opinion on the scientific and clinical considerations relating to the clinical trial design that may be relevant to the determination of safety and effectiveness for these devices.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its website prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's website after the meeting. Background material is available at *https://www.fda.gov/AdvisoryCommittees/Calendar/default.htm.* Scroll down to the appropriate advisory committee meeting link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before January 19, 2018. Oral presentations from the public will be scheduled between approximately 1 p.m. and 2 p.m. Those individuals interested in making formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before January 12, 2018. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by January 16, 2018.

Persons attending FDA's advisory committee meetings are advised that the Agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with disabilities. If you require accommodations due to a disability, please contact AnnMarie Williams at *Annmarie.Williams@fda.hhs.gov* or 301–796–5966 at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our website at *https://www.fda.gov/AdvisoryCommittees/AboutAdvisoryCommittees/ucm111462.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: December 21, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–27974 Filed 12–27–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6778]

Fostering Medical Innovation: Case for Quality Voluntary Medical Device Manufacturing and Product Quality Pilot Program

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration's (FDA or Agency or we) Center for Devices and Radiological Health (CDRH or Center) is announcing its Case for Quality Voluntary Medical Device Manufacturing and Product Quality Pilot Program (CfQ Pilot Program). The CfQ Pilot Program is voluntary and intends to evaluate product and manufacturing quality within the medical device ecosystem. The CfQ Pilot Program also intends to explore the effectiveness of a quality maturity appraisal, the use of objective metrics, optimization of resources, and impact on quality culture. The pilot program seeks to demonstrate better patient safety and outcomes, a lower regulatory burden on demonstrating quality assurance, and assure safety and effectiveness during product development and manufacturing.

DATES: The CfQ Pilot Program will run from January 2, 2018, to December 28, 2018. See the ''Participation'' section for instructions on how to submit a request to participate.

ADDRESSES: You may submit comments as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–N–6778 for ''Case for Quality Voluntary Medical Device Manufacturing and Product Quality Program.'' 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.

FOR FURTHER INFORMATION CONTACT:
Francisco Vicenty, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 3426, Silver Spring, MD 20993, 301–796–5577, *Francisco.vicenty@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

As part of CDRH's 2016–2017 strategic priority to ''Promote a Culture of Quality and Organizational Excellence'' (Ref. 1), CDRH envisions a future state where the medical device ecosystem is inherently focused on device features and manufacturing practices that have the greatest impact on product quality and patient safety. Historically, FDA has evaluated manufacturers' compliance with regulations governing the design and production of devices. Compliance with the Quality System regulation, 21 CFR part 820, (Ref. 2) is a baseline requirement for medical device manufacturing firms. Focusing on elevating manufacturing quality practices gives greater emphasis to these practices, which should correlate to higher quality outcomes. This allows FDA to adjust how we recognize and incentivize behaviors and processes through which the safety and effectiveness of a medical device is assured. CDRH intends to continue working with stakeholders to assess and promote manufacturers' implementation of manufacturing quality practices in routine device design and production.

Through collaboration with the Medical Device Innovation Consortium (MDIC) over the last 2 years, a maturity model and appraisal system (*i.e.,* Capability Maturity Model Integration (CMMI) system) that can be adapted for the medical device industry was selected (Ref. 3) for this CfQ Pilot Program. The CMMI system is a process level improvement, training, and appraisal program. The CMMI Institute administers this program whose stated goal is to help organizations discover the true value they can deliver by building capability in their people and processes (Ref. 4). This model has been successfully used in various industries, including information technology, healthcare, automotive, defense, and aerospace to consistently deliver high quality products and reduce waste and defects. The CMMI Institute certifies and coordinates third party appraisers evaluating voluntary industry participants and any data necessary to demonstrate product performance. The appraiser would evaluate the firm's quality system maturity and manufacturing processes, identify any gaps, and recognize when a participating firm performs above a compliance baseline. The CMMI maturity appraisal process is not intended to serve as an FDA inspection nor is it intended to be a new regulatory requirement. Conducting independent-assessments using a maturity model is intended to be a driver of continuous process and product improvement and add business value to voluntary participants in the CfQ Pilot Program.

Assessments under the CMMI Institute are classified as Standard CMMI Appraisal Method for Process Improvement (SCAMPI) elements. A gap assessment (SCAMPI–C) will be a part of the CfQ Pilot Program. SCAMPI–C is a critical tool for developing an in-depth understanding of the medical device manufacturer's current state of process performance. SCAMPI–C is a short and flexible appraisal. It is used to assess the adequacy of planned approaches to process implementation and to provide a quick analysis between the organization's processes and CMMI practices. SCAMPI–C is intended to provide a rich dataset that reflects organizational performance and a comparison of the medical device manufacturer's performance against the CMMI model.

FDA is announcing and soliciting participation for the voluntary medical device manufacturers CfQ Pilot Program. We intend to limit this voluntary pilot program to a maximum of nine participants. By participating in the third-party appraisal (SCAMPI–C), medical device manufacturers will receive an independent assessment of manufacturing and product quality intended to demonstrate sustained organizational excellence. By participating in the voluntary CfQ Pilot Program, FDA intends to forego conducting surveillance inspections. FDA will still conduct ''For Cause'' inspections where appropriate. The CMMI Institute will share the results of the SCAMPI–C appraisal with the manufacturer and develop a summary report to share with CDRH. Data collected through the appraisal and pilot will help inform FDA on how to modify its requirements around surveillance and preapproval inspections, as well as the content of premarket manufacturing submissions in order to better allocate resources and that could reduce the regulatory burden to appraised firms. The Center will continue an open dialog with the participants selected for the CfQ Pilot Program, medical device manufacturers and welcomes any feedback. For more information on the CfQ Pilot Program and how to enroll, please visit the website, *http://mdic.org/cfq/enroll/.*

A. Participation

FDA seeks participation in the CfQ Pilot Program beginning January 2, 2018. The CfQ Pilot Program will select up to nine participants who provide a holistic representation of the medical device industry and meet the selection criteria.

Companies that may be eligible to participate in this voluntary CfQ Pilot Program are limited to those firms following the procedures set out in section B and that also meet the selection qualities that follow:

1. The company must be in good compliance standing (No Action Indicated or Voluntary Action Indicated classification from FDA inspection or MDSAP (Medical Device Single Audit Program) audit within the last 5 years).

2. While participating in the CfQ Pilot Program, the company must agree to:

a. Appraisal(s) conducted by the CMMI Institute.

b. Collect and submit developed metric data and provide it to CMMI for analysis. Details and templates for the data are provided as part of the scoping discussions for the appraisal.

c. Be available for real-time consultations with FDA and CMMI.

d. Participate in established monitoring activities with CMMI.

e. Allow for reporting to FDA by CMMI of analyzed performance data.

B. Procedures

To be considered for the CfQ Pilot Program, a company should enroll at *http://mdic.org/cfq/enroll/* or contact the CMMI Institute if you have questions at *medicaldevice@cmmiinstitute.com.* Additional details of the proposed process for the CfQ Pilot Program can be found at the following website: *http://mdic.org/cfq/enroll/.*

During this CfQ Pilot Program, CDRH staff intends to be available to answer questions or concerns that may arise. The CfQ Pilot Program participants may comment on and discuss their experiences throughout the process with the Center and CMMI Institute.

II. Paperwork Reduction Act of 1995

This notice refers to previously approved collections of information found in 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 21 CFR part 820, regarding the Quality System regulations, have been approved under OMB control number 0910–0073.

III. References

The following references are on display in 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 the website addresses, as of the date this document publishes in the **Federal Register**, but websites are subject to change over time.

1. CDRH, 2016–2017 ''Promote a Culture of Quality and Organizational Excellence'' available at: *https://www.fda.gov/downloads/AboutFDA/CentersOffices/OfficeofMedicalProductsandTobacco/CDRH/CDRHVisionandMission/UCM481588.pdf* and CDRH's Case for Quality Initiative available at: *https://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/MedicalDeviceQualityandCompliance/ucm378185.htm.*
2. The Quality System regulation available at: *https://www.ecfr.gov/cgi-bin/text-idx?SID=54a4a38f9c25eeab900b1c8f6c0f4212&mc=true&node=pt21.8.820&rgn=div5.*
3. MDIC available at: *http://mdic.org/.*
4. CMMI system available at: *http://cmmiinstitute.com/.*

Dated: December 22, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28044 Filed 12–27–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Council on Graduate Medical Education

AGENCY: Health Resources and Service Administration (HRSA), Department of Health and Human Services (HHS).

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, this notice announces that the Council on Graduate Medical Education (COGME) will hold a public meeting.

DATES AND TIME: January 29, 2018, 8:30 a.m.–5:00 p.m., and January 30, 2018, 8:30 a.m.–3:00 p.m. ET.

ADDRESSES: The address for the meeting is 5600 Fishers Lane, Rockville, Maryland 20857. Participants may also access the meeting through teleconference and webinar.

- The teleconference call-in number is 1–800–619–2521, passcode: 9271697.
- The webinar link is *https://hrsa.connectsolutions.com/cogme-council/.*

FOR FURTHER INFORMATION CONTACT: Anyone requesting information regarding COGME should contact Kennita R. Carter, MD, Designated Federal Officer, Division of Medicine and Dentistry, Bureau of Health Workforce, HRSA, in one of three ways: (1) Send a request to the following address: Dr. Kennita R. Carter, Designated Federal Officer, Division of Medicine and Dentistry, HRSA, 5600 Fishers Lane, 15N–116, Rockville, Maryland 20857; (2) call 301–945–3505; or (3) send an email to *KCarter@hrsa.gov.*

SUPPLEMENTARY INFORMATION: COGME provides advice and recommendations to the Secretary of HHS and to Congress on a range of issues, including the nature and financing of medical education training, the development of performance measures and longitudinal evaluation methods of medical education programs, foreign medical school graduates, and the supply and distribution of the physician workforce in the United States, including any projected shortages or excesses.

During the meeting, the COGME members will discuss the strategic directions of the Council and issues related to physician workforce development and graduate medical education, leading to the selection of a topic for its 24th Report to Congress. COGME submits its reports to the Secretary of HHS; the Senate Committee on Health, Education, Labor, and Pensions; and the House of Representatives Committee on Energy and Commerce. COGME will also discuss the HRSA proposal for a quality bonus system of payments for eligible hospitals within the Children's Hospital Graduate Medical Education (CHGME) program.

HRSA will post the agenda on the COGME website at *http://www.hrsa.gov/advisorycommittees/bhpradvisory/COGME* prior to the meeting. Please note that agenda items are subject to change as priorities dictate.

Members of the public will have the opportunity to provide comments and may submit written statements in advance of the meeting. The committee will honor oral comments in the order requested and may be limited as time allows. Public participants should send requests to provide written statements or make oral comments to the COGME to Kennita R. Carter, MD, Designated Federal Officer, using the contact information above, at least three business days prior to the meeting.

The building at 5600 Fishers Lane, Rockville, MD 20857, requires a security screening for entry. To facilitate access to the building, individuals interested in attending the meeting should notify Dr. Kennita Carter at the contact information listed above at least three business days prior to the meeting. Individuals who plan to attend and who need special assistance, such as sign language interpretation or other reasonable accommodations, should notify Dr. Kennita Carter at the contact information listed above at least 10 business days prior to the meeting.

Amy McNulty,

Acting Director, Division of the Executive Secretariat.

[FR Doc. 2017–28015 Filed 12–27–17; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Eye Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Eye Institute Special Emphasis Panel; Brain Initiative (R21) Review: New Concepts and Early-Stage Research for Large-Scale Recording and Modulation In The Nervous System.

Date: January 22, 2018.

Time: 8:30 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Garden Inn Bethesda, 7301 Waverly Street, Bethesda, MD 20814.

Contact Person: Brian Hoshaw, Ph.D., Scientific Review Officer, National Eye Institute, National Institutes of Health, Division of Extramural Research, 5635 Fishers Lane, Suite 1300, Rockville, MD 20892, 301–451–2020, *hoshawb@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.867, Vision Research, National Institutes of Health, HHS)

Dated: *December 21, 2017.*

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–27936 Filed 12–27–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–R–2017–N118]; [FXGO1664091HCC0–FF09D00000–178]

Hunting and Shooting Sports Conservation Council Establishment; Request for Nominations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of the Interior (DOI) is establishing and seeking nominations for the Hunting and Shooting Sports Conservation Council (Council). The Council will provide recommendations to the Federal Government, through the Secretary of the Interior (Secretary) and the Secretary of Agriculture, regarding the establishment and implementation of existing and proposed policies and authorities with regard to wildlife and habitat conservation endeavors that: Benefit wildlife resources; encourage

partnership among the public, sporting conservation organizations, Federal, state, tribal, and territorial governments; and benefit recreational hunting and recreational shooting sports.

DATES: Comments regarding the establishment of this Council must be submitted no later than January 12, 2018. Nominations for the Council must be submitted by January 29, 2018.

ADDRESSES: You may submit comments and/or nominations by any of the following methods:

• Mail or hand-carry nominations to Joshua Winchell, U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041–3803; or

• *Email nominations to: joshua_winchell@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Joshua Winchell, Council Designated Federal Officer, by U.S. mail at the U.S. Fish and Wildlife Service, National Wildlife Refuge System, 5275 Leesburg Pike, Falls Church, VA 22041–3803; by telephone at (703) 358–2639; or by email at *joshua_winchell@fws.gov.*

SUPPLEMENTARY INFORMATION: The Council is established under the authority of the Secretary and regulated by the Federal Advisory Committee Act (FACA), as amended (5 U.S.C. Appendix 2). The Council's duties are strictly advisory and consist of, but are not limited to, providing recommendations for implementation of Executive Order 13443—Facilitation of Hunting Heritage and Wildlife Conservation; Secretary's Order 3347—Conservation Stewardship and Outdoor Recreation; and Secretary's Order 3356—Hunting, Fishing, Recreational Shooting, and Wildlife Conservation Opportunities and Coordination with States, Tribes, and Territories. Duties shall include, but are not be limited to: (a) Assessing and quantifying implementation of Executive Order 13443 and Secretary's Orders 3347 and 3356 across relevant departments, agencies, and offices; and making recommendations to enhance and expand their implementation as identified; (b) making recommendations regarding policies and programs that conserve and restore wetlands, agricultural lands, grasslands, forests, and rangeland habitats; promote opportunities and expand access to hunting and shooting sports on public and private lands; encourage hunting and shooting safety by developing ranges on public lands; recruit and retain new shooters and hunters; increase public awareness of the importance of wildlife conservation and the social and economic benefits of hunting and shooting; and encourage coordination among the public, hunting and shooting sports community; wildlife conservation groups; and Federal, state, tribal, and territorial governments.

The Council will meet approximately two times per year. The Secretaries of Interior and Agriculture (Secretaries) will appoint members and their alternates to the Council to serve up to a 3-year term. The Council will not exceed 18 discretionary members and 7 ex officio members. Ex officio members will include:

• Secretary of the Interior or designated DOI representatives;
• Secretary of Agriculture or designated Department of Agriculture representatives; and
• Executive Director, Association of Fish and Wildlife Agencies.

The Secretaries will select remaining members from among, but not limited to, the entities listed below. These members must be senior-level representatives of their organization and/or have the ability to represent their designated constituency.

• State fish and wildlife management agencies;
• Wildlife and habitat conservation/management organizations;
• Game bird hunting organizations;
• Waterfowl hunting organizations;
• Big game organizations (deer, elk, sheep, bear);
• U.S. hunters actively engaged in domestic and/or international hunting conservation;
• The firearms or ammunition manufacturing industry;
• Archery, hunting and/or shooting sports industry;
• Tourism, outfitter, and/or guide industries related to hunting and/or shooting sports;
• Tribal resource management organizations;
• The agriculture industry;
• The ranching industry; and
• Veterans service organizations.

Nominations should include a resume providing an adequate description of the nominee's qualifications, including information that would enable DOI to make an informed decision regarding meeting the membership requirements of the Council and to permit DOI to contact a potential member.

Members of the Council serve without compensation. However, while away from their homes or regular places of business, Council and subcommittee members engaged in Council or subcommittee business that the DFO approves may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by 5 U.S.C. 5703, in the same manner as persons employed intermittently in Federal Government service.

Public Disclosure of Comments: Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Certification Statement: I hereby certify that the Hunting and Shooting Sports Conservation Council is necessary, in the public interest, and is in connection with the performance of duties imposed on the Department of the Interior and the Department of Agriculture under 43 U.S.C. 1457 and provisions of the Fish and Wildlife Act of 1956 (16 U.S.C. 742a), the Federal Land Policy and Management Act of 1996 (43 U.S.C. 1701 *et seq.*), the National Forest Management Act of 1976 (16 U.S.C. 1600 *et seq.*), the National Wildlife Refuge System Improvement Act of 1997 (16 U.S.C. 668dd–668ee) and Executive Order 13443, Facilitation of Hunting Heritage and Wildlife Conservation.

Authority: 5 U.S.C. Appendix 2.

Ryan K. Zinke,

Secretary, Department of the Interior.

[FR Doc. 2017–28054 Filed 12–27–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Geological Survey

[GX18DK00GUF0200]

Notice of Public Meeting for the Advisory Committee on Water Information

AGENCY: United States Geological Survey, Interior.

ACTION: Notice of a public meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act of 1972, notice is hereby given that the U.S. Department of the Interior, United States Geological Survey (USGS), the Advisory Committee on Water Information (ACWI) will meet as indicated below.

DATES: The meeting will take place from 8:30 a.m. until 4:30 p.m. on Wednesday, January 17, 2018, and from 8:30 a.m. until 4:30 p.m. on Thursday, January 18, 2018 (times are Eastern Standard Time).

ADDRESSES: The meeting will be held in the auditorium of the U.S. Geological Survey National Center, located at 12201 Sunrise Valley Drive, Reston, VA 20192.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy E. Norton, ACWI Executive Secretary and Chief, Water Information Coordination Program, U.S. Geological Survey, 12201 Sunrise Valley Drive, MS 417, Reston, VA 20192; email *wenorton@usgs.gov.*

SUPPLEMENTARY INFORMATION: The ACWI operates in conformance with the Office of Management and Budget Memorandum M–92–01 and the Federal Advisory Committee Act. The purpose of the ACWI is to provide a forum for water information users and professionals to advise the Federal Government on activities and plans that may improve the effectiveness of meeting the Nation's water information needs. ACWI members help to foster communications between the Federal and non-Federal sectors on sharing water information. For more information on the ACWI, its membership, subgroups, meetings and activities, please see the website at: *https://acwi.gov.*

This meeting is to discuss broad policy-related topics relating to national water initiatives, and the development and dissemination of water information, through reports from ACWI subgroups. The agenda will include updates from ACWI's various subcommittees, including activities related to continuing implementation of the Open Water Data Initiative and a report on the newly released Bulletin 17C, Guidelines for Determining Flood Flow Frequency.

This meeting is open to the public. Half an hour will be set aside for public comment. Persons wishing to make a brief presentation (up to 5 minutes) are asked to provide a written request with a description of the general subject to Ms. Norton at the above address no later than January 12, 2018. Any member of the public may submit written information and (or) comments to Ms. Norton for distribution at the ACWI meeting. Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. APP 2.

Wendy E. Norton,
Chief, Water Information Coordination Program.

[FR Doc. 2017–28045 Filed 12–27–17; 8:45 am]
BILLING CODE 4338–11–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0179]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Solicitation of Nominations for the Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Education (BIE) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 29, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov*; or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Jennifer Davis, Bureau of Indian Education, 2600 N. Central Avenue, Suite 800, Phoenix, Arizona 85004, fax: (602) 265–0293; or by email to *jennifer.davis@bie.edu.* Please reference OMB Control Number 1076–0179 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Jennifer Davis by email at *jennifer.davis@bie.edu* or by telephone at (602) 265–1592. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 16, 2017 (82 FR 48109). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIE (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIE enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIE minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: The Bureau of Indian Education (BIE) is seeking renewal for an information collection that would allow it to collect information regarding individuals' qualifications to serve on the Federal advisory committee known as the Advisory Board for Exceptional Children. This information collection requires persons interested in being nominated to serve on the Board to provide information regarding their qualifications. This information collection includes one form.

The Individuals with Disabilities Education Improvement Act (IDEA) of 2004, (20 U.S.C. 1400 *et seq.*) requires the BIE to establish an Advisory Board on Exceptional Education. See 20 U.S.C. 1411(h)(6). Advisory Board members shall serve staggered terms of two or three years from the date of their appointment. This Board is currently in operation. This information collection allows BIE to better manage the nomination process for future appointments to the Board.

Title of Collection: Solicitation of Nominations for the Advisory Board for Exceptional Children.

OMB Control Number: 1076–0179.

Form Number: None.

Type of Review: Extension without change of currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 20, per year.

Total Estimated Number of Annual Responses: 20, per year.

Estimated Completion Time per Response: 1 hour.

Total Estimated Number of Annual Burden Hours: 20 hours.

Respondent's Obligation: Required to Obtain or Retain a Benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $0.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 20, 2017.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–28053 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900 253G; OMB Control Number 1076–0153]

Agency Information Collection Activities; Submission to the Office of Management and Budget for Review and Approval; Certificate of Degree of Indian or Alaska Native Blood

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of information collection; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, we, the Bureau of Indian Affairs (BIA) are proposing to renew an information collection.

DATES: Interested persons are invited to submit comments on or before January 29, 2018.

ADDRESSES: Send written comments on this information collection request (ICR) to the Office of Management and Budget's Desk Officer for the Department of the Interior by email at *OIRA_Submission@omb.eop.gov*; or via facsimile to (202) 395–5806. Please provide a copy of your comments to Ms. Laurel Iron Cloud, Chief, Division of Tribal Government Services, Office of Indian Services, Bureau of Indian Affairs, 1849 C Street NW, Mail Stop 3645 MIB, Washington, DC 20240; facsimile: (202) 208–5113; or by email to *laurel.ironcloud@bia.gov.* Please reference OMB Control Number 1076–0179 in the subject line of your comments.

FOR FURTHER INFORMATION CONTACT: To request additional information about this ICR, contact Ms. Laurel Iron Cloud by email at *laurel.ironcloud@bia.gov,* or by telephone at (202) 513–7641. You may also view the ICR at *http://www.reginfo.gov/public/do/PRAMain.*

SUPPLEMENTARY INFORMATION: In accordance with the Paperwork Reduction Act of 1995, we provide the general public and other Federal agencies with an opportunity to comment on new, proposed, revised, and continuing collections of information. This helps us assess the impact of our information collection requirements and minimize the public's reporting burden. It also helps the public understand our information collection requirements and provide the requested data in the desired format.

A **Federal Register** notice with a 60-day public comment period soliciting comments on this collection of information was published on October 16, 2017 (82 FR 48110). No comments were received.

We are again soliciting comments on the proposed ICR that is described below. We are especially interested in public comment addressing the following issues: (1) Is the collection necessary to the proper functions of the BIA; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the BIA enhance the quality, utility, and clarity of the information to be collected; and (5) how might the BIA minimize the burden of this collection on the respondents, including through the use of information technology.

Comments that you submit in response to this notice are a matter of public record. 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.

Abstract: The BIA is seeking renewal of the approval for the information collection conducted under the numerous laws authorizing BIA to administer program services to Indians, provided that the individual possess a minimum degree of Indian or Alaska Native blood. When applying for program services authorized by these laws, an applicant must provide acceptable documentation to prove that he or she meets the minimum required degree of Indian or Alaska Native blood. Currently, the BIA certifies an individual's degree of Indian or Alaska Native blood if the individual can provide sufficient information to prove his or her identity and prove his or her descent from an Indian ancestor(s) listed on historic documents approved by the Secretary of the Interior that include blood degree information. To obtain the CDIB, the applicant must fill out an application form and provide supporting documents.

Title of Collection: Request for Certificate of Degree of Indian or Alaska Native Blood.

OMB Control Number: 1076–0153.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents/Affected Public: Individuals.

Total Estimated Number of Annual Respondents: 100,000 per year, on average.

Total Estimated Number of Annual Responses: 100,000 per year, on average.

Estimated Completion Time per Response: 1.5 hours.

Total Estimated Number of Annual Burden Hours: 150,000.

Respondent's Obligation: Required to Obtain a Benefit.

Frequency of Collection: Once.

Total Estimated Annual Nonhour Burden Cost: $400,000.

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 authority for this action is the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Dated: December 20, 2017.

Elizabeth K. Appel,

Director, Office of Regulatory Affairs and Collaborative Action—Indian Affairs.

[FR Doc. 2017–28051 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900 253G]

Request for Nominations of Members To Serve on the Bureau of Indian Education Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice of request for nominations.

SUMMARY: Pursuant to the Federal Advisory Committee Act and the Individuals with Disabilities Education Act of 2004 (IDEA), the Bureau of Indian Education (BIE) requests nominations of individuals to serve on the Advisory Board for Exceptional Children (Advisory Board). There will be eight positions available. Board members shall serve a staggered term of two years or three years from the date of their appointment. The BIE will consider nominations received in response to this request for nominations, as well as other sources. The **SUPPLEMENTARY INFORMATION** section of this notice provides committee and membership criteria.

DATES: Please submit nominations by January 29, 2018.

ADDRESSES: Please submit nominations to Ms. Jennifer Davis, Designated Federal Officer (DFO), Bureau of Indian Education, Division of Performance and Accountability, 2600 N. Central Ave., Suite 800, Phoenix, AZ 85004, Telephone (602) 265–1592 or (505) 259–4731; Fax to (602) 265–8293.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Davis, DFO, at the above listed address and telephone number.

SUPPLEMENTARY INFORMATION: The Advisory Board was established in accordance with the Federal Advisory Committee Act, Public Law 92–463. Members of the Advisory Board provide guidance, advice, and recommendations with respect to special education and related services for children with disabilities in BIE-funded schools in accordance with the requirements of IDEA.

Pursuant to 20 U.S.C. 1411(h)(6), the Advisory Board is composed of up to 15 individuals involved in or concerned with the education and provision of services to Indian infants, toddlers, children, and youth with disabilities. The Advisory Board composition reflects a broad range of viewpoints and includes at least one member representing each of the following interests: Indians with disabilities; teachers of children with disabilities; Indian parents or guardians of children with disabilities; service providers, state education officials; local education officials; state interagency coordinating councils (for states having Indian reservations); tribal representatives or tribal organization representatives; and other members representing the various divisions and entities of the BIE.

Members of the Advisory Board will not receive compensation, but will be reimbursed for travel, including subsistence, and other necessary expenses incurred in the performance of their duties in the same manner as persons employed intermittently in Government Service under 5 U.S.C. 5703.

A member may not participate in matters that will directly affect, or appear to affect, the financial interests of the member or the member's spouse or minor children, unless authorized by the appropriate ethics official. Compensation from employment does not constitute a financial interest of the member so long as the matter before the committee will not have a special or distinct effect on the member or the member's employer, other than as part of a class. The provisions of this paragraph do not affect any other statutory or regulatory ethical obligations to which a member may be subject.

The Advisory Board meets at least twice a year, budget permitting, but additional meetings may be held as deemed necessary by the Assistant Secretary—Indian Affairs or the DFO. All Advisory Board meetings are open to the public in accordance with the Federal Advisory Committee Act regulations.

Nominations are requested from individuals, organizations, and federally recognized tribes, as well as from State Directors of Special Education (within the 23 states in which BIE-funded schools are located) concerned with the education of Indian children with disabilities as described above.

Nominees should have expertise and knowledge of the issues and/or needs of American Indian children with disabilities.

The Department of the Interior is committed to equal opportunities in the workplace and seeks diverse Committee membership, which is bound by the Indian Preference Act of 1990 (25 U.S.C. 472).

A summary of the nominee's qualifications (resume or curriculum vitae) must be included along with the completed nomination application, which can be found on the Bureau of Indian Education website. Nominees must have the ability to attend Advisory Board meetings, carry out Advisory Board assignments, participate in teleconference calls, and work in groups. If you wish to nominate someone for appointment to the Advisory Board, please do not make the nomination until the person has agreed to have his or her name submitted to the BIE for this purpose.

Information Collection: This collection of information is authorized by OMB Control Number 1076–0179, ''Solicitation of Nominations for the Advisory Board for Exceptional Children.'' Before including your address, phone number, email address, or other personal identifying information in your comments, please be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 6, 2017.

John Tahsuda,

Acting Assistant Secretary—Indian Affairs.

[FR Doc. 2017–28057 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[189A2100DD/AAKC001030/ A0A501010.999900 253G]

Advisory Board for Exceptional Children

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: In accordance with the Federal Advisory Committee Act, the Bureau of Indian Education (BIE) is announcing that the Advisory Board for Exceptional Children (Advisory Board) will hold a public meeting in Albuquerque, New Mexico, to meet the requirements of the Individuals with Disabilities Education Act of 2004 (IDEA) for Indian children with disabilities.

DATES: The meeting will be held on Thursday, January 11, 2018, and Friday, January 12, 2018, from 8:30 a.m. to 4:30 p.m. Mountain Time.

ADDRESSES: The meeting will be held in the Large Conference Room on the 3rd floor, at 1011 Indian School Road NW, Albuquerque, NM 87104.

FOR FURTHER INFORMATION CONTACT: Ms. Jennifer Davis, Designated Federal Officer, Bureau of Indian Education, 2600 N. Central Ave. Suite 800, Phoenix, AZ 85004; telephone number (480) 777–7986.

SUPPLEMENTARY INFORMATION: This meeting is being held under the provisions of the Federal Advisory Committee Act of 1972 (5 U.S.C. Appendix 2, as amended). The Advisory Board was established under IDEA to advise the Secretary of the Interior, through the Assistant Secretary-Indian Affairs, on the needs of Indian children with disabilities. The meetings are open to the public.

The following items will be on the agenda:

- Introduction of Advisory Board members
- Report from Tony Dearman, Director, BIE Director's Office
- Report from Dr. Jeffrey Hamley Associate Deputy Director, BIE, Division of Performance and Accountability (DPA)
- Report from Donald Griffin, Supervisory Education Specialist, BIE, DPA/Special Education
- Board work on Priorities for 2018
- Public Comment (via conference call, Friday, January 12th meeting only*).
- BIE Advisory Board—Advice and Recommendations

The meeting on January 12, 2018, will include a public comment period via conference call from 11:30 a.m. to 12:00 p.m. Depending on the number of persons wishing to comment and time available, the amount of time for individual oral comments may be limited. To allow for full consideration of information by the Advisory Board, written comments must be provided to Jennifer Davis, Designated Federal Officer, Bureau of Indian Education, 2600 N. Central Avenue, Suite 800, Phoenix, AZ 85004; or by telephone (480) 777–7986, no later than Thursday, January 11, 2018. All written comments received will be provided to the Advisory Board. The call-in information for the public comment period is 1–888–417–0376, Passcode: 2509140.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 5 U.S.C. Appendix 5; 20 U.S.C. 1400 *et seq.*

Dated: December 12, 2017.

John Tahsuda,

Principal Deputy Assistant Secretary—Indian Affairs, Exercising the Authority of the Assistant Secretary—Indian Affairs.

[FR Doc. 2017–28055 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Office of the Secretary

[189A2100DD/AAKC001030/ A0A501010.999900 253G]

Notice Regarding Upper Klamath Basin Comprehensive Agreement

AGENCY: Office of the Secretary, Interior.

ACTION: Notice.

SUMMARY: The Secretary of the Interior (Secretary) is publishing this Notice under subsection 10.2 of the Upper Klamath Basin Comprehensive Agreement (UKBCA), executed by the Klamath Tribes (Tribes), State of Oregon (State), and numerous irrigators in the Upper Klamath Basin. The UKBCA contains measures to address the needs of water users in the Upper Klamath Basin, who are not affiliated with the Bureau of Reclamation's Klamath Project (Project). The UKBCA also contains conditions that must be achieved before the UKBCA can become permanent. Despite the efforts of the UKBCA parties, one or more conditions in subsection 10.1 of the UKBCA have failed to occur. Accordingly, pursuant to the terms of subsection 10.2 of the UKBCA and as further described below, this statement serves as a ''Negative Notice'' that the UKBCA is terminated as set forth in UKBCA subsection 10.2.

DATES: The termination of the UKBCA is effective on December 28, 2017 or, if judicial review of the termination is timely sought, then the effective date of the termination shall be the date on which the termination is sustained following any and all appeals.

ADDRESSES: The Upper Klamath Basin Comprehensive Agreement (UKBCA) is available at *www.oregon.gov/gov/policy/environment/taskforce/Pages/Final_Upper_Klamath_Basin_Comprehensive_Agreement_Documents.aspx.*

FOR FURTHER INFORMATION CONTACT: Address all comments and requests for additional information to Christina Kalavritinos, Senior Advisor, Commissioner's Office, Bureau of Reclamation, (202) 513–0509.

SUPPLEMENTARY INFORMATION: On February 18, 2010, the Tribes joined more than 60 other parties in signing the Klamath Basin Restoration Agreement (KBRA). A subset of those parties signed a second agreement, the Klamath Hydroelectric Settlement Agreement (KHSA), that same day. Those two agreements aimed to restore the Basin fisheries and sustain local economies by restoring fish habitat and implementing a water-sharing agreement among the parties who rely upon water from Upper Klamath Lake (Lake) and the Klamath River. A majority of the water users living above (upstream of) the Lake did not agree to this water-sharing agreement, so the KBRA provided only general direction on a possible Upper Basin water-sharing agreement.

In spring 2013, the Oregon Water Resources Department (OWRD) ruled that the Tribes and United States held water rights for maintaining water levels in the major tributaries above the Lake. The Klamath County Circuit Court subsequently determined that enforcement of those determined in-stream flow rights should not be stayed. In summer 2013, at the request of the Governor of Oregon and several Congressional representatives, the Tribes began negotiating with the State and the non-Indian water users who are upstream of the Lake and not affiliated with the Project (referred to as ''Off-Project irrigators''), in an effort to reach a water-sharing and habitat restoration agreement that would benefit their respective interests. The resulting agreement, the UKBCA, was executed on April 18, 2014.

The UKBCA included:

- A Water Use Program that would increase inflow into the Lake by an annual average of at least 30,000 acre feet by reducing consumptive water use in key reaches of the tributaries above the Lake, while also providing a stable, sustainable basis for the continuation of irrigated agriculture;
- A Riparian Program designed to improve and protect riparian conditions;
- An Economic Development Program designed to create economic opportunities for the Tribes and its members;
- Increased opportunities for the exercise of Tribal cultural rights; and
- A Transition Period to allow for the elements of the UKBCA to be phased in over time.

The UKBCA established a five-year transition period with interim milestones and operating procedures. The parties anticipated that once the conditions contained in subsection 10.1 of the UKBCA were achieved, the UKBCA would become permanent. During the transition period, the Tribes agreed to limit the enforcement of their determined water rights so long as the other parties to the UKBCA met specific interim milestones. In 2017, those interim milestones were not achieved and the Tribes (with the concurrence of the United States as trustee) requested that OWRD fully enforce their determined water rights; OWRD complied with the request.

All three settlement agreements (KBRA, KHSA, and UKBCA) have interdependencies. For example, the UKBCA was premised in key part on Federal funding being provided for certain actions under the KBRA. Because the KBRA required congressional approval to become fully enforceable and funded, and because Congress failed to act within the time frame set by the KBRA, the KBRA expired of its own terms on December 31, 2015.

After the KBRA expired, the Tribes notified the Secretary in a January 12, 2016, letter that they believed their bargained-for benefits under the UKBCA and KBRA could not be realized. The Tribes asked the Secretary to issue a Negative Notice as contemplated under subsection 10.2 of the UKBCA. Subsection 10.2 of the UKBCA states that the Secretary shall issue a Negative Notice resulting in termination of the UKBCA if, after completion of required dispute resolution processes, the Secretary determines that there is ''no reasonable likelihood'' that all required conditions set out in subsection 10.1 of the UKBCA can be met. As noted in the Tribes' letter, several conditions listed in subsection 10.1 required the enactment of Federal legislation, which did not and has not happened.

The UKBCA allows the Secretary to make a preliminary determination regarding whether the conditions contained in subsection 10.1 can be achieved. On April 4, 2016, the Deputy Secretary responded with a preliminary determination, tentatively agreeing with the Tribes but nonetheless noting that subsection 10.2 of the UKBCA requires a ''meet and confer'' process among the parties before a Negative Notice could be issued. The Tribes invoked the meet and confer provisions in an August 11, 2016, letter, and the parties met and conferred on October 4, 2016. That meeting was unsuccessful in resolving the issues between the parties.

On December 4, 2016, some Off-Project irrigators invoked the mediation provision in subsection 11.2 of the UKBCA in an effort to aid the meet and confer process. The Tribes also invoked this mediation provision on December 12, 2016. The parties selected a neutral third-party mediator and held a confidential mediation session on February 23, 2017. That effort did not resolve the differences between the parties. The Tribes sent letters to the Secretary on April 26, 2017, and September 11, 2017, reiterating their request that the Secretary issue a Negative Notice. The Off-Project irrigators sent a letter to the Secretary on April 28, 2017, asking that the Secretary refrain from issuing a Negative Notice.

The Tribes are of the view that all three agreements—the KBRA, the KHSA, and the UKBCA—need to be fully implemented in order to receive their bargained-for benefits. The Tribes have highlighted this position and concern to the other UKBCA parties and in their correspondence requesting a Negative Notice. The UKBCA and KBRA were inextricably linked. Many of the bargained-for benefits for the Klamath Tribes, including funding for fishery and Tribal programs and the purchase of land, were embedded in the KBRA. Funding for many of the actions in the UKBCA, including water right retirements to achieve 30,000 acre-feet of water savings and riparian corridor restoration, was similarly included in the KBRA.

Statement of Findings

Subsection 10.1 of the UKBCA contains fifteen (15) conditions (subsections 10.1.1 through 10.1.15) that all must occur before an Affirmative Notice can be issued that would make the UKBCA permanent. If I find that one or more of these conditions has not or cannot be achieved, and thus there is no reasonable likelihood that an Affirmative Notice will occur under section 10.1, then section 10.2 directs that a Negative Notice be published.

Subsection 10.1.3 of the UKBCA requires enactment of Federal legislation authorizing the execution and implementation of the KBRA, which the UKBCA defines as ''the agreement dated February 18, 2010, as amended December 29, 2012.'' No legislation was passed by Congress before December 31, 2015, and the KBRA expired of its own terms. Thus, subsection 10.1.3 cannot be met. This fact alone means I will not be able to issue an Affirmative Notice, and warrants issuance of a Negative Notice.

I have reached a similar conclusion for subsections 10.1.1, 10.1.2, and 10.1.4, which also require enactment of Federal legislation that would authorize Federal participation in the UKBCA's Water Use or Riparian Protection Programs and Federal participation on the Joint Management Entity. No legislation was passed by Congress to enact these provisions, and I am not aware of any pending legislation that would do so in the foreseeable future. Accordingly, I also conclude that there is no reasonable likelihood that these conditions will be met at any time in the foreseeable future.

The lack of Federal legislation as required by subsections 10.1.1 through 10.1.4 also leads to the conclusion that there is no reasonable likelihood that the additional conditions contained in subsections 10.1.10 through 10.1.13 will be met either. Without legislation authorizing the KBRA, the Tribes do not intend to provide a notice of willingness to proceed with the UKBCA (subsection 10.1.10). Moreover, without authorizing legislation, I cannot sign the UKBCA (subsection 10.1.13). Similarly, the Landowner Entity and State of Oregon, like the Tribes, must determine that Federal legislation authorizing the UKBCA is materially consistent with the UKBCA (subsections 10.1.11 and 10.1.12).

In addition, other conditions in the UKBCA (subsections 10.1.6 and 10.1.7) require the appropriation of Federal funds to provide an economic development fund for the Tribes, as well as funding to enable the Joint Management Entity and Landowner Entity to carry out their responsibilities under the UKBCA. Those funds have not been appropriated, and I am not aware of any plans to provide this funding in the foreseeable future.

Finally, the UKBCA contains a condition requiring the Klamath County Circuit Court to enter a decree affirming the Tribes' water rights as modified by the UKBCA (subsection 10.1.15). Again, without an Act of Congress, there will be no finalized UKBCA, nor the settlement it contemplates for the Klamath County Circuit Court to approve. The unlikely completion of this final condition is further cause to find that no reasonable likelihood remains for me to issue an Affirmative Notice.

Thus, I conclude that the condition in subsection 10.1.3 cannot be met and therefore there is no reasonable likelihood that I can issue an Affirmative Notice. Moreover, consideration of all the other unsatisfied conditions also leads me to the conclusion there is no reasonable likelihood that I can issue an Affirmative Notice under section 10.1. Each of the unsatisfied conditions alone is enough for me to reach this conclusion and, when taken together as a whole, the same is true. Accordingly, under the terms of the UKBCA, this Negative Notice denotes the termination of the UKBCA.

Therefore, in accordance with section 10.2 of the UKBCA, I find as follows:

(A) One or more conditions that must occur before I can issue an Affirmative Notice have not been achieved and do not seem reasonably likely to be achieved.

(B) There is no reasonable likelihood that an Affirmative Notice can occur under subsection 10.1 of the UKBCA.

(C) As provided by subsection 10.2 of the UKBCA, I am publishing this Negative Notice and stating that an Affirmative Notice under section 10.1 will not be published.

(D) Under the terms of subsection 10.2 of the UKBCA, ''this Agreement shall terminate on the date'' of publication of this Negative Notice, or in the event that judicial review of the Negative Notice is timely sought, on the date on which the Negative Notice ''is sustained following any and all appeals.''

Dated: December 22, 2017.

Ryan Zinke,

Secretary of the Interior.

[FR Doc. 2017–28050 Filed 12–27–17; 8:45 am]

BILLING CODE 4337–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[LLCO956000 L14400000.BJ0000 18X]

Notice of Filing of Plats of Survey; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of official filing.

SUMMARY: The Bureau of Land Management (BLM) Colorado State Office is publishing this notice to inform the public of the official filing of the survey plat listed below. The survey, which was executed at the request of the BLM, is necessary for the management of these lands. The plat will be available for viewing in the BLM Colorado State Office.

DATES: The plat described in this notice was filed on November 30, 2017.

ADDRESSES: You may submit written protests to the BLM Colorado State Office, Cadastral Survey, 2850 Youngfield Street, Lakewood, CO 80215–7093.

FOR FURTHER INFORMATION CONTACT: Randy Bloom, Chief Cadastral Surveyor for Colorado, (303) 239–3856; *rbloom@blm.gov.* Persons who use a telecommunications device for the deaf may call the Federal Relay Service at 1–800–877–8339 to contact the above individual 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: The supplemental plat of sections 35 and 36 in Township 13 South, Range 90 West, Sixth Principal Meridian, Colorado, was accepted on November 29, 2017, and filed on November 30, 2017.

A person or party who wishes to protest the above survey must file a written notice of protest within 30 calendar days from the date of this publication at the address listed in the **ADDRESSES** section of this notice. A statement of reasons for the protest may be filed with the notice of protest and must be filed within 30 calendar days after the protest is filed.

Before including your address, phone number, email address, or other personal identifying information in your protest, please be aware that your entire protest, including your personal identifying information, may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Authority: 43 U.S.C. Chap. 3.

Randy A. Bloom,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 2017–28061 Filed 12–27–17; 8:45 am]

BILLING CODE 4310–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR02800000, 17XR0687ND, RX185279402000000]

Draft Environmental Impact Statement/Environmental Impact Report for the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project, Yolo, Sutter, and Solano Counties, California

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of availability and notice of public meetings.

SUMMARY: The Bureau of Reclamation, as the National Environmental Policy Act Federal lead agency, and the California Department of Water Resources, as the California Environmental Quality Act State lead agency, have made available for public review and comment the Yolo Bypass Salmonid Habitat Restoration and Fish Passage Project Draft Environmental Impact Statement/Environmental Impact Report (EIS/EIR). Two public meetings will be held to receive comments from individuals and organizations on the Draft EIS/EIR.

DATES: Submit written comments on the Draft EIS/EIR on or before February 15, 2018.

Two meetings have been scheduled to receive oral or written comments regarding environmental effects:

- Wednesday, January 17, 2018, 6:00 p.m. to 8:00 p.m., Woodland, California.
- Thursday, January 18, 2018, 1:30 p.m. to 3:30 p.m., West Sacramento, California.

ADDRESSES: Send written comments on the Draft EIS/EIR to Mr. Ben Nelson, Bureau of Reclamation, 801 I Street, Suite 140, Sacramento, CA 95814, or via email to *bcnelson@usbr.gov.*

The public meetings will be held at the following locations:

- West Sacramento—Community Center, 1075 West Capitol Ave., West Sacramento, CA 95691.
- Woodland—Woodland Community and Senior Center, 2001 East Street, Woodland, CA 95776.

Electronic CD copies of the Draft EIS/EIR may be requested from the Bureau of Reclamation, at (916) 414–2424, or *bcnelson@usbr.gov.* The Draft EIS/EIR is also accessible from the following website: *https://www.usbr.gov/mp/BayDeltaOffice/yolo-bypass.html.*

Copies of the Draft EIR/EIS are available for public review at the following locations:

1. Bureau of Reclamation, Mid-Pacific Region, Regional Library, 2800 Cottage Way, Sacramento, CA 95825.
2. Bureau of Reclamation, Bay-Delta Office, 801 I Street, Suite 140, Sacramento, CA 95814.
3. Sacramento Public Library, 828 I Street, Sacramento, CA 95814.

FOR FURTHER INFORMATION CONTACT: Please contact Mr. Ben Nelson, Bureau of Reclamation, at (916) 414–2424, or via email at *bcnelson@usbr.gov;* or Ms. Karen Enstrom, Department of Water Resources, at (916) 376–9778, or via email at *Karen.Enstrom@water.ca.gov.*

SUPPLEMENTARY INFORMATION: The Draft EIS/EIR addresses methods to improve fish passage and increase floodplain fisheries rearing habitat in the Yolo Bypass to benefit Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and Southern Distinct Population Segment North American green sturgeon. The Project actions would implement Reasonable and Prudent Alternative (RPA) actions I.6.1 and I.7, as described in the 2009 National Oceanic and Atmospheric Administration National Marine

Fisheries Service Biological Opinion and Conference Opinion on the Long-Term Operations of the Central Valley Project and State Water Project (NMFS BO) and the 2012 Yolo Bypass Salmonid Habitat Restoration and Fish Passage Implementation Plan.

Substantial modifications have been made to the historical floodplain of California's Central Valley for water supply and flood damage reduction purposes. The resulting losses of rearing habitat, migration corridors, and food web production for fish have adversely affected native fish species that rely on floodplain habitat during part or all of their life history. The Bureau of Reclamation is responsible for managing the Central Valley Project (CVP) and the California Department of Water Resources is responsible for operating and maintaining the State Water Project (SWP). The SWP and CVP are operated in a coordinated manner to deliver water to agricultural, municipal, and industrial contractors throughout California. On June 4, 2009, the NMFS BO concluded that, if left unchanged, CVP and SWP operations are likely to jeopardize the continued existence of four anadromous species listed under the Federal Endangered Species Act: Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, Central Valley steelhead, and Southern Distinct Population Segment North American green sturgeon. The NMFS BO sets forth RPA actions that would allow CVP and SWP operations to remain in compliance with the Federal Endangered Species Act.

The purpose of the Project is to enhance floodplain rearing habitat and fish passage in the Yolo Bypass and/or suitable areas of the lower Sacramento River by implementing RPA actions I.6.1 and I.7. The objective of RPA action I.6.1 is to increase the availability of floodplain fisheries rearing habitat for juvenile Sacramento River winter-run Chinook salmon, Central Valley spring-run Chinook salmon, and Central Valley steelhead. The objective of RPA action I.7 is to reduce fish passage migratory delays and loss of fish at Fremont Weir and other structures in Yolo Bypass for salmon, steelhead, and sturgeon.

The EIS/EIR analyzes the No Action/No Project Alternative and six action alternatives. Alternative 1, East Side Gated Notch, Alternative 2, Central Gated Notch, and Alternative 3, West Side Gate Notch, would allow up to 6,000 cubic feet per second (cfs) of increased flow from the Sacramento River to enter the Yolo Bypass through a gated notch on the east side, center, and west side, respectively, of Fremont Weir. Alternative 4, West Side Gated Notch—Managed Flow, would allow up to 3,000 cfs of flow to enter the Yolo Bypass through a gated notch in Fremont Weir in the same western location as Alternative 3 and would incorporate water control structures to maintain inundation in defined areas for longer periods of time. Alternative 5, Central Multiple Gated Notches, includes multiple gates so that the deeper gate could allow more flow to enter the bypass when the river is at lower elevations to capture more fish during winter-run outmigration, with a maximum flow entering the Yolo Bypass of about 3,400 cfs. Alternative 6, West Side Large Gated Notch, would allow a higher flow of up to 12,000 cfs into the bypass to capture more fish when the Sacramento River is at lower elevations through a large notch in the western location of Fremont Weir.

If special assistance is required to participate in the public hearing, please contact Ms. Sarah McBride at (916) 978–5108, or via email at *smcbride@usbr.gov.* Please contact Ms. McBride at least 10 working days prior to the meeting. A telephone device for the hearing impaired (TDD) is available at (916) 978–5608.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: December 21, 2017.

Federico Barajas,

Deputy Regional Director, Mid-Pacific Region.

[FR Doc. 2017–28059 Filed 12–27–17; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–571–572 (Final)]

Biodiesel From Argentina and Indonesia; Determinations

On the basis of the record [1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of biodiesel from Argentina and Indonesia, provided for in subheadings 3826.00.10 and 3826.00.30 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be subsidized by the governments of Argentina and Indonesia.

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

Background

The Commission, pursuant to sections 705(b) of the Act (19 U.S.C. 1671d(b)), instituted these investigations effective March 23, 2017, following receipt of a petition filed with the Commission and Commerce by the National Biodiesel Board Fair Trade Coalition, Washington DC. The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of biodiesel from Argentina and Indonesia were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on August 28, 2017 (82 FR 4399). The hearing was held in Washington, DC, on November 9, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to section 705(b) of the Act (19 U.S.C. 1671d(b)). It completed and filed its determinations in these investigations on December 21, 2017. The views of the Commission are contained in USITC Publication 4748 (December 2017), entitled *Biodiesel from Argentina and Indonesia: Investigation Nos. 701–TA–571–572 (Final).*

By order of the Commission.

Issued: December 21, 2017.

Jessica Mullan,

Attorney Advisor.

[FR Doc. 2017–27978 Filed 12–27–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Solid State Storage Drives, Stacked Electronics Components, and Products Containing Same, DN 3282;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing pursuant to the Commission's Rules of Practice and Procedure.

FOR FURTHER INFORMATION CONTACT: Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure filed on behalf of BiTMICRO, LLC on December 21, 2017. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain solid state storage drives, stacked electronics components, and products containing same. The complaint names as respondents Samsung Electronics Co., Ltd. of Korea; Samsung Semiconductor, Inc. of San Jose, CA; Samsung Electronics America, Inc. of Ridgefield Park, NJ; SK Hynix Inc. of Korea; SK Hynix America Inc. of San Jose, CA; Dell Inc. of Round Rock, TX; Dell Technologies Inc. of Round Rock, TX; Lenovo Group Ltd. of China; Lenovo (United States) Inc. of Morrisville, NC; HP Inc. of Palo Alto, CA; Hewlett Packard Enterprise Co. of Palo Alto, CA; ASUSTek Computer Inc. of Taiwan; ASUS Computer International of Fremont, CA; Acer Inc. of Taiwan; Acer America Corp. of San Jose, CA; VAIO Corporation of Japan; and Transcosmos America Inc. of Gardena, CA. The complainant requests that the Commission issue a limited exclusion order, cease and desist orders, and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3282) in a prominent place on the cover page and/or the first page. (*See* Handbook for Electonic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf.*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *https://edis.usitc.gov.*

Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: December 21, 2017.

Jessica Mullan,

Attorney Advisor.

[FR Doc. 2017–27979 Filed 12–27–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–566 and 731–TA–1342 (Final)]

Softwood Lumber Products From Canada; Determinations

On the basis of the record[1] developed in the subject investigations, the United States International Trade Commission (''Commission'') determines, pursuant to the Tariff Act of 1930 (''the Act''), that an industry in the United States is materially injured by reason of imports of softwood lumber products from Canada, provided for in subheadings 4407.10.01, 4409.10.05, 4409.10.10, 4409.10.20, 4409.10.90, 4418.90.10 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce (''Commerce'') to be subsidized by the government of Canada and sold in the United States at less than fair value (''LTFV'').[2]

Background

The Commission, pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)), instituted these investigations effective November 25, 2016, following receipt of a petition filed with the Commission and Commerce by the Committee Overseeing Action for Lumber International Trade Investigations or Negotiations (''COALITION'').[3] The final phase of the investigations was scheduled by the Commission following notification of preliminary determinations by Commerce that imports of certain softwood lumber from Canada were subsidized within the meaning of section 703(b) of the Act (19 U.S.C. 1671b(b)) and sold at LTFV within the meaning of 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the final phase of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** on July 13, 2017 (82 FR 32376). The hearing was held in Washington, DC, on September 12, 2017, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission made these determinations pursuant to sections 705(b) and 735(b) of the Act (19 U.S.C. 1671d(b) and 19 U.S.C. 1673d(b)). It completed and filed its determinations in these investigations on December 22, 2017. The views of the Commission are contained in USITC Publication 4749 (December 2017), entitled *Softwood Lumber Products from Canada: Investigation Nos. 701–TA–566 and 731–TA–1342 (Final)).*

By order of the Commission.

Issued: December 22, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–28074 Filed 12–27–17; 8:45 am]

BILLING CODE 7020–02–P

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] The Commission made a negative finding concerning critical circumstances with regard to LTFV imports of this product.

[3] The COALITION is an ad hoc association whose members are: U.S. Lumber Coalition, Inc., Collum's Lumber Products, L.L.C., Hankins, Inc., Potlach Corp., Rex Lumber Company, Seneca Sawmill Company, Sierra Pacific Industries, Stimson Lumber Company, Swanson Group, Weyerhaeuser Company, Carpenters Industrial Council, Giustina Land and Timber Company, Sullivan Forestry Consultants, Inc. COALITION is ''an association, a majority of whose members is composed of interested parties'' described in Section 771(9)(C) of the Act, 19 U.S.C. 1677(9)(C).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–1033]

Certain Arrowheads With Arcuate Blades and Components Thereof; Notice of Commission Decision Not To Review an Initial Determination Granting Complainant's Motion for Summary Determination of a Violation of Section 337; Request for Submissions

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (''ID'') (Order No. 9) of the presiding administrative law judge (''ALJ'') granting complainant's motion for summary determination of a violation of section 337. The Commission also requests written submissions regarding remedy, bonding, and the public interest.

FOR FURTHER INFORMATION CONTACT: Clint Gerdine, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 708–2310. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on January 6, 2017, based on a complaint filed on behalf of Flying Arrow Archery, LLC of Belgrade, Montana. 82 FR 1760–61. The complaint, as supplemented, alleges violations of section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, by reason of infringement of certain claims of U.S. Patent Nos. 8,920,269; D713,919; and D729,336. The complaint further alleges that a domestic industry exists. The Commission's notice of investigation named the following respondents: Arthur Sifuentes of Spring, Texas; Liu Mengbao and Zhou Yang, both of Guangdong, China; Jiangfeng Mao of Jiangsu, China; Sandum Precision Industry (China) Co., Ltd. (In-Sail) of Guangdong Province, China (collectively, ''the remaining respondents''); Wei Ran, Dongguan Hongsong, and Wanyuxue, all of Guangdong, China; and Yandong of Henan, China (collectively, ''the terminated respondents''). The Office of Unfair Import Investigations (''OUII'') is also a party to the investigation.

On April 28, 2017, the Commission issued notice of its determination not to review the ALJ's ID (Order No. 7) terminating the investigation as to the terminated respondents based on withdrawal of the infringement allegations in the complaint. In the same notice, the Commission issued notice of its determination not to review the ALJ's ID (Order No. 6) finding the remaining respondents in default (''the defaulting respondents'').

Because a general exclusion order is sought, complainant is required to establish that a violation of section 337 has occurred by substantial, reliable, and probative evidence pursuant to Commission Rule 210.16(c)(2). On August 15, 2017, complainant filed a motion for summary determination of a violation of section 337 pursuant to Commission Rule 210.16(c)(2) to support its request for entry of a general exclusion order with respect to all asserted patents. OUII filed a response in support of the motion.

The ALJ issued the subject ID on November 8, 2017, granting complainant's motion for summary determination. The ALJ found that all defaulting respondents met the importation requirement and that complainants satisfied the domestic industry requirement. *See* 19 U.S.C. 1337(a)(1)(B), (a)(2). The ID finds that a violation of section 337 has occurred based on its finding that each of the defaulting respondents' accused products infringe one or more of the asserted claims of the patents at issue as established by substantial, reliable, and probative evidence in accordance with Commission Rule 210.16(c)(2). No petitions for review were filed.

The ID also contains the ALJ's recommended determination on remedy and bonding. The ALJ recommended a general exclusion order with respect to the asserted patents if the Commission finds a violation of section 337.

Having examined the record of this investigation, the Commission has determined not to review the subject ID.

As noted above, five respondents were found in default. Section 337(g) and Commission Rule 210.16(c) authorize the Commission to order relief against respondents found in default unless, after considering the public interest, it finds that such relief should not issue. Before the ALJ, complainant sought a general exclusion order under section 337(g)(2).

In connection with the final disposition of this investigation, the Commission may issue an order that could result in the exclusion of the subject articles from entry into the United States. Accordingly, the Commission is interested in receiving written submissions that address the form of remedy, if any, that should be ordered. If a party seeks exclusion of an article from entry into the United States for purposes other than entry for consumption, the party should so indicate and provide information establishing that activities involving other types of entry either are adversely affecting it or likely to do so. For background, *see Certain Devices for Connecting Computers via Telephone Lines,* Inv. No. 337–TA–360, USITC Pub. No. 2843, Comm'n Op. at 7–10 (December 1994).

If the Commission contemplates some form of remedy, it must consider the effects of that remedy upon the public interest. The factors the Commission will consider include the effect that an exclusion order and/or cease and desist orders would have on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) U.S. production of articles that are like or directly competitive with those that are subject to investigation, and (4) U.S. consumers. The Commission is therefore interested in receiving written submissions that address the aforementioned public interest factors in the context of this investigation.

If the Commission orders some form of remedy, the U.S. Trade Representative, as delegated by the President, has 60 days to approve or disapprove the Commission's action. *See* Presidential Memorandum of July 21, 2005, 70 FR 43251 (July 26, 2005). During this period, the subject articles would be entitled to enter the United States under bond, in an amount determined by the Commission and prescribed by the Secretary of the Treasury. The Commission is therefore interested in receiving submissions concerning the amount of the bond that should be imposed if a remedy is ordered.

Written Submissions: Parties to the investigation, interested government agencies, and any other interested parties are encouraged to file written submissions on the issues of remedy, the public interest, and bonding. Such submissions should address the recommended determination by the ALJ on remedy and bonding.

Complainants and OUII are also requested to submit proposed remedial orders for the Commission's consideration. Complainant is also requested to state the dates that the patents expire, the HTSUS numbers under which the accused products are imported, and to supply the names of known importers of the products at issue in this investigation. The written submissions and proposed remedial orders must be filed no later than close of business on January 4, 2018. Reply submissions must be filed no later than the close of business on January 11, 2018. No further submissions on these issues will be permitted unless otherwise ordered by the Commission.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit eight true paper copies to the Office of the Secretary pursuant to Section 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the investigation number (''Inv. No. 337–TA–1033'') in a prominent place on the cover page and/or the first page. (See Handbook for Electronic Filing Procedures, *https://www.usitc.gov/secretary/documents/handbook_on_filing_procedures.pdf*). Persons with questions regarding filing should contact the Secretary at (202) 205–2000.

Any person desiring to submit a document to the Commission in confidence must request confidential treatment unless the information has already been granted such treatment during the proceedings. All such requests should be directed to the Secretary of the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 210.6. Documents for which confidential treatment by the Commission is sought will be treated accordingly. A redacted non-confidential version of the document must also be filed simultaneously with any confidential filing. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[1] solely for cybersecurity purposes. All non-confidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: December 21, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–27956 Filed 12–27–17; 8:45 am]

BILLING CODE 7020–02–P

[1] All contract personnel will sign appropriate nondisclosure agreements.

DEPARTMENT OF JUSTICE

Bureau of Alcohol, Tobacco, Firearms, and Explosives

[Docket No. 2017R–19]

Commerce in Explosives; 2017 Annual List of Explosive Materials

AGENCY: Bureau of Alcohol, Tobacco, Firearms, and Explosives (ATF); Department of Justice.

ACTION: Notice of List of Explosive Materials.

SUMMARY: Pursuant to Federal law, the Department of Justice must publish and revise at least annually in the **Federal Register** a list of explosives determined to be explosive materials. The list covers not only explosives, but also blasting agents and detonators, all of which are defined as ''explosive materials.'' This notice contains the 2017 Annual List of Explosive Materials, which remains unchanged from the 2016 Annual List of Explosives.

DATES: The list becomes effective December 28, 2017.

FOR FURTHER INFORMATION CONTACT: William E. Frye Jr., Chief, Explosives Industry Programs Branch; Firearms and Explosives Industry Division; Bureau of Alcohol, Tobacco, Firearms, and Explosives; United States Department of Justice; 99 New York Avenue NE, Washington, DC 20226; (202) 648–7120.

SUPPLEMENTARY INFORMATION: Each material listed, as well as all mixtures containing any of these materials, constitute ''explosive materials'' under 18 U.S.C. 841(c). Materials constituting blasting agents are marked by an asterisk. While the list is comprehensive, it is not all-inclusive. The fact that an explosive material is not on the list does not mean that it is not within the coverage of the law if it otherwise meets the statutory definition in 18 U.S.C. 841. Explosive materials are listed alphabetically and, where applicable, followed by their common names, chemical names, and/or synonyms in brackets.

This list supersedes the List of Explosive Materials published in the **Federal Register** on November 16, 2016 (Docket No. 2016R–02, 81 FR 80684).

Notice of the 2017 Annual List of Explosive Materials

Pursuant to 18 U.S.C. 841(d) and 27 CFR 555.23, I hereby designate the following as ''explosive materials'' covered under 18 U.S.C. 841(c):

A

Acetylides of heavy metals.
Aluminum containing polymeric propellant.
Aluminum ophorite explosive.
Amatex.
Amatol.
Ammonal.
Ammonium nitrate explosive mixtures (cap sensitive).
* Ammonium nitrate explosive mixtures (non-cap sensitive).
Ammonium perchlorate having particle size less than 15 microns.
Ammonium perchlorate explosive mixtures (excluding ammonium perchlorate composite propellant (APCP)).
Ammonium picrate [picrate of ammonia, Explosive D].
Ammonium salt lattice with isomorphously substituted inorganic salts.
* NFO [ammonium nitrate-fuel oil].
Aromatic nitro-compound explosive mixtures.
Azide explosives.

B

Baranol.
Baratol.
BEAF [1, 2-bis (2, 2-difluoro-2-nitroacetoxyethane)].
Black powder.
Black powder based explosive mixtures.
Black powder substitutes.
* Blasting agents, nitro-carbo-nitrates, including non-cap sensitive slurry and water gel explosives.
Blasting caps.
Blasting gelatin.
Blasting powder.
BTNEC [bis (trinitroethyl) carbonate].
BTNEN [bis (trinitroethyl) nitramine].
BTTN [1,2,4 butanetriol trinitrate].
Bulk salutes.
Butyl tetryl.

C

Calcium nitrate explosive mixture.
Cellulose hexanitrate explosive mixture.
Chlorate explosive mixtures.
Composition A and variations.
Composition B and variations.
Composition C and variations.
Copper acetylide.
Cyanuric triazide.
Cyclonite [RDX].
Cyclotetramethylenetetranitramine [HMX].
Cyclotol.
Cyclotrimethylenetrinitramine [RDX].

D

DATB [diaminotrinitrobenzene].
DDNP [diazodinitrophenol].
DEGDN [diethyleneglycol dinitrate].
Detonating cord.
Detonators.
Dimethylol dimethyl methane dinitrate composition.
Dinitroethyleneurea.
Dinitroglycerine [glycerol dinitrate].
Dinitrophenol.
Dinitrophenolates.
Dinitrophenyl hydrazine.
Dinitroresorcinol.
Dinitrotoluene-sodium nitrate explosive mixtures.
DIPAM [dipicramide; diaminohexanitrobiphenyl].
Dipicryl sulfone.
Dipicrylamine.
Display fireworks.
DNPA [2,2-dinitropropyl acrylate].
DNPD [dinitropentano nitrile].
Dynamite.

E

EDDN [ethylene diamine dinitrate].
EDNA [ethylenedinitramine].
Ednatol.
EDNP [ethyl 4,4-dinitropentanoate].
EGDN [ethylene glycol dinitrate].
Erythritol tetranitrate explosives.
Esters of nitro-substituted alcohols.
Ethyl-tetryl.
Explosive conitrates.
Explosive gelatins.
Explosive liquids.
Explosive mixtures containing oxygen-releasing inorganic salts and hydrocarbons.
Explosive mixtures containing oxygen-releasing inorganic salts and nitro bodies.
Explosive mixtures containing oxygen-releasing inorganic salts and water insoluble fuels.
Explosive mixtures containing oxygen-releasing inorganic salts and water soluble fuels.
Explosive mixtures containing sensitized nitromethane.
Explosive mixtures containing tetranitromethane (nitroform).
Explosive nitro compounds of aromatic hydrocarbons.
Explosive organic nitrate mixtures.
Explosive powders.

F

Flash powder.
Fulminate of mercury.
Fulminate of silver.
Fulminating gold.
Fulminating mercury.
Fulminating platinum.
Fulminating silver.

G

Gelatinized nitrocellulose.
Gem-dinitro aliphatic explosive mixtures.
Guanyl nitrosamino guanyl tetrazene.
Guanyl nitrosamino guanylidene hydrazine.
Guncotton.

H

Heavy metal azides.
Hexanite.
Hexanitrodiphenylamine.
Hexanitrostilbene.
Hexogen [RDX].
Hexogene or octogene and a nitrated N-methylaniline.
Hexolites.
HMTD [hexamethylenetriperoxidediamine].
HMX [cyclo-1,3,5,7-tetramethylene 2,4,6,8-tetranitramine; Octogen].
Hydrazinium nitrate/hydrazine/aluminum explosive system.
Hydrazoic acid.

I

Igniter cord.
Igniters.
Initiating tube systems.

K

KDNBF [potassium dinitrobenzo-furoxane].

L

Lead azide.
Lead mannite.
Lead mononitroresorcinate.
Lead picrate.
Lead salts, explosive.
Lead styphnate [styphnate of lead, lead trinitroresorcinate].

Liquid nitrated polyol and trimethylolethane.
Liquid oxygen explosives.

M

Magnesium ophorite explosives.
Mannitol hexanitrate.
MDNP [methyl 4,4-dinitropentanoate].
MEAN [monoethanolamine nitrate].
Mercuric fulminate.
Mercury oxalate.
Mercury tartrate.
Metriol trinitrate.
Minol-2 [40% TNT, 40% ammonium nitrate, 20% aluminum].
MMAN [monomethylamine nitrate]; methylamine nitrate.
Mononitrotoluene-nitroglycerin mixture.
Monopropellants.

N

NIBTN [nitroisobutametriol trinitrate].
Nitrate explosive mixtures.
Nitrate sensitized with gelled nitroparaffin.
Nitrated carbohydrate explosive.
Nitrated glucoside explosive.
Nitrated polyhydric alcohol explosives.
Nitric acid and a nitro aromatic compound explosive.
Nitric acid and carboxylic fuel explosive.
Nitric acid explosive mixtures.
Nitro aromatic explosive mixtures.
Nitro compounds of furane explosive mixtures.
Nitrocellulose explosive.
Nitroderivative of urea explosive mixture.
Nitrogelatin explosive.
Nitrogen trichloride.
Nitrogen tri-iodide.
Nitroglycerine [NG, RNG, nitro, glyceryl trinitrate, trinitroglycerine].
Nitroglycide.
Nitroglycol [ethylene glycol dinitrate, EGDN].
Nitroguanidine explosives.
Nitronium perchlorate propellant mixtures.
Nitroparaffins Explosive Grade and ammonium nitrate mixtures.
Nitrostarch.
Nitro-substituted carboxylic acids.
Nitrourea.

O

Octogen [HMX].
Octol [75 percent HMX, 25 percent TNT].
Organic amine nitrates.
Organic nitramines.

P

PBX [plastic bonded explosives].
Pellet powder.
Penthrinite composition.
Pentolite.
Perchlorate explosive mixtures.
Peroxide based explosive mixtures.
PETN [nitropentaerythrite, pentaerythrite tetranitrate, pentaerythritol tetranitrate].
Picramic acid and its salts.
Picramide.
Picrate explosives.
Picrate of potassium explosive mixtures.
Picratol.
Picric acid (manufactured as an explosive).
Picryl chloride.
Picryl fluoride.
PLX [95% nitromethane, 5% ethylenediamine].
Polynitro aliphatic compounds.
Polyolpolynitrate-nitrocellulose explosive gels.
Potassium chlorate and lead sulfocyanate explosive.
Potassium nitrate explosive mixtures.
Potassium nitroaminotetrazole.
Pyrotechnic compositions.
Pyrotechnic fuses.
PYX [2,6-bis(picrylamino)] 3,5-dinitropyridine.

R

RDX [cyclonite, hexogen, T4, cyclo-1,3,5,-trimethylene-2,4,6,-trinitramine; hexahydro-1,3,5-trinitro-S-triazine].

S

Safety fuse.
Salts of organic amino sulfonic acid explosive mixture.
Salutes (bulk).
Silver acetylide.
Silver azide.
Silver fulminate.
Silver oxalate explosive mixtures.
Silver styphnate.
Silver tartrate explosive mixtures.
Silver tetrazene.
Slurried explosive mixtures of water, inorganic oxidizing salt, gelling agent, fuel, and sensitizer (cap sensitive).
Smokeless powder.
Sodatol.
Sodium amatol.
Sodium azide explosive mixture.
Sodium dinitro-ortho-cresolate.
Sodium nitrate explosive mixtures.
Sodium nitrate-potassium nitrate explosive mixture.
Sodium picramate.
Squibs.
Styphnic acid explosives.

T

Tacot [tetranitro-2,3,5,6-dibenzo-1,3a,4,6a tetrazapentalene].
TATB [triaminotrinitrobenzene].
TATP [triacetonetriperoxide].
TEGDN [triethylene glycol dinitrate].
Tetranitrocarbazole.
Tetrazene [tetracene, tetrazine, 1(5-tetrazolyl)-4-guanyl tetrazene hydrate].
Tetrazole explosives.
Tetryl [2,4,6 tetranitro-N-methylaniline].
Tetrytol.
Thickened inorganic oxidizer salt slurried explosive mixture.
TMETN [trimethylolethane trinitrate].
TNEF [trinitroethyl formal].
TNEOC [trinitroethylorthocarbonate].
TNEOF [trinitroethylorthoformate].
TNT [trinitrotoluene, trotyl, trilite, triton].
Torpex.
Tridite.
Trimethylol ethyl methane trinitrate composition.
Trimethylolthane trinitrate-nitrocellulose.
Trimonite.
Trinitroanisole.
Trinitrobenzene.
Trinitrobenzoic acid.
Trinitrocresol.
Trinitro-meta-cresol.
Trinitronaphthalene.
Trinitrophenetol.
Trinitrophloroglucinol.
Trinitroresorcinol.
Tritonal.

U

Urea nitrate.

W

Water-bearing explosives having salts of oxidizing acids and nitrogen bases, sulfates, or sulfamates (cap sensitive).
Water-in-oil emulsion explosive compositions.

X

Xanthomonas hydrophilic colloid explosive mixture.

Thomas E. Brandon,
Deputy Director.

[FR Doc. 2017–28010 Filed 12–27–17; 8:45 am]
BILLING CODE 4410–FY–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 20, 2017, the Department of Justice lodged a proposed consent decree with the United States District Court for the District of Arizona in the lawsuit entitled *United States* v. *Apache Nitrogen Products, Inc.,* Civil Action No. 4:17–cv–00612–RCC.

The proposed consent decree resolves claims set forth in a filed complaint for civil penalties and injunctive relief against Apache Nitrogen Products, Inc. (''Apache'' or ''ANPI'') for allegedly violating the Arizona State Implementation Plan (the ''Arizona SIP''), including the requirements for the Prevention of Significant Deterioration (''PSD''), as set forth in Arizona Administrative Code (''AAC''), which has been approved by the Environmental Protection Agency (''EPA'') under Section 110 of the Clean Air Act, 42 U.S.C. 7410, and for allegedly violating a federal standard of performance for new sources (''NSPS'') for nitric acid plants (40 CFR part 60, subpart G) promulgated under Section 111 of the Clean Air Act, 42 U.S.C. 7411.

Under the decree, Apache will perform a computer-simulated air flow study for a nitric acid production unit called ''AOP–4'' to determine, at a minimum, the feasibility of Selective Catalytic Reduction as a control technology. The results of the study will be submitted to Arizona Department of Environmental Quality (''ADEQ''), the permitting authority under the Arizona SIP, and ADEQ will make a Best Available Control Technology determination and issue an appropriate permit based on its finding. Under the proposed consent decree, Apache also will pay a civil penalty of $600,000.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural

Resources Division, and should refer to *United States* v. *Apache Nitrogen Products, Inc.,* D.J. Ref. No. 90–5–2–1–10736. 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: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $ 15.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–27944 Filed 12–27–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Modification of Consent Decree Under the Clean Air Act

On December 22, 2017, the Department of Justice lodged a proposed modification to a Consent Decree with the United States District Court for the Western District of Oklahoma in *United States and the Oklahoma Department of Environmental Quality and the State of Alabama* v. *Continental Carbon Company,* Civil Case No. 5:15–cv–00290–F (W.D. Okla.).

The original Consent Decree was entered on May 7, 2015, and resolved civil claims under the Clean Air Act at the Defendant's three carbon black manufacturing facilities located in Oklahoma, Alabama, and Texas. The Consent Decree imposed various pollution control requirements on Defendant's facilities, including requirements related to sulfur dioxide, nitrogen oxides, and particulate matter emissions. At the Ponca City facility in Oklahoma and the Phenix City facility in Alabama, these pollution control requirements included, among other requirements, installation of Dry Gas Scrubber or Wet Gas Scrubber (''DGS'' or ''WGS'') systems designed to reduce sulfur dioxide emissions, and Selective Catalytic Reduction (''SCR'') systems to reduce nitrogen oxide emissions. The sulfur dioxide reduction systems are also expected to result in an ancillary reduction in particulate matter emissions.

The parties have now agreed to modify certain Consent Decree deadlines. The modification resolve issues regarding the feasibility of the affected deadlines and resolves a potential dispute between the parties concerning them. The modification does not change Defendant's ultimate obligation to install and operate pollution controls at its facilities.

The publication of this notice opens a period for public comment on the proposed modification to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Continental Carbon Company,* Civil Case No. 5:15–cv–00290–F (W.D. Okla.), D.J. Ref. No. 90–5–2–1–09729. 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, D.C. 20044–7611.

During the public comment period, the proposed modification to the Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed modification upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $4.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–28102 Filed 12–27–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 22, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Louisiana in the lawsuit entitled *United States and the State of Louisiana* v. *Orion Engineered Carbons, LLC* (W.D. La.), Civil Action No. 6:17–cv–01660.

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States and the State of Louisiana allege that Orion Engineered Carbons, LLC (''Defendant''), failed to comply with certain requirements of the Act intended to protect air quality at four carbon black manufacturing facilities in Franklin, Louisiana, Borger, Texas, Orange, Texas, and Belpre, Ohio. The complaint seeks injunctive relief and civil penalties for violations of the Act's Prevention of Significant Deterioration provisions, 42 U.S.C. 7470–92, the Act's Nonattainment New Source Review provisions, 42 U.S.C. 7501–7515, the Act's Title V permit provisions and certain operating permit requirements, 42 U.S.C. 7661a–76661f, and various Clean Air Act implementing regulations. The complaint alleges that Defendant failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of sulfur dioxide (''SO_2''), nitrogen oxides (''NO_X''), and/or particulate matter (''PM'') at its four carbon black facilities.

The proposed Consent Decree would resolve violations for certain provisions of the Act at the four facilities, and would require the Defendant to reduce harmful SO_2, NO_X, and PM emissions through the installation and operation of pollution controls. The Defendant will also spend $550,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the facilities, and pay a civil penalty of $800,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant

Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Orion Engineered Carbon, LLC* (W.D. La.), D.J. Ref. No. 90–5–2–1–10189. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General U.S. DOJ—ENRD P.O. Box 7611 Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $29.50 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas P. Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–28098 Filed 12–27–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Air Act

On December 22, 2017, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Louisiana in the lawsuit entitled *United States et al.* v. *Columbian Chemical Company,* (W.D. La.), Civil Case. No. 6:17–cv–01661.

In this civil enforcement action under the federal Clean Air Act (''Act''), the United States the Louisiana Department of Environmental Quality, and the Kansas Department of Health and Environment allege that Columbian Chemical Company (''Defendant''), failed to comply with certain requirements of the Act intended to protect air quality at three carbon black manufacturing facilities in North Bend, Louisiana, and Hickok, Kansas. The complaint seeks injunctive relief and civil penalties for violations of the Clean Air Act's Prevention of Significant Deterioration (''PSD'') provisions, 42 U.S.C. 7470–92 and various Clean Air Act implementing regulations. The complaint alleges that Defendant failed to obtain appropriate permits and failed to install and operate required pollution control devices to reduce emissions of sulfur dioxide (''SO_2''), nitrogen oxides (''NO_X''), and/or particulate matter (''PM'') at the tow facilities.

The proposed Consent Decree would resolve violations for certain provisions of the Act at the three facilities, and would require the Defendant to reduce harmful SO_2, NO_X, and particulate matter emissions through the installation and operation of pollution controls. The Defendant will also spend $375,000 to fund environmental mitigation projects that will further reduce emissions and benefit communities adversely affected by the pollution from the facilities, and pay a civil penalty of $650,000.

The publication of this notice opens a period for public comment on the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States et al.* v. *Colombian Chemical Company* (W.D. La.), D.J. Ref. No. 90–5–2–1–10943. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	Send them to:
By email	pubcomment-ees.enrd@usdoj.gov.
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the proposed Consent Decree may be examined and downloaded at this Justice Department website: *http://www.usdoj.gov/enrd/consent-decrees.* The Justice Department will provide a paper copy of the proposed Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $26.75 (25 cents per page reproduction cost) payable to the United States Treasury.

Thomas Carroll,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–28101 Filed 12–27–17; 8:45 am]

BILLING CODE 4410–15–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on NuScale; Notice of Meeting

The ACRS Subcommittee on NuScale will hold meetings on January 23–24, 2018, at 11545 Rockville Pike, Room T–2B1, Rockville, Maryland 20852.

The meetings will be open to public attendance with the exception of portions that may be closed to protect information that is proprietary pursuant to 5 U.S.C. 552b(c)(4). The agenda for the subject meetings shall be as follows:

Tuesday, January 23, 2018—1:00 p.m. Until 5:00 p.m.

The Subcommittee will review draft proposed acceptance criteria for reviewing an exemption request from GDC 27 as part of the NuScale design certification application. The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Wednesday, January 24, 2018—8:30 a.m. Until 12:00 p.m.

The Subcommittee will discuss with the staff AREVA Topical Report ANP–10337, ''PWR Fuel Assembly Structural Response to Externally Applied Dynamic Excitations.'' The Subcommittee will hear presentations by and hold discussions with the NRC staff, NuScale staff and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), Michael Snodderly (Telephone 301–415- 2241 or Email: *Michael.Snodderly@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 4, 2017 (82 FR 46312).

Detailed meeting agendas and meeting transcripts are available on the NRC website at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the website cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, Maryland. After registering with Security, please contact Ms. Kendra Freeland (Telephone 301–415–6702 or 301–415–7998) to be escorted to the meeting room.

Dated: December 21, 2017.

Mark L. Banks,

Chief, Technical Support Branch, Advisory Committee on Reactor Safeguards.

[FR Doc. 2017–28041 Filed 12–27–17; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: CSRS/FERS Documentation in Support of Disability Retirement Application, Standard Form 3112

AGENCY: Office of Personnel Management.

ACTION: 30-Day notice and request for comments.

SUMMARY: The Retirement Operations, Retirement Services, Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection, CSRS/FERS Documentation in Support of Disability Retirement Application, Standard Form 3112.

DATES: Comments are encouraged and will be accepted until January 29, 2018.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Attention: Desk Officer for the Office of Personnel Management or sent via electronic mail to *oira_submission@omb.eop.gov* or faxed to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of this information collection, with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, Office of Personnel Management, 1900 E Street NW, Room 3316–L, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910 or via telephone at (202) 606–4808.

SUPPLEMENTARY INFORMATION: As required by the Paperwork Reduction Act of 1995 OPM is soliciting comments for this collection. The information collection (OMB No. 3206–0228) was previously published in the **Federal Register** on April 13, 2017, at 82 FR 17893, allowing for a 60-day public comment period. No comments were received for this collection. The purpose of this notice is to allow an additional 30 days for public comments. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
3. Enhance the quality, utility, and clarity of the information to be collected; and
4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Standard Form 3112, CSRS/FERS Documentation in Support of Disability Retirement Application collects information from applicants for disability retirement so that OPM can determine whether to approve a disability retirement under title 5, U.S.C. Sections 8337 and 8455. The applicant will only complete Standard Forms 3112A and 3112C. Standard Forms 3112B, 3112D and 3112E will be completed by the immediate supervisor and the employing agency of the applicant.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: CSRS/FERS Documentation in Support of Disability Retirement Application.

OMB Number: 3206–0228.

Frequency: On occasion.

Affected Public: Individual or Households.

Number of Respondents: SF 3112A = 1,350; SF 3112C = 12,100.

Estimated Time per Respondent: SF 3112A = 30 minutes; SF 3112C = 60 minutes.

Total Burden Hours: 12,775.

Office of Personnel Management.

Kathleen M. McGettigan,

Acting Director.

[FR Doc. 2017–28013 Filed 12–27–17; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

[Docket Nos. CP2018–115; MC2018–75 and CP2018–116; CP2018–117]

New Postal Products

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing recent Postal Service filings for the Commission's consideration concerning negotiated service agreements. This notice informs the public of the filing, invites public comment, and takes other administrative steps.

DATES: *Comments are due:* January 2, 2018.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER**

INFORMATION CONTACT section by telephone for advice on filing alternatives.

FOR FURTHER INFORMATION CONTACT: David A. Trissell, General Counsel, at 202–789–6820.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2018–115; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* December 20, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Matthew R. Ashford; *Comments Due:* January 2, 2018.

2. *Docket No(s).:* MC2018–75 and CP2018–116; *Filing Title:* USPS Request to Add Priority Mail Contract 400 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 20, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Lawrence Fenster; *Comments Due:* January 2, 2018.

3. *Docket No(s).:* CP2018–117; *Filing Title:* Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 7 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal; *Filing Acceptance Date:* December 20, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Matthew R. Ashford; *Comments Due:* January 2, 2018.

This notice will be published in the **Federal Register**.

Stacy L. Ruble,

Secretary.

[FR Doc. 2017–27972 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service Contract 89 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–78, CP2018–120.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27986 Filed 12–27–17; 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 401 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–77, CP2018–119.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27983 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 22, 2017, it filed with the Postal Regulatory

Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 67 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–82, CP2018–124.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–28035 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 22, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 69 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–84, CP2018–126.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–28037 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express and 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express & Priority Mail Contract 55 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–81, CP2018–123.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27988 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 22, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 70 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–85, CP2018–127.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–28038 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail and First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 22, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail & First-Class Package Service Contract 68 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–83, CP2018–125.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–28036 Filed 12–27–17; 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 402 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–80, CP2018–122.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27984 Filed 12–27–17; 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 28, 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 20, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Contract 400 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–75, CP2018–116.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27982 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—Priority Mail Express, Priority Mail, & First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add Priority Mail Express, Priority Mail, & First-Class Package Service Contract 31 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–76, CP2018–118.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27985 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

POSTAL SERVICE

Product Change—First-Class Package Service Negotiated Service Agreement

AGENCY: Postal Service™.

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a 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 28, 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 21, 2017, it filed with the Postal Regulatory Commission a *USPS Request to Add First-Class Package Service Contract 90 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2018–79, CP2018–121.

Elizabeth A. Reed,

Attorney, Corporate and Postal Business Law.

[FR Doc. 2017–27987 Filed 12–27–17; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82388; File No. SR–BatsBZX–2017–54]

Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Order Instituting Proceedings To Determine Whether To Approve or Disapprove a Proposed Rule Change, as Modified by Amendment No. 2 Thereto, To List and Trade Shares of the iShares Inflation Hedged Corporate Bond ETF, a Series of the iShares U.S. ETF Trust, Under Rule 14.11(i), Managed Fund Shares

December 22, 2017.

I. Introduction

On September 7, 2017, Bats BZX Exchange, Inc. (''BZX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade Shares (''Shares'') of the iShares Inflation Hedged Corporate Bond ETF (''Fund'') under Exchange Rule 14.11(i) (''Managed Fund Shares''). The Commission published notice of the proposed rule change in the **Federal Register** on September 27, 2017.[3] On November 7, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] On December 8, 2017, the Exchange submitted Amendment No. 1 to the proposed rule change, which replaced and superseded the proposed rule change as originally filed. On December 15, 2017, the Exchange withdrew Amendment No.1 and submitted Amendment No. 2 to the proposed rule change, which replaced and superseded the proposed rule change.[6] The Commission has received no comments on the proposed rule change. This order institutes proceedings under Section 19(b)(2)(B) of the Act [7] to determine whether to

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 81671 (September 21, 2017), 82 FR 45103.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 82025, 82 FR 52763 (November 14, 2017). The Commission designated December 26, 2017, as the date by which it should approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] In Amendment No. 2, the Exchange: (1) Identified the adviser of the Fund and made certain representations relating to the adviser and its personnel, including (a) that the adviser has implemented ''fire walls'' with respect to its broker-dealer affiliates regarding access to information concerning the composition of and/or changes to the Fund's portfolio; and (b) personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio; (2) clarified the investment strategy and holdings of the Fund, including that (a) all listed Inflation Swaps (as defined herein) held by the Fund will be traded on a U.S. Swap Execution Facility (''SEF'') registered with the Commodity Futures Trading Commission (''CFTC''); and (b) that all total return swaps held by the Fund will be traded over-the-counter (''OTC'') and will generally reference Treasury Inflation-Protected Securities, the Consumer Price Index, or a corporate bond index; (3) represented that the Fund's investments in derivative instruments will be made in accordance with the Investment Company Act of 1940 (''1940 Act'') and consistent with the Fund's investment objective and policies, and that the Fund would take certain actions to mitigate and disclose leveraging risk; (4) stated that price information for cash equivalents will be available from major market data vendors; (5) provided additional justification for why the Fund's proposed investments are consistent with the Exchange Act; (6) made additional representations regarding the ability of the Exchange to surveil trading in the Shares and certain of the underlying investments, including that the Exchange has a policy prohibiting the distribution of material non-public information by its employees; and (7) made other clarifications, corrections, and technical changes. Amendment No. 2 is available at *https://www.sec.gov/comments/sr-batsbzx-2017-54/batsbzx201754.htm.*

[7] 15 U.S.C. 78s(b)(2)(B).

approve or disapprove the proposed rule change, as modified by Amendment No. 2.

II. Exchange's Description of the Proposed Rule Change, as Modified by Amendment No. 2 [8]

The Exchange proposes to list and trade Shares of the Fund under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange. The Shares will be offered by the iShares U.S. ETF Trust (''Trust''), which is registered with the Commission as an open-end investment company.[9] BlackRock Fund Advisors (''Adviser'') will be the investment adviser to the Fund.[10]

According to the Exchange, the Fund will be an actively managed exchange-traded fund that seeks to mitigate the inflation risk of a portfolio with exposure to U.S. dollar-denominated investment-grade corporate bonds.

A. Fund Investments

Under Normal Market Conditions,[11] the Fund seeks to achieve its investment objective by investing at least 80% of its net assets in the iShares iBoxx $ Investment Grade Corporate Bond ETF (''Underlying Fund''), in U.S. dollar-denominated investment-grade corporate bonds, in one or more other exchange-traded funds (''ETFs'') that principally invest in U.S. dollar-denominated investment-grade corporate bonds,[12] and in Inflation Hedging Instruments (as defined below).

The Fund will gain exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through investing in the Underlying Fund. As an alternative, the Fund may gain such exposure by investing in U.S. dollar-denominated investment-grade corporate bonds or other ETFs that are listed on a U.S. national securities exchange that principally invest in U.S. dollar-denominated investment-grade corporate bonds.

The Fund will attempt to mitigate the inflation risk of the Fund's exposure to U.S. dollar-denominated investment-grade corporate bonds primarily through the use of either OTC or listed inflation swaps (*i.e.,* contracts in which the Fund will make fixed-rate payments based on notional amount while receiving floating-rate payments determined from an inflation index) (''Inflation Swaps''),[13] which are managed on an active basis. As an alternative, the Fund may also attempt to mitigate inflation risk through investing in other products designed to transfer inflation risk from one party to another, including, but not limited to, Treasury Inflation-Protected Securities (''TIPS''), total return swaps,[14] credit default swaps,[15] and U.S. Treasury futures (collectively with Inflation Swaps, ''Inflation Hedging Instruments''). The Fund may hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments.

The Fund may also hold certain fixed income securities and cash and cash equivalents in order to collateralize its derivatives positions.

B. Investment Restrictions

The Exchange represents that the Fund's investments, including derivatives, will be consistent with the 1940 Act and the Fund's investment objective and policies and will not be used to enhance leverage (although certain derivatives and other investments may result in leverage).[16] That is, while the Fund will be permitted to borrow as permitted under the 1940 Act, the Fund's investments will not be used to seek performance that is the multiple or inverse multiple (*e.g.,* 2Xs or 3Xs) of the Fund's primary broad-based securities benchmark index (as defined in Form N–1A).

The Fund will only use those derivatives described above and included in the defined term Inflation Hedging Instruments. The Fund's use of derivative instruments will be collateralized. The Fund will only use derivative instruments in order to attempt to mitigate the inflation risk of the U.S. dollar-denominated investment-grade corporate bonds exposure.

C. Application of Generic Listing Standards

The Exchange proposes to list and trade the Shares under Rule 14.11(i), which provides generic listing standards for Managed Fund Shares. According to the Exchange, certain of the Fund's investments may not comply with all of the generic listing requirements of Rule 14.11(i). Specifically, the Fund will meet all the requirements of Rule 14.11(i) on an initial and ongoing basis except for those set forth in Rules 14.11(i)(4)(C)(iv)(a), 14.11(i)(4)(C)(iv)(b), and 14.11(i)(4)(C)(v).

Rule 14.11(i)(4)(C)(iv)(a) requires that, on both an initial and continuing basis, in the aggregate, at least 90% of the weight of the portfolio holdings invested in futures, exchange-traded options, and listed swaps (calculated using the aggregate gross notional value of such holdings) shall consist of futures, options, and swaps for which the Exchange may obtain information via the Intermarket Surveillance Group (''ISG'') from other members or affiliates

[8] For more information regarding the Fund and the Shares, *see* Amendment No. 2, *supra* note 6.

[9] The Trust is registered under the 1940 Act. The Trust has filed a registration statement on behalf of the Fund on Form N–1A with the Commission. *See* Registration Statement on Form N–1A for the Trust, dated April 6, 2017 (File Nos. 333–179904 and 811–22649). In addition, the Exchange states that the Commission has issued an order granting certain exemptive relief to the Adviser under the 1940 Act. *See* Investment Company Act Release No. 29571 (January 24, 2011) (File No. 812–13601).

[10] The Adviser is not a registered broker-dealer, but is affiliated with multiple broker-dealers and has implemented ''fire walls'' with respect to such broker-dealers regarding access to information concerning the composition of and/or changes to the Fund's portfolio. In addition, Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with another broker-dealer, or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer, it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition of and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

[11] The term ''Normal Market Conditions'' is defined in Rule 14.11(i)(3)(E).

[12] The Exchange states that for the purposes of this proposed rule change, the term ETF includes Portfolio Depositary Receipts, Index Fund Shares, and Managed Fund Shares as defined in Rule 14.11(b), (c), and (i), respectively, and their equivalents on other national securities exchanges.

[13] The Exchange states that all Inflation Swaps held by the Fund will be listed and/or centrally cleared in order to reduce counterparty risk. In addition, all listed Inflation Swaps held by the Fund will be traded on a U.S. SEF registered with the CFTC.

[14] All total return swaps held by the Fund will traded OTC and will generally reference TIPS, the Consumer Price Index, or a corporate bond index. The Exchange represents that the Fund will attempt to limit counterparty risk in non-cleared swap contracts by entering into such contracts only with counterparties the Adviser believes are creditworthy and by limiting the Fund's exposure to each counterparty. The Adviser will monitor the creditworthiness of each counterparty and the Fund's exposure to each counterparty on an ongoing basis.

[15] Credit default swaps held by the Fund will be traded on a U.S. SEF registered with the CFTC.

[16] The Fund will include appropriate risk disclosure in its offering documents, including leveraging risk. Leveraging risk is the risk that certain transactions of a fund, including a fund's use of derivatives, may give rise to leverage, causing a fund to be more volatile than if it had not been leveraged. The Fund's investments in in derivative instruments will be made in accordance with the 1940 Act and consistent with the Fund's investment objective and policies. To mitigate leveraging risk, the Fund will segregate or earmark liquid assets determined to be liquid by the Adviser in accordance with procedures established by the Trust's Board and in accordance with the 1940 Act or otherwise cover the transactions that give rise to such risk. These procedures have been adopted consistent with Section 18 of the 1940 Act and related Commission guidance.

of the ISG or for which the principal market is a market with which the Exchange has a comprehensive surveillance sharing agreement. The Exchange states that the Fund's investments in certain listed credit default swaps and listed Inflation Swaps will not comply with this requirement.

Rule 14.11(i)(4)(C)(iv)(b) requires that the aggregate gross notional value of listed derivatives based on any single underlying reference asset not exceed 30% of the weight of the portfolio (including gross notional exposures). The Exchange states that the Fund's investments in listed derivatives, which include U.S. Treasury futures, credit default swaps, and certain Inflation Swaps, will not comply with this requirement.[17]

Rule 14.11(i)(4)(C)(v) requires that, on both an initial and continuing basis, the aggregate gross notional value of OTC derivatives shall not exceed 20% of the weight of the portfolio (including gross notional exposures). The Exchange states that the Fund's holdings in OTC derivatives, which include total return swaps and OTC Inflation Swaps, will not comply with this requirement.

III. Proceedings To Determine Whether To Approve or Disapprove SR–BatsBZX–2017–54 and Grounds for Disapproval Under Consideration

The Commission is instituting proceedings pursuant to Section 19(b)(2)(B) of the Act[18] to determine whether the proposed rule change should be approved or disapproved. Institution of such proceedings is appropriate at this time in view of the legal and policy issues raised by the proposed rule change. Institution of proceedings does not indicate that the Commission has reached any conclusions with respect to any of the issues involved. Rather, as described below, the Commission seeks and encourages interested persons to provide comments on the proposed rule change.

Pursuant to Section 19(b)(2)(B) of the Act,[19] the Commission is providing notice of the grounds for disapproval under consideration. The Commission is instituting proceedings to allow for additional analysis of the proposed rule change's consistency with Section 6(b)(5) of the Act, which requires, among other things, that the rules of a national securities exchange be ''designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade,'' and ''to protect investors and the public interest.''[20]

Under the proposal, the Fund may hold up to 50% of the weight of its portfolio (including gross notional exposure) in Inflation Hedging Instruments, which include, but are not limited to, TIPS, listed and OTC Inflation Swaps, OTC total return swaps, listed credit default swaps, and U.S. Treasury futures.[21] The Commission notes that the definition of Inflation Hedging Instruments is not exhaustive and may include certain investments that are not enumerated in the filing. The Commission seeks commenters' views on the sufficiency of the information that is provided with respect to Inflation Hedging Instruments, which could comprise up to 50% of the weight of the Fund's portfolio, to support a determination that the listing and trading of the Shares would be consistent with Section 6(b)(5) of the Act.

IV. Procedure: Request for Written Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended by Amendment No. 2, is consistent with Section 6(b)(5) of the Act or any other provision of the Act, or the rules and regulations thereunder. Although there do not appear to be any issues relevant to approval or disapproval that would be facilitated by an oral presentation of views, data, and arguments, the Commission will consider, pursuant to Rule 19b–4, any request for an opportunity to make an oral presentation.[22]

Interested persons are invited to submit written data, views, and arguments regarding whether the proposal should be approved or disapproved by January 18, 2018. Any person who wishes to file a rebuttal to any other person's submission must file that rebuttal by February 1, 2018.

Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–BatsBZX–2017–54 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 Numbers SR–BatsBZX–2017–54. 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–BatsBZX–2017–54 and should be submitted on or before January 18, 2018. Rebuttal comments should be submitted by February 1, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[23]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28076 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[17] Rule 14.11(i)(4)(C)(iv)(b) also requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets not exceed 65% of the weight of the portfolio (including gross notional exposures). The Exchange states that the Fund will meet this requirement.

[18] 15 U.S.C. 78s(b)(2)(B).

[19] *Id.*

[20] 15 U.S.C. 78f(b)(5).

[21] *See* Amendment No. 2, *supra* note 6.

[22] Section 19(b)(2) of the Act, as amended by the Securities Act Amendments of 1975, Pub. L. 94–29 (June 4, 1975), grants the Commission flexibility to determine what type of proceeding—either oral or notice and opportunity for written comments—is appropriate for consideration of a particular proposal by a self-regulatory organization. *See* Securities Act Amendments of 1975, Senate Comm. on Banking, Housing & Urban Affairs, S. Rep. No. 75, 94th Cong., 1st Sess. 30 (1975).

[23] 17 CFR 200.30–3(a)(57).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82396; File No. SR–ISE–2017–108]

Self-Regulatory Organizations; Nasdaq ISE, LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend the Schedule of Fees To Clarify the Market Maker Plus Program

December 22, 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 12, 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 the Schedule of Fees to clarify the Market Maker Plus program.

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 a Market Maker Plus program for regular orders in Select Symbols[3] whereby Market Makers that contribute to market quality by maintaining tight markets are eligible for enhanced rebates. The purpose of the proposed rule change is to amend the Schedule of Fees to clarify how the Exchange provides Market Maker Plus rebates under the Schedule of Fees.

A Market Maker Plus is a Market Maker who is on the National Best Bid or National Best Offer (''NBBO'') a specified percentage of the time for series trading between $0.03 and $3.00 (for options whose underlying stock's previous trading day's last sale price was less than or equal to $100) and between $0.10 and $3.00 (for options whose underlying stock's previous trading day's last sale price was greater than $100) in premium in each of the front two expiration months.[4] Currently, the specified percentage for time at the NBBO for Select Symbols other than SPY and QQQ is 80% to less than 85% for Tier 1, 85% to less than 95% for Tier 2, and 95% or greater for Tier 3. For SPY and QQQ only, the specified percentage for time at the NBBO is 70% to less than 80% for Tier 1, 80% to less than 85% for Tier 2, 85% to less than 90% for Tier 3, and 90% or greater for Tier 4.

Due to how quoting infrastructure is designed on INET, when determining if the Market Maker meets the above specified percentages, Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations.[5] If any badge/suffix combination meets the specified percentage for a tier, the rebates for that tier are applied to executions for all badge/suffix combinations used by the member to trade the product—*i.e.,* a member's highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol. The same logic applies for linked rebates in SPY/QQQ, meaning that if a member achieves a higher tier of Market Maker Plus for any badge/suffix combination in one product (*e.g.,* SPY) but not for badge/suffix combinations in the other linked product (*e.g.,* QQQ), the member would receive the linked rebate in the other product for all badge/suffix combinations.

For example, assume Market Maker ABC is configured to trade SPY in the following badge/suffix combinations: 123A, 123B, and 321A, and is on the NBBO 97% of the time in 123A, 86% of the time in 123B, and 92% of the time in 321A. Based on these facts, Market Maker ABC would qualify for Tier 3 rebates in SPY for 123A based on a time at the NBBO of 95% or greater. In addition Market Maker ABC would qualify for the same Tier 3 rebates in SPY for 123B and 321A as the highest tier achieved is applied to all badge/suffix combinations. If Market Maker ABC also quotes QQQ in 321A, and is on the NBBO 80% of the time for that badge/suffix, it would similarly receive the Tier 3 Linked Rebate for QQQ in 321A based on quoting activity for SPY in 123A.

Based on the above, the Exchange proposes to amend footnote 5 under Section I. Regular Order Fees and Rebates to provide that: ''Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations. Market Maker Plus status is calculated independently based on quotes entered in a symbol for each of the Market Maker's badge/suffix combinations, and the highest tier achieved for any badge/suffix combination quoting that symbol applies to executions across all badge/suffix combinations that the member uses to trade in that symbol.'' In addition, the Exchange proposes to amend the second sentence of footnote 9 under Section I. Regular Order Fees and Rebates to provide that: ''Linked maker rebate applies to executions in SPY or QQQ if the Market Maker does not achieve the applicable tier in that symbol but achieves the tier (*i.e.,* any of Market Maker Plus Tiers 2–4) *for any badge/suffix combination* in the other symbol, in which case the higher tier achieved applies to both symbols.''

Furthermore, the Schedule of Fees provides that if a Market Maker achieves Market Maker Plus status, a $0.10 per contract fee applies when trading against Priority Customer complex orders that leg into the regular order book, and there will be no fee charged or rebate provided when trading against non-Priority Customer complex orders that leg into the regular order book. The

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] ''Select Symbols'' are options overlying all symbols listed on the Nasdaq ISE that are in the Penny Pilot Program.

[4] A Market Maker's single best and single worst quoting days each month based on the front two expiration months, on a per symbol basis, will be excluded in calculating whether a Market Maker qualifies for this rebate, if doing so will qualify a Market Maker for the rebate. Other than days where the Exchange closes early for holiday observance, any day that the market 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 the Market Maker Plus tier calculation; provided that the Exchange will only remove the day for members that would have a lower time at the NBBO for the specified series with the day included.

[5] Market Makers may enter quotes in a symbol using one or more unique, exchange assigned identifiers—*i.e.,* badge/suffix combinations.

$0.10 per contract fee described above has always been applied instead of the tiered rebate that normally applies to Market Maker Plus executions.[6] To increase transparency to members, the Exchange proposes to explicitly state in the Schedule of Fees that no Market Maker Plus rebate is provided when a fee is charged. As proposed, the first line of footnote 10 under Section I. Regular Order Fees and Rebates will be amended to provide that: ''A $0.10 per contract fee applies *instead of the applicable Market Maker Plus rebate* when trading against Priority Customer complex orders that leg into the regular order book.'' Although this change is consistent with current practice, the Exchange believes that it will eliminate any potential confusion around whether a rebate is provided in addition to the fee charged when trading against Priority Customer complex orders that leg into the regular order book.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Exchange believes that the proposed rule change is reasonable and equitable as it identifies how Market Maker Plus rebates are provided on INET, which performs the Market Maker Plus calculation at the badge/suffix level and applies Market Maker Plus rebates to executions across all badge/suffix combinations that the member uses to trade in that symbol, or to trade in a linked symbol in the case of linked maker rebates for SPY/QQQ. The Exchange believes that it is appropriate to amend the Schedule of Fees so that members are appropriately apprised of how the Market Maker Plus program is implemented on INET. By including this detail in the Schedule of Fees, the proposed rule change will increase transparency around the Exchange's billing to the benefit of its members, and in particular, Market Makers that participate in the Market Maker Plus Program.

The INET implementation being codified in this proposed rule change is different in one respect from the prior implementation on the legacy T7 trading system. Specifically, although the T7 billing system similarly applied the rebates to all of a Market Maker's executions in a symbol where the member met the Market Maker Plus requirements, the calculation for time at the NBBO was based on all quotes submitted by the member. On the legacy system, Market Makers were assigned Business Unit designations for their quoting, with the majority of Market Makers being configured with only one Business Unit for all of the firm's quoting activity across the suite of products listed by the Exchange.[9] On INET, by contrast, Market Makers are assigned one or more accounts and can associate different badge/suffix combinations with each of those accounts—for example, to manage quotes in a particular product. As currently implemented on INET, Market Makers that quote a product across multiple badge/suffix combinations have to qualify for a tier for one or more badge/suffix combinations in order to qualify for that tier of Market Maker Plus. Because of the different system architecture, which allows flexibility in setting up badge/suffix combinations associated with a Market Maker account(s), the INET billing system does not aggregate quoting activity across these separate badge/suffix combinations to determine eligibility. However, once a member qualifies for one badge/suffix combination, rebates are paid across all of the Market Maker's badge/suffix combinations that trade the product, thereby ensuring that Market Makers receive this benefit across the entire firm when enhancing market quality.

The vast majority of Market Makers that choose to enter quotes for a product using a single badge/suffix combination on INET are unaffected by this change, which only impacts firms that decide to quote a product across multiple badge/suffix combinations. In conducting an analysis of Market Makers potentially impacted by this change because the member quotes a single symbol using more than one badge/suffix combination on INET, the Exchange found only one member that did so and only during one month in a total of three symbols. The Exchange therefore believes that members are unlikely to be negatively impacted in their ability to earn rebates for their market quality contribution under the INET implementation.

Furthermore, for Market Makers that do choose to enter quotes for a single product using multiple badge/suffix combinations, the Exchange believes that this implementation is appropriate as these members may be conducting separate business across these badge/suffix combinations and should therefore have their contribution to market quality measured at that level. Nevertheless, as mentioned above, the program benefits continue to accrue to all badge/suffix combinations once one badge/suffix combination qualifies for that tier of Market Maker Plus. Paying rebates across the entire firm based on the highest tier of Market Maker Plus achieved in a symbol adds an extra incentive for members to qualify for Market Maker Plus in one or more badge/suffix combinations by maintaining quality markets based on time at the NBBO.

The Exchange also believes that the proposed changes are not unfairly discriminatory as all Market Makers are free to configure their quoting activity across one or more badge/suffix combinations based on their business or other needs, and will be treated uniformly based on their quoting activity (*i.e.,* time at the NBBO) and configuration (*i.e.,* badge/suffix setup) in the manner described in this proposed rule change. As described above, this change is unlikely to have any significant effect on any Market Maker's ability to earn rebates under the Market Maker Plus program because it is rare for Market Makers to quote a single product across multiple badge/suffix combinations, and any impact can be mitigated by the Market Maker determining to quote a product using only one badge/suffix combination. Moreover, to the extent that any Market Maker chooses to use multiple badge/suffix combinations to quote a particular symbol, the Exchange believes that such member may be conducting separate business across these badge/suffix combinations and it is therefore not unfairly discriminatory to have the firm's contribution to market quality measured at that level. Furthermore, the proposed rule change will increase transparency around how Market Maker Plus rebates are applied, which is beneficial for all members.

Finally, the Exchange believes that the proposed clarification to the fee charged for trading against Priority Customer complex orders that leg into the regular order book is reasonable, equitable, and not unfairly discriminatory as it avoids potential member confusion about whether a rebate is provided when the fee is charged. Although prior filings were

[6] *See* Securities Exchange Act Release No. 72817 (August 12, 2014), 79 FR 48801 (August 18, 2014) (SR–ISE–2014–39).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] A number of users could be permissioned for each Business Unit.

more clear that a rebate is not provided when a fee is charged, the Exchange wishes to be explicit about this in the text of the Schedule of Fees. The Exchange believes that the proposed change will increase transparency around the Exchange's billing to the benefit of its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change describes the INET implementation of the Market Maker Plus program. While certain elements of the program are changed from the prior T7 practice, for the reasons described in this proposed rule change the Exchange does not believe that any members will be significantly impacted by the changes. The Exchange therefore believes that the Market Maker Plus program will continue to encourage competition by incentivizing Market Makers to provide liquidity and maintain tight markets in Select Symbols. Furthermore, the proposed rule change explains that rebates are not provided when a fee is charged for trading against Priority Customer complex orders that leg into the regular order book. This language merely describes the Exchange's billing, which remains unchanged, and will increase transparency to members without any impact on competition. The Exchange 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. 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.

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,[10] and Rule 19b–4(f)(2)[11] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (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–2017–108 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–2017–108. 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–2017–108 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28081 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

[11] 17 CFR 240.19b–4(f)(2).

[12] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82372; File No. SR–NYSEArca–2017–140]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change To List and Trade Shares of the Perth Mint Physical Gold ETF Trust Under NYSE Arca Rule 8.201–E

December 21, 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, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade shares of the Perth Mint Physical Gold ETF Trust under NYSE Arca Rule 8.201–E. The proposed change is available on the Exchange's website at *www.nyse.com,* at the principal office of

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the Perth Mint Physical Gold ETF Trust (''Trust''), under NYSE Arca Rule 8.201–E.[4] Under NYSE Arca Rule 8.201–E, the Exchange may propose to list and/or trade pursuant to unlisted trading privileges (''UTP'') ''Commodity-Based Trust Shares''.[5]

The Trust will not be registered as an investment company under the Investment Company Act of 1940, as amended,[6] and is not required to register under such act. The Trust is not a commodity pool for purposes of the Commodity Exchange Act, as amended.[7]

The sponsors of the Trust will be Gold Corporation (the ''Custodial Sponsor'') and Exchange Traded Concepts, LLC (''ETC'' or the ''Administrative Sponsor'' and, together with the Custodial Sponsor, the ''Sponsors''). Gold Corporation, doing business as the Perth Mint, is a Western Australian Government owned statutory body corporate established by the *Gold Corporation Act* 1987 (Western Australia). ETC is an Oklahoma limited liability company majority owned by Cottonwood ETF Holdings LLC. ETC is a registered investment adviser and provides investment advisory services to domestic and international equity and fixed income ETFs. The Trustee will be the Bank of New York Mellon (the ''Trustee''). Gold Corporation will also serve as custodian of the Trust's gold bullion (in such capacity, the ''Custodian'').[8]

The Commission has previously approved listing on the Exchange under NYSE Arca Rule 5.2–E(j)(5) and 8.201–E of other precious metals and gold-based commodity trusts, including GraniteShares Gold Trust;[9] VanEck Merk Gold Trust (formerly Merk Gold Trust);[10] ETFS Gold Trust,[11] ETFS Platinum Trust[12] and ETFS Palladium Trust (collectively, the ''ETFS Trusts'');[13] APMEX Physical-1 oz. Gold Redeemable Trust;[14] Sprott Gold Trust;[15] SPDR Gold Trust (formerly, streetTRACKS Gold Trust); iShares Silver Trust;[16] iShares COMEX Gold Trust,[17] Long Dollar Gold Trust,[18] and Euro Gold Trust, Pound Gold Trust and Yen Gold Trust.[19] Prior to their listing on the Exchange, the Commission approved listing of the streetTRACKS Gold Trust on the New York Stock Exchange (''NYSE'')[20] and listing of iShares COMEX Gold Trust and iShares Silver Trust on the American Stock Exchange LLC.[21] In addition, the Commission has approved trading of the streetTRACKS Gold Trust and iShares Silver Trust on the Exchange pursuant to UTP.[22]

The Exchange represents that the Shares satisfy the requirements of NYSE Arca Rule 8.201–E and thereby qualify for listing on the Exchange.[23]

[4] On August 30, 2017, the Trust submitted to the Commission its draft registration statement on Form S–1 (the ''Registration Statement'') under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act''). The Jumpstart Our Business Startups Act, enacted on April 5, 2012, added Section 6(e) to the Securities Act. Section 6(e) of the Securities Act provides that an ''emerging growth company'' may confidentially submit to the Commission a draft registration statement for confidential, non-public review by the Commission staff prior to public filing, provided that the initial confidential submission and all amendments thereto shall be publicly filed not later than 21 days before the date on which the issuer conducts a road show, as such term is defined in Securities Act Rule 433(h)(4). An emerging growth company is defined in Section 2(a)(19) of the Securities Act as an issuer with less than $1,000,000,000 total annual gross revenues during its most recently completed fiscal year. The Trust meets the definition of an emerging growth company and consequently has submitted its Form S–1 Registration Statement on a confidential basis with the Commission.

[5] Commodity-Based Trust Shares are securities issued by a trust that represents investors' discrete identifiable and undivided beneficial ownership interest in the commodities deposited into the Trust.

[6] 15 U.S.C. 80a–1.

[7] 17 U.S.C. 1.

[8] As Custodian of the Trust's gold bullion, Gold Corporation will be responsible for the safekeeping of the Trust's gold and supplying inventory information to the Trustee and the Sponsors. The Custodian will also be responsible for facilitating the transfer of gold in and out of the Trust and facilitating the shipment of Physical Gold to Delivery Applicants. The Custodian will confirm the deposit of gold into the Trust Unallocated Metal Account (as defined herein) received from an Authorized Participant in exchange for Baskets. The Custodian will promptly convert the deposit to allocated Gold held in the Trust Allocated Metal Account. The Custodian must allocate ownership of Physical Gold to the Trust such that no amount of Gold remains standing for the benefit of the Trust in the Trust Unallocated Metal Account at the Custodian's Close of Business on each Business Day. In the event that the Custodian is unable to fully effect such allocation by such time, it will use reasonable efforts to cause such allocation as soon as possible. The Custodian will safely store Physical Gold in its own vaulting facilities and any other vaulting facility as approved by the Custodian and utilize the services of its appointed secure transportation provider at the risk of the Custodian. The Trust's gold holdings are subject to periodic audits and, under the Custody Agreement, the Custodian has agreed to permit auditors to access all premises during normal business hours to examine the gold held for the Trust and such records as they reasonably require.

[9] Securities Exchange Act Release No. 81077 (July 5, 2017) 82 FR 32024 (July 11, 2017) (SR–NYSEArca–2017–55)

[10] Securities Exchange Act Release No. 71378 (January 23, 2014), 79 FR 4786 (January 29, 2014) (SR–NYSEArca–2013–137).

[11] Securities Exchange Act Release No. 59895 (May 8, 2009), 74 FR 22993 (May 15, 2009) (SR–NYSEArca–2009–40).

[12] Securities Exchange Act Release No. 61219 (December 22, 2009), 74 FR 68886 (December 29, 2009) (SR–NYSEArca–2009–95).

[13] Securities Exchange Act Release No. 61220 (December 22, 2009), 74 FR 68895 (December 29, 2009) (SR–NYSEArca–2009–94).

[14] Securities Exchange Act Release No 66930 (May 7, 2012), 77 FR 27817 (May 11, 2012) (SR–NYSEArca–2012–18)

[15] Securities Exchange Act Release No. 61496 (February 4, 2010), 75 FR 6758 (February 10, 2010) (SR–NYSEArca–2009–113).

[16] *See* Securities Exchange Act Release No. 58956 (November 14, 2008), 73 FR 71074 (November 24, 2008) (SR–NYSEArca–2008–124) (approving listing on the Exchange of the iShares Silver Trust)).

[17] *See* Securities Exchange Act Release No. 56224 (August 8, 2007), 72 FR 45850 (August 15, 2007) (SR–NYSEArca–2007–76) (approving listing on the Exchange of the street TRACKS Gold Trust); Securities Exchange Act Release No. 56041 (July 11, 2007), 72 FR 39114 (July 17, 2007) (SR–NYSEArca–2007–43) (order approving listing on the Exchange of iShares COMEX Gold Trust).

[18] *See* Securities Exchange Act Release No. 79518 (December 9, 2016), 81 FR 90876 (December 15, 2016) (SR–NYSEArca–2016–84) (order approving listing and trading of shares of the Long Dollar Gold Trust).

[19] *See* Securities Exchange Act Release No. 80840 (June 1, 2017), 82 FR 26534 (June 7, 2016) (SR–NYSEArca–2017–33).

[20] *See* Securities Exchange Act Release No. 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (SR–NYSE–2004–22) (order approving listing of street TRACKS Gold Trust on NYSE).

[21] *See* Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (SR–Amex–2004–38) (order approving listing of iShares COMEX Gold Trust on the American Stock Exchange LLC); 53521 (March 20, 2006), 71 FR 14967 (March 24, 2006) (SR–Amex–2005–72) (approving listing on the American Stock Exchange LLC of the iShares Silver Trust).

[22] *See* Securities Exchange Act Release Nos. 53520 (March 20, 2006), 71 FR 14977 (March 24, 2006) (SR–PCX–2005–117) (approving trading on the Exchange pursuant to UTP of the iShares Silver Trust); 51245 (February 23, 2005), 70 FR 10731 (March 4, 2005) (SR–PCX–2004–117) (approving trading on the Exchange of the streetTRACKS Gold Trust pursuant to UTP).

[23] With respect to the application of Rule 10A–3 (17 CFR 240.10A–3) under the Act, the Trust relies on the exemption contained in Rule 10A–3(c)(7).

The Trust's Objectives and Structure [24]

The Trust's primary objective will be to provide investors with an opportunity to invest in gold through the Shares, have the gold securely stored by Gold Corporation and, if requested by an investor, deliver Physical Gold [25] to such investor in exchange for its Shares.[26]

An additional objective of the Trust will be for the Shares to reflect the performance of the price of gold less the expenses of the Trust's operations. The Trust provides investors with a convenient and cost efficient way to buy and hold gold through an exchange traded security with the option to take delivery of the Physical Gold. Although owning Shares will not be the exact equivalent of an investment in gold, such Shares provide investors with an alternative that allows a level of participation in the gold market through the securities market.

To meet its investment objectives and provide investors with an opportunity to invest in gold through the Shares and to be able to take delivery of Physical Gold in exchange for their Shares, the Sponsors have structured the Trust as follows:

Maintaining Allocated Gold. The Trust will hold its Physical Gold in allocated form in the Trust Allocated Metal Account with the Custodian. The Trust Allocated Metal Account will be used to hold Physical Gold deposited with the Trust. The Physical Gold is held in a segregated fashion in the name of the Trust, not commingled with other depositor funds or assets. The Trust will have full title to the gold with the Custodian holding it on the Trust's behalf. Each investor owns a pro-rata share of the Trust, and as such holds pro-rata ownership of the Trust assets, corresponding to the number of Shares held. Credits or debits to the holding will be effected by physical movements of gold to or from the Trust's physical holding. The Trust's gold holdings are subject to periodic audits.

Permitting Investors to Take Delivery of Physical Gold. Delivery Applicants [27] may surrender Shares to the Trust in exchange for the supply of Physical Gold subject to any minimum dollar amount specified by the Custodial Sponsor from time to time on the Trust's website. When surrendering Shares to facilitate the supply of Physical Gold, the Custodial Sponsor will require the submission of Shares that correspond in net assets to the number of Fine Ounces contained in the Physical Gold requested plus any applicable product premiums, and delivery fees (together ''processing fees''). The number of Shares required for submission will be provided by the Custodial Sponsor, inclusive of processing fees, in a pre-populated Delivery Application.[28]

Minimizing Cash Holdings. The Trust is committed to minimizing the use of cash, keeping essentially all assets of the Trust in gold. The Trust will not normally hold cash or any other assets besides gold.

Government Guarantee. The Government Guarantee,[29] applies to all gold held by the Custodian, whether in the Trust Allocated Metal Account,[30] the Trust Unallocated Metal Account [31] or in a Customer Account, for the benefit of the Trust or a Delivery Applicant.

Operation of the Gold Market

The global trade in gold consists of over-the-counter (''OTC'') transactions in spot, forwards, and options and other derivatives, together with exchange-traded futures and options.

The OTC market trades on a continuous basis and accounts for most global gold trading. Market makers and participants in the OTC market trade with each other and their clients on a principal-to-principal basis.

The main centers of the OTC market are London, New York and Zurich. Most OTC market trades are cleared through London. The LBMA plays an important role in setting OTC gold trading industry standards.

Futures Exchanges

Although the Trust will not invest in gold futures, information about the gold futures market is relevant as such markets contribute to, and provide evidence of, the liquidity of the overall market for gold.

The most significant gold futures exchange in the U.S. is COMEX, operated by Commodities Exchange, Inc., a subsidiary of New York Mercantile Exchange, Inc., and a subsidiary of the Chicago Mercantile Exchange Group (the ''CME Group''). Other commodity exchanges include the Tokyo Commodity Exchange (''TOCOM''), the Multi Commodity Exchange Of India (''MCX''), the Shanghai Futures Exchange, ICE Futures US (the ''ICE''), and the Dubai Gold & Commodities Exchange.[32]

The London Bullion Market Association (LBMA)

The LBMA is a trade association that, among other duties, maintains and publishes ''Good Delivery'' lists that establish a set of criteria that a refiner and its gold must satisfy before being accepted for trading. Although the market for Physical Gold is distributed globally, most OTC market trades are cleared through London. The LBMA coordinates the market for gold and acts as the principal point of contact between the market and its regulators.

A primary function of the LBMA is its involvement in the promotion of refining standards by maintenance of the ''London Good Delivery Lists,'' which are the lists of LBMA accredited melters and assayers of gold as well as the specifications to which a bar/ingot must adhere. The LBMA also coordinates market clearing and

[24] The description of the Trust's Objectives and Structure, the Operation of the Gold Market, and the London Bullion Market Association, are based, in part, on the Registration Statement. *See* Ftnt. 4 *supra.*

[25] Physical Gold is defined as London Bars and all gold products without numismatic value and having a gold purity of at least 99.5% (including coins, cast bars and minted bars).

[26] According to the Registration Statement, the Trust does not trade in gold futures contracts on COMEX or on any other futures exchange. Because the Trust does not trade in gold futures contracts on any futures exchange, the Trust is not regulated by the CFTC under the Commodity Exchange Act as a ''commodity pool,'' and is not operated by a CFTC-regulated commodity pool operator. Investors in the Trust do not receive the regulatory protections afforded to investors in regulated commodity pools, nor may COMEX or any futures exchange enforce its rules with respect to the Trust's activities. In addition, investors in the Trust do not benefit from the protections afforded to investors in gold futures contracts on regulated futures exchanges.

[27] Delivery Applicant means a beneficial owner who is not an Authorized Participant and wishes to surrender part or all of the Shares he or she holds for the purpose of taking delivery of Physical Gold.

[28] Delivery Application means a document in a form satisfactory to the Custodian and as set forth herein that expresses a Delivery Applicant's intention to surrender Shares on a Share Submission Day in exchange for an amount of Gold on such Share Submission Day.

[29] As noted *supra,* Gold Corporation, doing business as the Perth Mint, is a Western Australian Government owned statutory body corporate established by the *Gold Corporation Act* 1987 (Western Australia) (the ''WA Act''). The Government Guarantee provided by the State of Western Australia pursuant to Section 22 of the WA Act provides (amongst other things) that the payment of the cash equivalent of gold due, payable and deliverable by the Custodian under the WA Act is guaranteed by the Treasurer of Western Australia, in the name and on behalf of the Crown in the right of the State of Western Australia.

[30] Trust Allocated Metal Account means the account maintained for the Trust by the Custodian on an allocated basis pursuant to the Trust Allocated Account Agreement for the purpose of holding Physical Gold on behalf of the Trust.

[31] Trust Unallocated Metal Account means the account maintained for the Trust by the Custodian on an unallocated basis pursuant to the Trust Unallocated Metal Account Agreement.

[32] The CME Group and ICE Futures US are members of the Intermarket Surveillance Group (''ISG'').

vaulting, and promotes good trading practices.

''Good Delivery'' is a list of specifications a bar or ingot must meet to trade on the London gold markets. The standards for gold bars meeting the ''London Good Delivery Lists'' are published in LBMA's ''The Good Delivery Rules for Gold and Silver Bars''.

Gold is usually traded on the London market on a loco London basis. This means the gold is physically held in vaults in London or is transferred into accounts established in London. Payment upon settlement and delivery of a loco London spot trade is usually in US dollars, two business days after the trade date. Delivery of the gold is either by physical delivery or through the LBMA clearing system to an unallocated account.

Creation and Redemption of Shares by Authorized Participants

The Trust will issue and redeem Baskets equal to a block of 100,000 Shares. The Trust issues and redeems Baskets only to Authorized Participants. The creation and redemption of Baskets will only be made in exchange for the delivery to the Trust or the distribution by the Trust of the amount of gold represented by the Baskets being created or redeemed, the amount of which will be based on the combined Fine Ounces represented by the number of Shares included in the Baskets being created or redeemed determined on the day the order to create or redeem Baskets is properly received.

Orders to create and redeem Baskets may be placed only by Authorized Participants. An Authorized Participant must: (1) Be a registered broker-dealer or other securities market participant, such as a bank or other financial institution, which, but for an exclusion from registration, would be required to register as a broker-dealer to engage in securities transactions, (2) be a participant in DTC, and (3) must have an agreement with the Custodian establishing an account or have an existing account meeting the standards described herein.

Gold is delivered to the Trust and distributed by the Trust through credits and debits between Authorized Participants' accounts, the Trust Unallocated Metal Account and the Trust Allocated Metal Account. When the Trustee requests creation of a basket at an Authorized Participant's request, the Authorized Participant will then transfer gold to the Trust Unallocated Metal Account. Once that gold is received in the Trust Unallocated Metal Account, the Custodian will then allocate the gold to the Trust Allocated Metal Account where it will be stored for safekeeping.

All gold represented by a credit to any Authorized Participant's unallocated account represents a right to receive Fine Ounces of gold. London Bars must further conform to London Good Delivery Standards.

Creation Procedures—Authorized Participants

On any business day, an Authorized Participant may place an order with the Trustee to create one or more Baskets. For purposes of processing both purchase and redemption orders, a ''business day'' means any day other than a day: (1) When the NYSE Arca is closed for regular trading; or (2) if the order or other transaction requires the receipt or delivery, or the confirmation of receipt or delivery, of gold in the United Kingdom, Western Australia or in some other jurisdiction on a particular day, (A) when banks are authorized to close in the United Kingdom, Western Australia or in such other jurisdiction or when the London gold market is closed or (B) when banks in the United Kingdom, Western Australia or in such other jurisdiction are, or the London gold market is, not open for a full business day and the order or other transaction requires the execution or completion of procedures which cannot be executed or completed by the close of the business day. Purchase orders must be placed prior to the Order Cutoff Time on any business day.[33]

Determination of Required Deposits

The Trustee shall determine the Basket Gold Amount for each Business Day, and each such determination thereof and the Trustee's resolution of questions concerning the composition of the Basket Gold Amount shall be final and binding on all persons interested in the Trust. The initial Basket Gold Amount is 1,000 Fine Ounces of gold. After the initial deposit of gold into the Trust, the Basket Gold Amount for each Business Day shall be an amount of gold equal to:

$$\frac{\text{(a) minus (b)}}{\text{(c) divided by (d)}}$$

1. Where:

(a) = the total number of Fine Ounces of gold held in the Trust as of the opening of business on such Business Day.

(b) = the number of Fine Ounces of gold equal in value to the Trust's unpaid expense accrual as of the opening of business on such Business Day

(c) = the total number of Shares outstanding as of the opening of business on such Business Day

(d) = 1,000,000 (or other number of Shares in a Basket for such Business Day).

Delivery of Required Deposits

An Authorized Participant who places a purchase order is responsible for crediting the Trust Unallocated Metal Account with the required gold deposit amount by 9:00 a.m. London time on the third business day following the purchase order date. No Shares will be issued unless and until the Custodian has informed the Trustee that it has credited to the Trust Allocated Metal Account at the Custodian the corresponding amount of gold. Upon transfer of the gold deposit amount to the Trust Allocated Metal Account, the Trustee will direct DTC to credit the number of Baskets ordered to the Authorized Participant's DTC account.

Redemption Procedures—Authorized Participants

The procedures by which an Authorized Participant can redeem one or more Baskets will mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place an order with the Trustee to redeem one or more Baskets. Redemption orders must be placed prior to the Order Cutoff Time on each business day the NYSE Arca is open for regular trading (normally 9:30 a.m. Eastern Time). A redemption order so received is effective on the date it is received in satisfactory form by the Trustee. The redemption procedures allow only Authorized Participants to redeem Baskets. An investor may not redeem Baskets other than through an Authorized Participant.

By placing a redemption order, an Authorized Participant agrees to deliver the Baskets to be redeemed through DTC's book-entry system to the Trust no later than the third business day following the effective date of the redemption order.

The redemption distribution from the Trust will consist of a credit to the redeeming Authorized Participant's account representing the amount of the gold held by the Trust evidenced by the Shares being redeemed as of the date of the redemption order.

[33] ''Order Cutoff Time'' is defined, with respect to any business day, as (i) 4:00 p.m. Eastern Time on such business day or (ii) another time agreed to by the Sponsors and the Trustee as to which the Administrative Sponsor has notified registered owners of Shares and all existing Authorized Participants.

Delivery of Redemption Distribution

The redemption distribution due from the Trust is delivered to the Authorized Participant on the next following business day after the Trustee's DTC account has been credited with the Baskets to be redeemed.

The Custodian will arrange for the redemption amount in gold to be transferred from the Trust Allocated Metal Account to the Trust Unallocated Metal Account, and thereafter, as necessary, to the redeeming Authorized Participant's account.

Taking Delivery of Physical Gold—Delivery Applicants

In exchange for its Shares, a Delivery Applicant [34] will be entitled to receive an amount of Physical Gold in return for such Shares which the Delivery Applicant's broker-dealer submits his or her Shares to the Trust in exchange for Physical Gold (the ''Share Submission Day''). The number of Shares to be surrendered by a Delivery Applicant and the corresponding amount of Gold received for such Shares shall be specified by the Custodial Sponsor from time to time and notified by the Custodial Sponsor to the Delivery Applicant in a Delivery Application.

Delivery Application

Investors interested in taking delivery of Physical Gold in exchange for their Shares in the Trust must duly sign and submit the Delivery Application to the Administrative Sponsor within three Business Days of receipt of the Delivery ID (the Quotation Window). The submission of a Delivery Application expresses the Delivery Applicant's intention to surrender Shares on the Share Submission Day. The Custodian may reject any Delivery Application.

A Delivery Application will be available on the Trust's website.

Valuation of Gold and Computation of NAV

On each business day that NYSE Arca is open for regular trading, as promptly as practicable after 4:00 p.m., Eastern Time, the Trustee will value the gold held by the Trust and will determine the Net Asset Value of the Trust, as described below.

The NAV of the Trust is the aggregate value of gold and other assets, if any, of the Trust (other than any amounts credited to the Trust's reserve account, if any) and cash, if any, less liabilities of the Trust, which include estimated accrued but unpaid fees, expenses and other liabilities.

All gold is valued based on its Fine Ounce content, calculated by multiplying the weight of gold by its purity; the same methodology is applied independent of the type of gold held by the Trust. The Trustee values the gold held by the Trust based on the afternoon LBMA Gold Price, or the morning LBMA Gold Price, if such day's afternoon LBMA Gold Price is not available. If no LBMA Gold Price is available for the day, the Trustee will value the Trust's gold based on the most recently announced afternoon LBMA Gold Price or morning LBMA Gold Price. If the Custodial Sponsor determines that such price is inappropriate to use, it shall identify an alternate basis for evaluation to be employed by the Trustee. The Custodial Sponsor may instruct the Trustee to use a different publicly available price which the Custodial Sponsor determines to fairly represent the commercial value of the Trust's gold. Once the value of gold has been determined, the Trustee will subtract all estimated accrued but unpaid fees, expenses and other liabilities of the Trust from the total value of gold and any other assets of the Trust (other than any amounts credited to the Trust's reserve account), including cash, if any. The resulting figure is the NAV of the Trust. The Trustee will also determine the NAV per share by dividing the NAV of the Trust by the number of the Shares outstanding as of the close of trading on the NYSE Arca (which includes the net number of any Shares deemed created or redeemed on such evaluation day).[35]

Secondary Market Trading

The Shares may trade in the secondary market on the NYSE Arca at prices that are lower or higher relative to their NAV per share. The amount of the discount or premium in the trading price relative to the NAV per share may be influenced by non-concurrent trading hours between the NYSE Arca and the COMEX, London and Zurich. While the Shares will trade on the NYSE Arca until 4:00 p.m. Eastern Time, liquidity in the global gold market may be reduced after the close of the major world gold markets, including London, Zurich and COMEX, usually at 1:30 p.m. Eastern Time. As a result, during this time, trading spreads and the resulting premium or discount on the Shares may widen.

Availability of Information Regarding Gold

Currently, the Consolidated Tape Plan does not provide for dissemination of the spot price of a commodity such as gold over the Consolidated Tape. However, there will be disseminated over the Consolidated Tape the last sale price for the Shares, as is the case for all equity securities traded on the Exchange (including exchange-traded funds). In addition, there is a considerable amount of information about gold and gold markets available on public websites and through professional and subscription services.

Investors may obtain gold pricing information on a 24-hour basis based on the spot price for an ounce of gold from various financial information service providers, such as Reuters and Bloomberg.

Reuters and Bloomberg, for example, provide at no charge on their websites delayed information regarding the spot price of Gold and last sale prices of Gold futures, as well as information about news and developments in the gold market. Reuters and Bloomberg also offer a professional service to subscribers for a fee that provides information on Gold prices directly from market participants. Complete real-time data for Gold futures and options prices traded on the COMEX are available by subscription from Reuters and Bloomberg. There are a variety of other public websites providing information on gold, ranging from those specializing in precious metals to sites maintained by major newspapers. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.*

Investors may obtain gold pricing information based on the spot price for a Fine Ounce from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that NYSE Arca is open for regular trading and will be posted on the Trust's website.

Availability of Information

The intraday indicative value (''IIV'') per Share for the Shares will be disseminated by one or more major market data vendors. The IIV will be calculated based on the amount of gold

[34] Delivery Applicant means a beneficial owner who is not an Authorized Participant and wishes to surrender part or all of the Shares he or she holds for the purpose of taking delivery of Physical Gold.

[35] The exchange of Shares to facilitate the delivery of Physical Gold is subject to applicable product premiums and the delivery fees associated with the transport of Physical Gold to Delivery Applicants.

held by the Trust and a price of gold derived from updated bids and offers indicative of the spot price of gold.[36]

The website for the Trust will contain the following information, on a per Share basis, for the Trust: (a) The mid-point of the bid-ask price [37] at the close of trading (''Bid/Ask Price''), and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the Bid/Ask Price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. The website for the Trust will also provide the Trust's prospectus. Finally, the Trust's website will provide the last sale price of the Shares as traded in the U.S. market. In addition, 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 information for the Shares will be published daily in the financial section of newspapers.

Criteria for Initial and Continued Listing

The Trust will be subject to the criteria in NYSE Arca Rule 8.201–E(e) for initial and continued listing of the Shares.

A minimum 100,000 Shares will be required to be outstanding at the start of trading. The Exchange believes that the anticipated minimum number of Shares outstanding at the start of trading is sufficient to provide adequate market liquidity.

Trading Rules

The Exchange deems the Shares to be equity securities, thus rendering trading in the Trust subject to the Exchange's existing rules governing the trading of equity securities. Trading in the Shares on the Exchange will occur in accordance with NYSE Arca Rule 7.34–E(a). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

Further, NYSE Arca Rule 8.201–E sets forth certain restrictions on ETP Holders acting as registered Market Makers in the Shares to facilitate surveillance. Under NYSE Arca Rule 8.201–E(g), an ETP Holder acting as a registered Market Maker in the Shares is required to provide the Exchange with information relating to its trading in the underlying gold, related futures or options on futures, or any other related derivatives. Commentary .04 of NYSE Arca Rule 6.3–E requires an ETP Holder acting as a registered Market Maker, and its affiliates, in the Shares to establish, maintain and enforce written policies and procedures reasonably designed to prevent the misuse of any material nonpublic information with respect to such products, any components of the related products, any physical asset or commodity underlying the product, applicable currencies, underlying indexes, related futures or options on futures, and any related derivative instruments (including the Shares).

As a general matter, the Exchange has regulatory jurisdiction over its ETP Holders and their associated persons, which include any person or entity controlling an ETP Holder. A subsidiary or affiliate of an ETP Holder that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

With respect to trading halts, the Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in the Shares. Trading on the Exchange in the Shares 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 conditions in the underlying gold market have caused disruptions and/or lack of trading, or (2) whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. In addition, trading in Shares will be subject to trading halts caused by extraordinary market volatility pursuant to the Exchange's ''circuit breaker'' rule.[38] The Exchange will halt trading in the Shares if the NAV of the Trust is not calculated or disseminated daily. The Exchange may halt trading during the day in which an interruption occurs to the dissemination of the IIV, as described above. If the interruption to the dissemination of the IIV persists past the trading day in which it occurs, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[39] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[40]

Also, pursuant to NYSE Arca Rule 8.201–E(g), the Exchange is able to obtain information regarding trading in the Shares and the underlying gold, gold futures contracts, options on gold futures, or any other gold derivative, through ETP Holders acting as registered Market Makers, in connection

[36] The IIV on a per Share basis disseminated during the Core Trading Session should not be viewed as a real-time update of the NAV, which is calculated once a day.

[37] The bid-ask price of the Shares will be determined using the highest bid and lowest offer on the Consolidated Tape as of the time of calculation of the closing day NAV.

[38] *See* NYSE Arca Rule 7.12–E.

[39] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[40] For a list of the current members of ISG, *see www.isgportal.org.*

with such ETP Holders' proprietary or customer trades through ETP Holders which they effect on any relevant market.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the portfolio, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange listing rules specified in this rule filing shall constitute continued listing requirements for listing the Shares of the Trust on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Trust to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Trust is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The procedures for purchases and redemptions of Shares in Baskets (including noting that Shares are not individually redeemable); (2) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (3) how information regarding the IIV is disseminated; (4) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; (5) the possibility that trading spreads and the resulting premium or discount on the Shares may widen as a result of reduced liquidity of gold trading during the Core and Late Trading Sessions after the close of the major world gold markets; and (6) trading information. For example, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Trust. The Exchange notes that investors purchasing Shares directly from the Trust (by delivery of the Creation Basket Deposit) will receive a prospectus. ETP Holders purchasing Shares from the Trust for resale to investors will deliver a prospectus to such investors.

In addition, the Information Bulletin will reference that the Trust is subject to various fees and expenses as will be described in the Registration Statement. The Information Bulletin will also reference the fact that there is no regulated source of last sale information regarding physical gold, that the Commission has no jurisdiction over the trading of gold as a physical commodity, and that the CFTC has regulatory jurisdiction over the trading of gold futures contracts and options on gold futures contracts.

The Information Bulletin will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [41] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.201–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest in that there is a considerable amount of gold price and gold market information available on public websites and through professional and subscription services. Investors may obtain on a 24-hour basis gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Investors may obtain gold pricing information based on the spot price for an ounce of gold from various financial information service providers. Current spot prices also are generally available with bid/ask spreads from gold bullion dealers. In addition, the Trust's website will provide pricing information for gold spot prices and the Shares. Market prices for the Shares will be available from a variety of sources including brokerage firms, information websites and other information service providers. The NAV of the Trust will be published by the Sponsor on each day that NYSE Arca is open for regular trading and will be posted on the Trust's website. The IIV relating to the Shares will be widely disseminated by one or more major market data vendors at least every 15 seconds during the Core Trading Session. In addition, the LBMA Gold Price is publicly available at no charge at *www.lbma.org.uk.* The Trust's website will also provide the Trust's prospectus, as well as the two most recent reports to stockholders. In addition, 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 information for the Shares will be published daily in the financial section of newspapers.

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 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, as noted above, investors will have ready access to information regarding gold pricing.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange believes the proposed rule change will enhance competition by accommodating Exchange trading of an additional exchange-traded product relating to physical gold.

[41] 15 U.S.C. 78f(b)(5).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) by order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NYSEArca–2017–140 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–140. 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–NYSEArca–2017–140, and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27993 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82379; File No. SR–CboeBZX–2017–012]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing of a Proposed Rule Change To List and Trade Shares of the LHA Market State® Tactical U.S. Equity ETF, a Series of the ETF Series Solutions, Under Rule 14.11(i), Managed Fund Shares

December 21, 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 7, 2017, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The 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 proposed rule change to list and trade shares of the LHA Market State® Tactical U.S. Equity ETF (the ''Fund''), a series of the ETF Series Solutions (the ''Trust''), under Rule 14.11(i) (''Managed Fund Shares''). The shares 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.

(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 under Rule 14.11(i), which governs the listing and trading of Managed Fund Shares on the Exchange.[3] The Fund will be an actively managed exchange-traded fund that seeks to provide investment results that exceed the total return performance of the broader U.S. equity market on a risk-adjusted basis. The Exchange submits this proposal in order to allow the Fund to hold listed derivatives, in particular S&P 500 futures, in a manner that does not comply with Rule 14.11(i)(4)(C)(iv)(b).[4] Otherwise, the

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[42] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission originally approved BZX Rule 14.11(i) in Securities Exchange Act Release No. 65225 (August 30, 2011), 76 FR 55148 (September 6, 2011) (SR–BATS–2011–018) and subsequently approved generic listing standards for Managed Fund Shares under Rule 14.11(i) in Securities Exchange Act Release No. 78396 (July 22, 2016), 81 FR 49698 (July 28, 2016) (SR–BATS–2015–100).

[4] Rule 14.11(i)(4)(C)(iv)(b) provides that ''the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).'' The Exchange is proposing that the Fund be exempt only from the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross

Fund will comply with all other listing requirements on an initial and continued listing basis under Rule 14.11(i).[5]

The Shares will be offered by the Trust, which was established as a Delaware statutory trust on February 9, 2012. The Trust is registered with the Commission as an open-end investment company and is expected to file a registration statement on behalf of the Fund on Form N–1A (''Registration Statement'') with the Commission.[6] The Fund's adviser, Little Harbor Advisors, LLC (the ''Adviser''), is not registered as a broker-dealer and is not affiliated with a broker-dealer. Adviser personnel who make decisions regarding the Fund's portfolio are subject to procedures designed to prevent the use and dissemination of material nonpublic information regarding the Fund's portfolio. In the event that (a) the Adviser becomes registered as a broker-dealer or newly affiliated with a broker-dealer; or (b) any new adviser or sub-adviser is a registered broker-dealer or becomes affiliated with a broker-dealer; it will implement a fire wall with respect to its relevant personnel or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the portfolio, and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

The Fund intends to qualify each year as a regulated investment company under Subchapter M of the Internal Revenue Code of 1986, as amended.

LHA Market State Tactical U.S. Equity ETF

In order to achieve its investment objective, under Normal Market Conditions,[7] the Fund will invest approximately 80% of its net assets at the time of investment in U.S. exchange-listed ETFs [8] that principally invest in U.S. equity securities (''U.S. ETFs'') or the constituent stocks of a U.S. ETF. As noted above, Rule 14.11(i)(4)(C)(iv)(b) prevents the Fund from holding listed derivatives based on any single underlying reference asset in excess of 30% of the weight of its portfolio (including gross notional exposures). The Exchange is proposing to allow the Fund to hold up to 60% of the weight of its portfolio at the time of investment (including gross notional exposures) in S&P 500 futures contracts traded on the Chicago Mercantile Exchange (''S&P 500 Futures''). Allowing the Fund to hold a greater portion of its portfolio in S&P 500 Futures would mitigate the Fund's dependency on holding OTC instruments, which would reduce the Fund's operational burden by allowing the Fund to primarily use listed futures contracts to achieve its investment objective and would further reduce counter-party risk associated with holding OTC instruments. The Exchange notes that the Fund may also hold certain fixed income securities and cash and cash equivalents in compliance with Rules 14.11(i)(4)(C)(ii) and (iii) in order to collateralize its derivatives positions.

As noted above, the Fund's investment in U.S. ETFs or the constituent stocks of a U.S. ETF will constitute approximately 80% of the Fund's net assets at the time of investment and under Normal Market Conditions, and such holdings will meet the requirements for U.S. Component Stocks in Rule 14.11(i)(4)(C)(i)(a). The Fund may hold approximately 20% of its net assets at the time of investment in fixed income securities, cash, and the cash value of futures positions [9] under Normal Market Conditions. The combination of U.S. ETFs, constituent stocks of U.S. ETFs, fixed income securities, cash, cash equivalents, and the cash value of futures positions will constitute the entirety of the Fund's holdings and the cash value of these holdings will be used to form the basis for these calculations. The Exchange notes that this is different than the calculation used to measure the Fund's holdings in S&P 500 Futures as it relates to the Fund holding up to 60% of the weight of its portfolio, which, as noted above, includes gross notional exposures gained through the S&P 500 Futures in both the numerator and denominator, which is consistent with the derivatives exposure calculation under Rule 14.11(i)(4)(C)(iv). The Exchange represents that, except for the 30% limitation in Rule 14.11(i)(4)(C)(iv)(b), the Fund's proposed investments will satisfy, on an initial and continued listing basis, all of the generic listing standards under BZX Rule 14.11(i)(4)(C) and all other applicable requirements for Managed Fund Shares under Rule 14.11(i).

The Trust is required to comply with Rule 10A–3 under the Act for the initial and continued listing of the Shares of the Fund. In addition, the Exchange represents that the Shares of the Fund will comply with all other requirements applicable to Managed Fund Shares, which includes the dissemination of key information such as the Disclosed Portfolio,[10] Net Asset Value,[11] and the Intraday Indicative Value,[12] suspension of trading or removal,[13] trading halts,[14] surveillance,[15] minimum price variation for quoting and order entry,[16] the information circular,[17] and firewalls [18] as set forth in Exchange rules applicable to Managed Fund Shares. Moreover, all of the futures contracts and U.S. ETFs held by the Fund will trade on markets that are a member of Intermarket Surveillance Group (''ISG'') or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.[19] All statements and representations made in this filing regarding (a) the description

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notional exposures). The Fund will meet the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

[5] The Exchange notes that this proposal is very similar to a previously approved proposal to list and trade a series of Managed Fund Shares on the Exchange with similar exposures to a single underlying reference asset and U.S. exchange-listed equity securities. *See* Securities Exchange Act Release No. 80529 (April 26, 2017), 82 FR 20506 (May 2, 2017) (SR–BatsBZX–2017–14).

[6] The Trust expects to file a post-effective amendment to the Registration Statement on or about December 15, 2017. *See* Registration Statement on Form N–1A for the Trust (File Nos. 333–179562 and 811–22668). The descriptions of the Fund and the Shares contained herein are based, in part, on information expected to be included in the Registration Statement. The Commission has not yet issued an order granting exemptive relief to the Trust under the Investment Company Act of 1940 (15 U.S.C. 80a–1) applicable to the activities of the Fund, but the Fund will not be listed on the Exchange until such an order is issued and any conditions contained therein are satisfied.

[7] 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.

[8] For purposes of this proposal, the term ETF means Portfolio Depositary Receipts and Index Fund Shares as defined in Rule 14.11(b) and 14.11(c), respectively, and their equivalents on other national securities exchanges.

[9] The cash value of futures positions is based on the value of the Fund's daily margin account with the applicable futures exchange(s).

[10] *See* Rule 14.11(i)(4)(A)(ii) and 14.11(i)(4)(B)(ii).

[11] *See* Rule 14.11(i)(4)(A)(ii).

[12] *See* Rule 14.11(i)(4)(B)(i).

[13] *See* Rule 14.11(i)(4)(B)(iii).

[14] *See* Rule 14.11(i)(4)(B)(iv).

[15] *See* Rule 14.11(i)(2)(C).

[16] *See* Rule 14.11(i)(2)(B).

[17] *See* Rule 14.11(i)(6).

[18] *See* Rule 14.11(i)(7).

[19] For a list of the current members and affiliate members of ISG, *see www.isgportal.com.* 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.

of the portfolio, reference assets, and indices, (b) limitations on portfolio holdings or reference assets, or (c) the applicability of Exchange rules shall constitute continued listing requirements for listing the Shares on the Exchange. The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund or Shares 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 or Shares are not in compliance with the applicable listing requirements, then, with respect to such Fund or Shares, the Exchange will commence delisting procedures under Exchange Rule 14.12. FINRA conducts certain cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures with respect to such Fund under Exchange R7ule [sic] 14.12.

2. Statutory Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act [20] in general and Section 6(b)(5) of the Act [21] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest in that the Shares will meet each of the initial and continued listing criteria in BZX Rule 14.11(i) with the exception Rule 14.11(i)(4)(C)(iv)(b), which requires that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures), and the aggregate gross notional value of listed derivatives based on any single underlying reference asset shall not exceed 30% of the weight of the portfolio (including gross notional exposures).[22] The Exchange believes that the liquidity in the S&P 500 Futures markets mitigates the concerns that Rule 14.11(i)(4)(C)(iv)(b) is intended to address and that such liquidity would prevent the Shares from being susceptible to manipulation.[23] The Exchange also believes that the concerns that Rule 14.11(c)(3)(A)(i) are intended to address are mitigated by the diversity, liquidity, and market cap of the securities underlying the S&P 500® Index.[24] Further, allowing the Fund to hold a greater portion of its portfolio in S&P 500 Futures would mitigate the Fund's dependency on holding OTC instruments, which would reduce the Fund's operational burden by allowing the Fund to primarily use listed futures contracts to achieve its investment objective and would further reduce counter-party risk associated with holding OTC instruments. The Exchange further believes that the diversity, liquidity, and market cap of the securities underlying the S&P 500 Index are sufficient to protect against market manipulation of both the Fund's holdings and the Shares.

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. All of the futures contracts held by the Fund will trade on markets that are a member of ISG or affiliated with a member of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement. The Exchange may obtain information regarding trading in the Shares and the underlying futures contracts held by the Fund via the ISG from other exchanges who are members or affiliates of the ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement.[25] The Exchange further notes that the Fund will meet and be subject to all other requirements of the Generic Listing Rules and other applicable continued listing requirements for Managed Fund Shares under Rule 14.11(i), including those requirements regarding the dissemination of key information such as the Disclosed Portfolio,[26] Net Asset Value,[27] and the Intraday Indicative Value,[28] suspension of trading or removal,[29] trading halts,[30] surveillance,[31] minimum price variation for quoting and order entry,[32] the information circular,[33] and firewalls [34] as set forth in Exchange rules applicable to Managed Fund Shares.

For the above reasons, the Exchange believes that 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 purpose of the Act. The Exchange notes that the proposed rule change, rather will facilitate the listing and trading of an additional actively-managed exchange-traded product that will enhance competition among both market participants and listing venues, 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

[20] 15 U.S.C. 78f.

[21] 15 U.S.C. 78f(b)(5).

[22] As noted above, the Exchange is proposing that the Fund be exempt only from the requirement of Rule 14.11(i)(4)(C)(iv)(b) that prevents the aggregate gross notional value of listed derivatives based on any single underlying reference asset from exceeding 30% of the weight of the portfolio (including gross notional exposures). The Fund will continue to meet the requirement that the aggregate gross notional value of listed derivatives based on any five or fewer underlying reference assets shall not exceed 65% of the weight of the portfolio (including gross notional exposures).

[23] As of December 7, 2017, the average daily notional volume for S&P 500 Futures was more than $180 billion over the previous thirty trading days.

[24] The Exchange notes that the diversity, liquidity, and market cap of the components of the S&P 500 Index are such that the S&P 500 Index would without question meet the generic listing standards applicable to an index composed of U.S. Component Stocks in Rule 14.11(c)(3)(A)(i).

[25] *See* note 19, supra.

[26] *See* note 10, supra.

[27] *See* note 11, supra.

[28] *See* note 12, supra.

[29] *See* note 13, supra.

[30] *See* note 14, supra.

[31] *See* note 15, supra.

[32] *See* note 16, supra.

[33] *See* note 17, supra.

[34] *See* note 18, supra.

(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–2017–012 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File No. SR–CboeBZX–2017–012. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than 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–2017–012 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[35]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27998 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82380; File No. SR–CboeEDGX–2017–007]

Self-Regulatory Organizations; Cboe EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.5, Minimum Increments, To Extend the Penny Pilot Program

December 21, 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 14, 2017, Cboe EDGX Exchange, Inc. (the ''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 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 for the EDGX Options Market (''EDGX Options'') to extend through June 30, 2018, the Penny Pilot Program (''Penny Pilot'') in options classes in certain issues (''Pilot Program'') previously approved by the Commission.[5]

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through June 30, 2018, and to provide revised dates for adding replacement issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2017, and ending November 30, 2017).

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot

[35] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The rules of EDGX Options, including rules applicable to EDGX Options' participation in the Penny Pilot, were approved on August 7, 2015. *See* Securities Exchange Act Release No. 75650 (August 7, 2015), 80 FR 48600 (August 13, 2015) (SR–EDGX–2015–18). EDGX Options commenced operations on November 2, 2015.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.

[8] 15 U.S.C. 78s(b)(3)(A)(iii).

[9] 17 CFR 240.19b–4(f)(6).

[10] 15 U.S.C. 78s(b)(3)(A).

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] 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.

[11] 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 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 pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 5.

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

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–2017–007 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–2017–007. 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–2017–007 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27999 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82387; File No. SR–BatsBZX–2017–72]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Designation of a Longer Period for Commission Action on a Proposed Rule Change To List and Trade Shares of the Innovator S&P 500 15% Shield Strategy ETF Series, Innovator S&P 500 −5% to −35% Shield Strategy ETF Series, Innovator S&P 500 Enhance and 10% Shield Strategy ETF Series, and Innovator S&P 500 Ultra Strategy ETF Series Under Rule 14.11(i)

December 21, 2017.

On November 7, 2017, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade shares of the Innovator S&P 500 15% Shield Strategy ETF Series, Innovator S&P 500 −5% to −35% Shield Strategy ETF Series, Innovator S&P 500 Enhance and 10% Shield Strategy ETF Series, and Innovator S&P 500 Ultra Strategy ETF Series under BZX Rule 14.11(i). The proposed rule change was published for comment in the **Federal Register** on November 22, 2017.[3] The Commission received no comments on the proposed rule change.

Section 19(b)(2) of the Act [4] provides that, within 45 days of the publication of notice of the filing of a proposed rule change, or within such longer period up to 90 days as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or as to which the self-regulatory organization consents, the Commission shall either approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether the proposed rule change should be disapproved. The 45th day after publication of the notice for this filing is January 6, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. 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 Exchange's proposal. Accordingly, pursuant to Section 19(b)(2) of the Act,[5] the Commission designates February 20, 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 No. SR–BatsBZX–2017–72).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28002 Filed 12–27–17; 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. 82097 (November 16, 2017), 82 FR 55689.

[4] 15 U.S.C. 78s(b)(2).

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82385; File No. 4–715]

Self-Regulatory Organizations; MIAX PEARL, LLC; Order Declaring Effective a Minor Rule Violation Plan

December 21, 2017.

On November 16, 2017, MIAX PEARL, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed minor rule violation plan (''MRVP'' or ''Plan'') pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19d–1(c)(2) thereunder.[2] The proposed MRVP was published for comment on November 28, 2017.[3] The Commission received no comments on the proposal. This order declares the Exchange's proposed MRVP effective.

The Exchange's MRVP specifies the rule violations which will be included in the Plan and will have sanctions not exceeding $2,500. Any violations which are resolved under the MRVP would not be subject to the provisions of Rule 19d–1(c)(1) of the Act,[4] which requires that a self-regulatory organization (''SRO'') promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[5] In accordance with Rule 19d–1(c)(2) under the Act,[6] the Exchange proposed to designate certain specified rule violations as eligible for consideration as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of the violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures and violations currently included in Exchange Rule 1014 (''Imposition of Fines for Minor Rule Violations'').[7] According to the Exchange's proposed MRVP, under Exchange Rule 1014, the Exchange may impose a fine (not to exceed $2,500) on any Member, or person associated with or employed by a Member, for any rule listed in Rule 1014(d).[8] The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination must be contested. If the person against whom the fine is imposed pays the fine, the payment shall be deemed to be a waiver of the person's right to a disciplinary proceeding and any review of the matter under the Exchange rules. Any person against whom a fine is imposed may contest the Exchange's determination by filing with the Exchange a written answer, at which point the matter shall

[1] 15 U.S.C. 78s(d)(1)

[2] 17 CFR 240.19d–1(c)(2).

[3] *See* Securities Exchange Act Release No. 82146 (November 22, 2017), 82 FR 56280 (''Notice'').

[4] 17 CFR 240.19d–1(c)(1).

[5] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to a plan filed with and declared effective by the Commission is not considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[6] 17 CFR 240.19d–1(c)(2).

[7] The Exchange received its grant of registration on December 13, 2016, which included approving the rules that govern the Exchange. *See* Securities Exchange Act Release No. 79543 (December 13, 2016), 81 FR 92901 (December 20, 2016).

[8] While Rule 1014 allows the Exchange to administer fines up to $5,000, the Exchange is only seeking relief from the reporting requirements of paragraph (c)(1) of Rule 19d–1 for fines administered under Rule 1014(d) that do not exceed $2,500.

Under the proposed MRVP, violations of the following rules would be appropriate for disposition under the MRVP: Rule 307 (Position Limits); Rule 803 (Focus Reports); Rule 804 (Requests for Trade Data); Rule 520 (Order Entry); Rule 605 (Execution of Orders in Appointed Options); Rule 314 (Mandatory Systems Testing); Rule 700 (Exercise of Option Contracts); Rule 309 (Exercise Limits); Rule 310 (Reports Related to Position Limits); Rule 403 (Trading in Restricted Classes); Rule 605 (Market Maker Quotations); and Rules 1301, 1302, and 1303 (Failure to Timely File Amendments to Form U4, Form U5, and Form BD). According to the Exchange, Conduct and Decorum Policies under Rule 1014(d)(4) are excluded from the proposed MRVP. *See* Notice, *supra* note 3.

proceed under the rules governing formal disciplinary proceedings.

Once the Exchange's MRVP is effective, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: The disposition date, the name of the firm/individual, the Exchange's internal enforcement number, the review period, the nature of the violation type, the number of the rule that was violated, the number of times the violation occurred, and the sanction imposed.[9]

The Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[10] because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where formal disciplinary proceedings are not necessary due to the minor nature of the particular violation.

In declaring the Exchange's MRVP effective, the Commission does not minimize the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 1014. Violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Exchange Rule 1014 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects the Exchange to continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a violation requires formal disciplinary action or whether a sanction under the MRVP is appropriate.

It is therefore ordered, pursuant to Rule 19d–1(c)(2) under the Act,[11] that the proposed MRVP for MIAX PEARL, LLC, File No. 4–715, be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2017–27990 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[9] The Exchange attached a sample form of the quarterly report with its submission to the Commission.

[10] 17 CFR 240.19d–1(c)(2).

[11] *Id.*

[12] 17 CFR 200.30–3(a)(44).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82374; File No. SR–NYSEArca–2017–36]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Withdrawal of a Proposed Rule Change, as Modified by Amendment No. 1, To Adopt NYSE Arca Rule 8.900–E To Permit Listing and Trading of Managed Portfolio Shares and To List and Trade Shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF Under Proposed NYSE Arca Rule 8.900–E

December 21, 2017.

On April 14, 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 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to: (1) Adopt NYSE Arca Rule 8.900–E (Managed Portfolio Shares); and (2) list and trade shares of the Royce Pennsylvania ETF, Royce Premier ETF, and Royce Total Return ETF under proposed NYSE Arca Rule 8.900–E. The proposed rule change was published for comment in the **Federal Register** on May 4, 2017.[3] On June 15, 2017, pursuant to Section 19(b)(2) of the Exchange Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission received four comments on the proposed rule change.[6] On July 31, 2017, the Commission instituted proceedings under Section 19(b)(2)(B) of the Exchange Act [7] to determine whether to approve or disapprove the proposed rule change.[8] Thereafter, the Commission received eight additional comments on the proposed rule change.[9] On October 30, 2017, the Commission designated a longer period for action on the proposed rule change.[10] On December 5, 2017, the Exchange filed Amendment No. 1 to the proposed rule change (''Amendment No. 1''), which replaced and superseded the proposed rule change in its entirety.[11] Thereafter, the Commission received three additional comment letters on the proposed rule change, as modified by Amendment No. 1.[12]

On December 20, 2017, the Exchange withdrew the proposed rule change (SR–NYSEArca–2017–36), as modified by Amendment No. 1.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 80553 (April 28, 2017), 82 FR 20932.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 80935, 82 FR 28152 (June 20, 2017). The Commission designated August 2, 2017, as the date by which it should approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change.

[6] *See* Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated May 24, 2017; Letter from Todd J. Broms, Chief Executive Officer, Broms & Company LLC, to Brent J. Fields, Secretary, Commission, dated May 25, 2017; Letter from James J. Angel, Associate Professor of Finance, Georgetown University, McDonough School of Business, to the Commission, dated May 25, 2017; and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated July 18, 2017. The comment letters are available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736.htm*.

[7] 15 U.S.C. 78s(b)(2)(B).

[8] *See* Securities Exchange Act Release No. 81267, 82 FR 36510 (August 4, 2017).

[9] *See* Letter from Mark Criscitello, Chairman, Precidian Funds LLC, to Brent J. Fields, Secretary, Commission, dated October 11, 2017; Letter from Daniel J. McCabe, Chief Executive, Precidian Investments, to Brent J. Fields, Secretary, Commission, dated October 12, 2017; Letter from Joseph A. Sullivan, Chairman and Chief Executive Officer, Legg Mason, Inc., to Brent J. Fields, Secretary, Commission, dated October 12, 2017; Letter from Andrew M. Gross, Jr., to Jay Clayton, Chairman, Commission, dated October 16, 2017; Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated October 31, 2017; Letter from Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 16, 2017; Letter from Simon P. Goulet, Co-Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 22, 2017; and Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated November 29, 2017. The comment letters are available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2017–36/nysearca201736.htm*.

[10] *See* Securities Exchange Act Release No. 81977, 82 FR 51311 (November 3, 2017). The Commission designated December 30, 2017, as the date by which the Commission must either approve or disapprove the proposed rule change.

[11] Amendment No. 1 to the proposed rule change is available at *https://www.sec.gov/comments/sr-nysearca-2017-36/nysearca201736-2759313-161597.pdf*.

[12] *See* Letter from Terence W. Norman, Founder, Blue Tractor Group, LLC, to Brent J. Fields, Secretary, Commission, dated December 12, 2017; Letter from Kevin S. Haeberle, Associate Professor of Law, William & Mary Law School, to Brent J. Fields, Secretary, Commission, dated December 15, 2017; and Letter from Gary L. Gastineau, President, ETF Consultants.com, Inc., to Brent J. Fields, Secretary, Commission, dated December 18, 2017. The comment letters are available on the Commission's website at: *https://www.sec.gov/comments/sr-nysearca-2017–36/nysearca201736.htm*.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[13]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27994 Filed 12–27–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82375; File No. SR–CBOE–2017–078]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 6.42, Minimum Increments for Bids and Offers, To Extend the Penny Pilot Program

December 21, 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 14, 2017, Cboe Exchange, Inc. (the ''Exchange'' or ''Cboe Options'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.42 by extending the Penny Pilot Program through June 30, 2018.

(additions are *underlined;* deletions are [bracketed])

* * * * *

Cboe Exchange, Inc.

Rules

* * * * *

Rule 6.42. Minimum Increments for Bids and Offers

The Board of Directors may establish minimum increments for options traded on the Exchange. When the Board of Directors determines to change the minimum increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of Rule 6.42 within the meaning of subparagraph (3)(A) of subsection 19(b) of the Exchange Act and will file a rule change for effectiveness upon filing with the Commission. Until such time as the Board of Directors makes a change to the minimum increments, the following minimum increments shall apply to options traded on the Exchange:

(1) No change.

(2) No change.

(3) The decimal increments for bids and offers for all series of the option classes participating in the Penny Pilot Program are: $0.01 for all option series quoted below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS). For QQQQs, IWM, and SPY, the minimum increment is $0.01 for all option series. The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively-traded, multiply-listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day following [July 1, 2017]*January 1, 2018.* The Penny Pilot shall expire on [December 31, 2017]*June 30, 2018.*

(4) No change.

. . . Interpretations and Policies:

.01–.04 No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on December 31, 2017. The Exchange proposes to extend the Pilot Program until June 30, 2017. The Exchange believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, the Exchange proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[5] and would be added on the second trading day following January 1, 2018. The Exchange will employ the same parameters to prospective replacement classes as approved and applicable in determining the existing classes in the Pilot Program, including excluding high-priced underlying securities.[6] The Exchange will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program.

The Exchange is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

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.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[8] requirements that the rules of

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[13] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following January 1, 2018, would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2017 through November 30, 2017.

[6] *See* Securities Exchange Act Release No. 60864 (October 22, 2009), 74 FR 55876 (October 29, 2009) (SR–CBOE–2009–76).

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(5).

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 facilitation 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) [9] 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 allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [10] and Rule 19b–4(f)(6) thereunder.[11] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[13] However, pursuant to Rule 19b–4(f)(6)(iii),[14] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[15] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[16]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [17] 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–CBOE–2017–078 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2017–078. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2017–078 and

[9] *Id.*

[10] 15 U.S.C. 78s(b)(3)(A)(iii).

[11] 17 CFR 240.19b–4(f)(6).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 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 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 pre-filing requirement.

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 5.

[16] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[17] 15 U.S.C. 78s(b)(2)(B).

should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[18]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27995 Filed 12–27–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82377; File Nos. SR–DTC–2017–004; SR–NSCC–2017–005; SR–FICC–2017–008]

Self-Regulatory Organizations; The Depository Trust Company; National Securities Clearing Corporation; Fixed Income Clearing Corporation; Notice of Filing of Amendment No. 4, Notice of Filing Amendment No. 5, Notice of Filing Amendment No. 6, and Order Granting Accelerated Approval of Proposed Rule Changes, as Modified by Amendment Nos. 1, 3 and 6, To Adopt the Clearing Agency Liquidity Risk Management Framework

December 21, 2017.

I. Introduction

On April 6, 2017, The Depository Trust Company (''DTC''), National Securities Clearing Corporation (''NSCC''), and Fixed Income Clearing Corporation (''FICC,'' each a ''Clearing Agency,'' and collectively, the ''Clearing Agencies''), filed with the Securities and Exchange Commission (''Commission'') proposed rule changes SR–DTC–2017–004, SR–NSCC–2017–005, and SR–FICC–2017–008, respectively, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder.[2]

On April 13, 2017, the Clearing Agencies each filed Amendment No. 1 to their respective proposed rule changes. Amendment No. 1 made technical corrections to each Exhibit 5 of the proposed rule change filings. The proposed rule changes, as modified in each instance by Amendment No. 1, were published for comment in the **Federal Register** on April 25, 2017.[3] On June 7, 2017, the Commission designated a longer period for Commission Action on the proposed rule changes, as amended in each instance by Amendment No. 1.[4]

On July 20, 2017, the Clearing Agencies each filed Amendment No. 2 to their respective proposed rule changes, as previously modified by Amendment No. 1. On July 21, 2017, the Clearing Agencies each filed Amendment No. 3 to their respective proposed rule changes to supersede and replace Amendment No. 2 in its entirety, due to a technical defect of Amendment No. 2. The proposed rule changes, as modified in each instance by Amendment No. 3, were published for comment in the **Federal Register** on July 28, 2017, and the Commission instituted proceedings under Section 19(b)(2)(B) of the Act [5] to determine whether to approve or disapprove the proposed rule changes.[6] On October 16, 2017, the Commission designated a longer period on the proceedings to determine whether to approve or disapprove the proposed rule changes, as modified by Amendment Nos. 1 and 3.[7] The Commission did not receive any comment letters on the proposed rule changes, as modified by Amendment Nos. 1 and 3.

On December 15, 2017, the Clearing Agencies each filed Amendment No. 4 to their respective proposed rule changes, as discussed below. On the same day, the Clearing Agencies each filed Amendment No. 5 to their respective proposed rule changes to supersede and replace Amendment No. 4 in its entirety, due to technical errors of Amendment No. 4. On December 18, 2017, Clearing Agencies each filed Amendment No. 6 to their respective proposed rule changes to supersede and replace Amendment No. 5 in its entirety. The Commission is publishing this notice to solicit comments on Amendment No. 6 from interested persons and is approving on an accelerated basis the proposed rule changes, as modified by Amendment Nos. 1, 3, and 6 (hereinafter, ''Amended Proposed Rule Changes'').

II. Description of the Proposed Rule Changes as Previously Modified by Amendment Nos. 1 and 3, and Notice of Filing Amendment No. 6

A. Proposed Rule Changes as Previously Modified by Amendment Nos. 1 and 3

The Clearing Agencies propose to adopt the Clearing Agency Liquidity Risk Management Framework (''Framework'') of the Clearing Agencies. The Framework would outline the regulatory requirements that would be applicable to each Clearing Agency with respect to liquidity risk management, and would be owned and managed by the Liquidity Product Risk Unit (''LPRU'') of DTCC.[8]

The Framework would, generally, set forth the Clearing Agencies' liquidity resources and liquidity risk management practices, to include measurement and monitoring of their respective liquidity risks.[9] More specifically, the Framework would describe FICC and NSCC's liquidity risk management strategy and objectives, which are to maintain sufficient liquid resources to meet the potential amount of funding required to settle outstanding transactions of a defaulting Member, or affiliated family (''Affiliated Family'') of Members, in a timely manner.[10] For DTC, the Framework would describe how DTC's liquidity management strategy and controls are designed to maintain sufficient available liquid resources to complete system-wide settlement on each business day with a high degree of confidence, notwithstanding the failure to settle of a Participant or Affiliated Family of Participants.[11] The Framework would also state that DTC operates on a fully collateralized basis.[12]

Although the Clearing Agencies would consider the Framework to be a rule of each Clearing Agency, the proposed changes do not require any changes to the Rules, By-laws and Organization Certificate of DTC (''DTC Rules''), the FICC Government Securities Division (''GSD'') Rulebook (''GSD Rules''), the FICC Mortgage-

[18] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 80489 (April 19, 2017), 82 FR 19120 (April 25, 2017) (SR–DTC–2017–004, SR–NSCC–2017–005, SR–FICC–2017–008) (''Notice'').

[4] Securities Exchange Act Release No. 80877 (June 7, 2017), 82 FR 27094 (June 13, 2017) (SR–DTC–2017–004, SR–NSCC–2017–005, SR–FICC–2017–008).

[5] 15 U.S.C. 78s(b)(2)(B).

[6] Securities Exchange Act Release No. 81194 (July 24, 2017), 82 FR 35241 (July 28, 2017) (SR–DTC–2017–004, SR–NSCC–2017–005, SR–FICC–2017–008) (''Order Instituting Proceedings'').

[7] Securities Exchange Act Release No. 81885 (October 20, 2017), 82 FR 48857 (October 20, 2017) (SR–DTC–2017–004, SR–NSCC–2017–005, SR–FICC–2017–008).

[8] The parent company of the Clearing Agencies is The Depository Trust & Clearing Corporation (''DTCC''). DTCC operates on a shared services model with respect to the Clearing Agencies. Most corporate functions are established and managed on an enterprise-wide basis pursuant to intercompany agreements under which it is generally DTCC that provides a relevant service to a Clearing Agency. Notice, 82 FR at 19121.

[9] *Id.*

[10] FICC and NSCC refer to their participants as ''Members,'' while DTC refers to its participants as ''Participants.'' These terms are defined in the respective rules of each of the Clearing Agencies. Notice, 82 FR at 19121.

[11] *Id.*

[12] *Id.*

Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules''), or the Rules & Procedures of NSCC (''NSCC Rules,'' and together with the DTC Rules, GSD Rules, and MBSD Rules, ''Rules''), as the Framework would be a standalone document.[13]

1. Liquidity Resources

The Framework would address how each of the Clearing Agencies meets its requirement to hold qualifying liquid resources, as defined by Rule 17Ad–22(a)(14) under the Act,[14] sufficient to meet its minimum liquidity resource requirement in each relevant currency for which it has payment obligations owed to its Members or Participants, as applicable.[15] The Framework would identify each of the qualifying liquid resources available to each Clearing Agency. Such qualifying liquid resources include, for example, (1) deposits to the Clearing Agencies' respective Clearing Funds, or, for DTC, its Participants Fund, made by Members or Participants pursuant to the respective rules; [16] (2) for DTC and NSCC, an annual committed credit facility; [17] (3) for NSCC, its Members' Supplemental Liquidity Deposits; [18] and (4) for GSD and MBSD, a rule-based Capped Contingency Liquidity Facility (''CCLF'') program.[19] The Framework would also state that the Clearing Agencies may have access to other available resources that may not meet the definition of qualifying liquid resources.[20]

2. Liquidity Measurement and Monitoring

The Framework would describe the manner in which FICC and NSCC measure and monitor the sufficiency of their respective qualifying liquid resources through daily liquidity studies that consider certain risk scenarios. The scenarios are designed to measure the sufficiency of their available qualifying liquid resources to meet the cash settlement obligations of their respective largest Affiliated Family of Members in a number of stressed conditions, including extreme but plausible scenarios applied under severely adverse market conditions that could coincide with the default of a Member.[21] The Framework would provide three types of scenarios: (1) Normal market scenarios, as a baseline reference point to assess other stress assumptions; (2) scenarios designed to meet the requirements set forth in Rule 17Ad–22(e)(7)(i) under the Act; and (3) scenarios designed to meet the requirements set forth in Rule 17Ad–22(e)(7)(vi) under the Act.[22] The Framework would describe the manner in which the scenarios are developed and selected for testing.[23] The Framework would also describe how liquidity stress testing results are escalated to Clearing Agency management on at least a monthly basis, and how these results are used to evaluate the adequacy of the liquidity resources of FICC and NSCC.[24]

With respect to DTC's measurement of the sufficiency of its liquidity resources, the Framework would set forth that the Collateral Monitor and the Net Debit Cap [25] limit DTC's liquidity exposure and, thus, DTC's liquidity requirement in default scenarios.[26] The Framework would describe how the Collateral Monitor and the Net Debit Cap enable DTC to regularly test the sufficiency of its liquid resources on an intraday and end-of-day basis and adjust to stressed circumstances during a settlement day to protect DTC and its Participants against liquidity exposure under normal and stressed market conditions.[27]

The Framework would describe how the Clearing Agencies review the limits of outstanding investments and collateral held (if applicable) by each Clearing Agency's investment counterparties, and conduct formal reviews of the reliability of their liquidity providers in extreme but plausible market conditions.[28] The Framework would further describe how the Clearing Agencies undertake due diligence with respect to their liquidity providers and conduct a credit analysis of each liquidity provider, and how NSCC and DTC conduct operational testing with their committed credit facility lenders at least annually.[29]

The Framework would describe how the Clearing Agencies would address foreseeable liquidity shortfalls that would not be covered by their existing liquid resources.[30] For example, DTC would address a foreseeable, same-day liquidity shortfall through adjustments to the Net Debit Cap reductions, as provided under the DTC Rules.[31] In addition, the Framework would describe how the Clearing Agencies' existing qualifying liquid resources may be replenished in accordance with the respective rules of the Clearing Agencies.[32] For example, the Framework would describe how the Clearing Agencies may use proceeds that may be available from the liquidation of a defaulting participant's portfolio (including the sale of collateral used to secure a borrowing) to repay liquidity borrowings, thus replenishing the relevant Clearing Agency's liquid resources.[33]

The Framework would state that the Clearing Agencies' liquidity risk models are subject to independent model validation on at least an annual basis.[34] The Framework would describe the manner in which the liquidity risks of the Clearing Agencies are assessed and escalated through liquidity risk management controls that include a statement of risk tolerances that are specific to liquidity risk (''Liquidity Risk Tolerance Statement''), and an operational risk profile of LPRU, which contains consolidated risk and control data.[35] Finally, the Framework would state that the Liquidity Risk Tolerance Statement is reviewed by management within the LPRU annually, and is escalated to the Risk Committee of the Board of Executives of each Clearing Agency for review and approval at least annually.[36]

B. Notice of Filing of Amendment No. 6

Amendment No. 6, which supersedes and replaces Amendment Nos. 4 and 5, added additional detail and clarity to the proposal, as well as making some technical corrections. Specifically, Amendment No. 6 clarifies that DTC's structural features, including the Collateral Monitor, Net Debit Cap, and Participants Fund enable it to maintain sufficient qualifying liquid resources by limiting the liquidity requirements in

[13] Rules, *available at http://www.dtcc.com/en/legal/rules-and-procedures.*

[14] 17 CFR 240.17Ad–22(a)(14).

[15] Notice, 82 FR at 19121.

[16] DTC Rule 4 (Participants Fund and Participants Investment), GSD Rule 4 (Clearing Fund and Loss Allocation), MBSD Rule 4 (Clearing Fund and Loss Allocation), NSCC Rule 4 (Clearing Fund). Rules, *supra* note 13.

[17] *See* Securities Exchange Act Release No. 77750 (April 29, 2016), 81 FR 27181 (May 5, 2016) (SR–DTC–2016–801, SR–NSCC–2016–801). Notice, 82 FR at 19121.

[18] NSCC Rule 4A (Supplemental Liquidity Deposits). Rules, *supra* note 13.

[19] MBSD Rule 17, Section 2a (Procedures for When the Corporation Ceases to Act). Rules, *supra* note 13.

[20] Notice, 82 FR at 19121.

[21] Notice, 82 FR at 19121 and 19123.

[22] Order Instituting Proceedings, 82 FR at 35242.

[23] Notice, 82 FR at 19121.

[24] *Id.*

[25] ''Collateral Monitor'' and ''Net Debit Cap'' are defined in DTC Rule 1, Section 1 (Definitions), and their calculations are further provided for in the DTC Settlement Service Guide of the DTC Rules. Rules, *supra* note 13.

[26] Notice, 82 FR at 19121.

[27] *Id.*

[28] *Id.*

[29] Notice, 82 FR at 19121 and 19123.

[30] *Id.*

[31] Notice, 82 FR at 19123.

[32] Notice, 82 FR at 19121 and 19123.

[33] Notice, 82 FR at 19123.

[34] *Id.*

[35] Notice, 82 FR at 19121–19122.

[36] Notice, 82 FR at 19122.

default scenarios. Similarly, in order to more accurately describe DTC's current practices with respect to the Collateral Monitor and Net Debit Cap, Amendment No. 6 deletes a description in the proposal stating that the Collateral Monitor and the Net Debit Cap enable DTC to regularly test the sufficiency of its liquid resources on an intraday and end-of-day basis and adjust to stressed circumstances during a settlement day to protect DTC and its Participants against liquidity exposure under normal and stressed market conditions.

Amendment No. 6 revises the Framework to (1) update the citation of the proposed rule change filing regarding FICC GSD's CCLF program, which was approved by the Commission on November 15, 2017, and (2) state that FICC GSD's CCLF program will become a qualifying liquid resource of FICC GSD on November 15, 2018.[37]

Amendment No. 6 also modifies and elaborates FICC and NSCC's liquidity sufficiency testing that is performed daily with respect to three types of scenarios: (1) Normal market scenarios, as a baseline reference point to assess other stress assumptions, (2) scenarios designed to meet the requirements set forth in Rule 17Ad–22(e)(7)(i) [38] under the Act (''Level 2 Scenarios''), and (3) scenarios designed to meet the requirements set forth in Rule 17Ad–22(e)(7)(vi)(A) [39] under the Act (''Level 3 Scenarios''). The Framework is further modified by Amendment No. 6 to state that daily liquidity studies may also be performed for informational and monitoring purposes using stress scenarios that exceed the requirements of Rule 17Ad–22(e)(7)(vi)(A) under the Act.[40]

Amendment No. 6 also modifies the Framework to describe the purpose of the three types of stress scenario described above. Specifically, Amendment No. 6 revised the Framework to state that Level 2 Scenarios assume a wide range of foreseeable stress scenarios that include, but are not limited to, the default of the Affiliated Family of Members that would generate the largest aggregate payment obligation for the FICC or NSCC in extreme but plausible market conditions. In this way, the Framework would state that these daily liquidity studies are designed to meet the requirements of Rule 17Ad–22(e)(7)(i) under the Act.[41] Meanwhile, Amendment No. 6 further revised the Framework to state that Level 3 Scenarios assume certain standard and predetermined parameters which are designed to be extreme but plausible and meet the requirements set forth in Rule 17Ad–22(e)(7)(vi)(A) under the Act.[42]

Amendment No. 6 also revises the Framework to provide the analysis and escalation process for any liquidity shortfalls that are identified through the daily studies utilizing the Level 2 and Level 3 Scenarios. Amendment No. 6 modifies the Framework to describe how the liquidity stress testing is regularly reviewed and analyzed, including an evaluation of the appropriateness of existing scenarios, and would also describe how these analyses are escalated on at least a monthly basis. The Framework is further revised by Amendment No. 6 to state that liquidity stress testing is comprehensively analyzed on a weekly basis, and how the results of the analysis are escalated on a monthly basis and used to evaluate the adequacy of the qualifying liquid resources of FICC or NSCC. Amendment No. 6 also modifies the Framework to describe the manner in which Level 2 and Level 3 scenarios are developed and selected for testing.

Furthermore, Amendment No. 6 revises the Framework to state that the Clearing Agencies may have access to other available resources that do not meet the definition of qualifying liquid resources. Amendment No. 6 also revises the Framework to state that each of the Clearing Agencies would annually test borrowing of their liquidity resources to confirm providers are operationally able to perform their commitments and are familiar with the drawdown process.

III. Discussion and Commission Findings

Section 19(b)(2)(C) of the Act directs the Commission to approve a proposed rule change of a self-regulatory organization if it finds that such proposed rule change is consistent with the requirements of the Act and rules and regulations thereunder applicable to such organization.[43] After carefully considering the Amended Proposed Rule Changes, the Commission finds that the Amended Proposed Rule Changes are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Clearing Agencies. Specifically, the Commission finds that the Amended Proposed Rule Changes are consistent with Section 17A(b)(3)(F) of the Act [44] and Rule 17Ad–22(e)(7) under the Act.[45]

A. Consistency With Section 17A(b)(3)(F) of the Act

Section 17A(b)(3)(F) of the Act requires, in part, that the rules of a registered clearing agency be designed to promote the prompt and accurate clearance and settlement of securities transactions, and to assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies or for which they are responsible.[46] As described above, the Framework would set forth the Clearing Agencies' liquidity risk management strategy and objectives, which are to maintain sufficient liquid resources (1) in the case of FICC and NSCC, to meet the potential amount of funding required to settle outstanding transactions of a defaulting Member, or Affiliated Family of Members, in a timely manner, or (2) in the case of DTC, to complete system-wide settlement on each business day with a high degree of confidence, notwithstanding the failure to settle of a Participant or Affiliated Family of Participants.

The Framework would address how each Clearing Agency holds liquid resources to effect the cash settlement obligations of their largest Affiliated Family of Members or Participants. In order to do so, the Framework would identify each of the liquid resources available to each Clearing Agency. In addition, the Framework would describe how each Clearing Agency measures and monitors the sufficiency of its liquid resources to meet its obligation across a range of stress scenarios. The Framework would provide how the Clearing Agencies conduct reviews of the reliability of their liquidity providers, how the Clearing Agencies would address foreseeable liquidity shortfalls, and how the Clearing Agencies would replenish their liquid resources. The Framework also would describe how liquidity risks to each Clearing Agency are assessed and escalated through liquidity risk management controls.

By providing for the maintenance and monitoring of each Clearing Agency's liquidity resources, the Framework helps position the Clearing Agencies to better withstand the liquidity risks that

[37] MBSD Rule 17, Section 2a (Procedures for When the Corporation Ceases to Act). Rules, *supra* note 13. *See* Securities Exchange Act Release Nos. 82090 (November 15, 2017), 82 FR 55427 (November 21, 2017) (SR–FICC–2017–002); 81054 (June 29, 2017), 82 FR 31356 (July 6, 2017) (SR–FICC–2017–802).

[38] 17 CFR 240.17Ad–22(e)(7)(i).

[39] 17 CFR 240.17Ad–22(e)(7)(vi)(A).

[40] *Id.*

[41] 17 CFR 240.17Ad–22(e)(7)(i).

[42] 17 CFR 240.17Ad–22(e)(7)(vi)(A).

[43] 15 U.S.C. 78s(b)(2)(C).

[44] 15 U.S.C. 78q–1(b)(3)(F).

[45] 17 CFR 240.17Ad–22(e)(7).

[46] 15 U.S.C. 78q–1(b)(3)(F).

arise in or are borne by them and to be better positioned to continue their critical operations and services. In turn, such improved positioning in these areas could help promote the prompt and accurate clearance and settlement of securities transactions by the Clearing Agencies and reduce the possibility of the Clearing Agencies' failure, which could help mitigate the risk of financial loss contagion that could be caused by such a failure. With such aims, the Framework could help further assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies, or for which they are responsible. Accordingly, the Commission finds that the Amended Proposed Rule Changes are consistent with the requirements of Section 17A(b)(3)(F) of the Act.[47]

B. Consistency With Section 17Ad–22(e)(7)(i), (ii), (iv), (v), (vi), (vii), (viii), and (ix)

Rule 17Ad–22(e)(7) under the Act requires that each covered clearing agency establish, implement, maintain and enforce written policies and procedures reasonably designed to, among other things effectively measure, monitor, and manage the liquidity risks that arise in or are borne by the covered clearing agency, including measuring, monitoring, and managing its settlement and funding flows on an ongoing and timely basis, and its use of intraday liquidity.[48] Specifically, Rule 17Ad–22(e)(7)(i) under the Act requires each covered clearing agency to maintain sufficient liquid resources at the minimum in all relevant currencies to effect same-day and, where appropriate, intraday and multiday settlement of payment obligations with a high degree of confidence under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the participant family that would generate the largest aggregate payment obligation for the covered clearing agency in extreme but plausible market conditions.[49] Meanwhile, Rule 17Ad–22(e)(7)(ii) under the Act requires each covered clearing agency to hold qualifying liquid resources to meet the minimum liquidity resource requirement under Rule 17Ad–22(e)(7)(i) in each relevant currency for which the covered clearing agency has payment obligations owed to clearing members.[50]

The Framework would provide that FICC and NSCC maintain liquid resources sufficient to meet the potential amount of funding required to settle outstanding transactions of a defaulting Member or Affiliated Family of Members in a timely manner. The Framework would further provide that DTC maintain sufficient available liquidity resources to complete system-wide settlement on each business day, with a high degree of confidence and notwithstanding the failure to settle of the Participant or Affiliated Family of Participants with the largest settlement obligation. The Framework would also describe how FICC and NSCC perform daily liquidity studies, which are designed to measure the sufficiency of their available liquid resources to meet the cash settlement obligations of their largest Affiliated Family of Members in a number of stress conditions including extreme but plausible scenarios applied under severely adverse market conditions that could coincide with the default of a participant.

Furthermore, the Framework would provide that the Clearing Agencies hold qualifying liquid resources sufficient to meet their minimum liquidity resource requirement and identify each of the qualifying liquid resources available to each Clearing Agency, which include (1) deposits to the Clearing Agencies' respective Clearing Funds, or, for DTC, its Participants Fund, made by Members or Participants pursuant to the respective rules; (2) for DTC and NSCC, an annual committed credit facility; (3) for NSCC, its Members' Supplemental Liquidity Deposits; and (4) for GSD and MBSD, their respective rule-based CCLF program. As such, the Commission finds that the Framework is consistent with Rule 17Ad–22(e)(7)(i) and (ii).[51]

Rule 17Ad–22(e)(7)(iv) under the Act requires that a covered clearing agency undertake due diligence to confirm that it has a reasonable basis to believe each of its liquidity providers, whether or not such liquidity provider is a clearing member, has (A) sufficient information to understand and manage the liquidity provider's liquidity risks; and (B) the capacity to perform as required under its commitments to provide liquidity to the covered clearing agency.[52] Further, Rule 17Ad–22(e)(7)(v) under the Act requires that a covered clearing agency maintain and test with each liquidity provider, to the extent practicable, the covered clearing agency's procedures and operational capacity for accessing each type of relevant liquid resource under Rule 17Ad–22(e)(7)(i) at least annually.[53]

The Framework would describe how the Clearing Agencies undertake due diligence with respect to their liquidity providers, and conduct testing with those providers at least annually. The Framework would describe how the Clearing Agencies review the limits of outstanding investments and collateral held of each Clearing Agency's investment counterparties, and conduct formal reviews of the reliability of their liquidity providers in extreme but plausible market conditions to test the liquidity providers' reliability. These reviews, as described in the Framework, would also include a credit analysis of each liquidity provider. Further, the Framework would describe annual operational testing of the DTC and NSCC committed credit facility, which is conducted to confirm the lenders are operationally able to perform their commitments and are familiar with the drawdown process, and would state that each of the Clearing Agencies would annually test borrowing of their liquidity resources to confirm providers are operationally able to perform their commitments and are familiar with the drawdown process. The due diligence and testing required above are designed to inform the Clearing Agencies to confirm that they have a reasonable basis to believe each of the liquidity providers has sufficient information to understand and manage the liquidity provider's liquidity risk and the capacity to perform as required. In addition, the due diligence and testing are designed to maintain and check the Clearing Agencies' procedures and operational capacity for accessing their respective liquid resources. Therefore, the Commission finds that the Framework is consistent with Rules 17Ad–22(e)(7)(iv) and (v) under the Act.[54]

Rule 17Ad–22(e)(7)(vi) under the Act requires that a covered clearing agency determine the amount and regularly test the sufficiency of the liquid resources held for purposes of meeting the minimum liquid resource requirement under Rule 17Ad–22(e)(7)(i) by, at a minimum: (A) Conducting stress testing of its liquid resources at least once each day using standard and predetermined parameters and assumptions; (B) conducting a comprehensive analysis on at least a monthly basis of the existing stress testing scenarios, models, and underlying parameters and assumptions used in evaluating liquidity needs and resources, and considering modifications to ensure they are appropriate for determining the clearing agency's identified liquidity needs and

[47] 15 U.S.C. 78q–1(b)(3)(F).

[48] 17 CFR 240.17Ad–22(e)(7).

[49] 17 CFR 240.17Ad–22(e)(7)(i).

[50] 17 CFR 240.17Ad–22(e)(7)(ii).

[51] 17 CFR 240.17Ad–22(e)(7)(i) and (ii).

[52] 17 CFR 240.17Ad–22(e)(7)(iv).

[53] 17 CFR 240.17Ad–22(e)(7)(v).

[54] 17 CFR 240.17Ad–22(e)(7)(iv) and (v).

resources in light of current and evolving market conditions; (C) conducting a comprehensive analysis of the scenarios, models, and underlying parameters and assumptions used in evaluating liquidity needs and resources more frequently than monthly when the products cleared or markets served display high volatility or become less liquid, when the size or concentration of positions held by the clearing agency's participants increases significantly, or in other appropriate circumstances described in such policies and procedures; and (D) reporting the results of its analyses under Rule 17Ad–22(e)(7)(vi)(B) and (C) to appropriate decision makers at the covered clearing agency, including but not limited to, its risk management committee or board of directors, and using these results to evaluate the adequacy of and adjust its liquidity risk management methodology, model parameters, and any other relevant aspects of its liquidity risk management framework.[55]

As described above, the Framework would describe how FICC and NSCC would use the three types of stress scenarios to test their daily liquidity to ensure their liquidity resources are sufficient to meet the obligations of their largest Affiliated Family of Members. For example, under a Level 3 Scenario, FICC or NSCC could assume certain standard and predetermined parameters that are designed to be extreme but plausible. The Framework would also state that daily liquidity studies may be performed for informational and monitoring purposes using stress scenarios that exceed the requirements of Rule 17Ad–22(e)(7)(vi)(A).[56] Furthermore, the Framework would further describe the analysis and escalation process for any liquidity shortfalls that are identified through the daily studies utilizing the Level 2 and Level 3 Scenarios. The Framework would also provide how liquidity stress testing is comprehensively analyzed on a weekly basis, and how these analyses are escalated on at least a monthly basis and used to evaluate the adequacy of the qualifying liquid resources of FICC or NSCC. Because the Framework is designed to stress test the sufficiency of the liquid resources daily, conduct a comprehensive analysis of liquidity stress testing on a weekly basis, and report the results of such analysis to the management committee responsible for oversight of risk management matters, the Commission finds that the Framework concerning FICC and NSCC is consistent with Rule 17Ad–22(e)(7)(vi) under the Act.[57]

Rule 17Ad–22(e)(7)(vii) under the Act requires that a covered clearing agency perform a model validation of its liquidity risk models not less than annually or more frequently as may be contemplated by the covered clearing agency's risk management framework established pursuant to Rule 17Ad–22(e)(3).[58] The Framework would describe how the Clearing Agencies' liquidity risk models are subject to independent model validations on at least an annual basis. As such, the Commission finds that the Framework is consistent with Rule 17Ad–22(e)(7)(vii) under the Act.[59]

Rule 17Ad–22(e)(7)(viii) under the Act requires that a covered clearing agency address foreseeable liquidity shortfalls that would not be covered by the covered clearing agency's liquid resources and seek to avoid unwinding, revoking, or delaying the same-day settlement of payment obligations.[60] As described above, the Framework would describe how each of the Clearing Agencies addresses foreseeable liquidity shortfalls that would not be covered by their existing liquid resources through, for example, modification to its existing liquid resources. Therefore, the Commission finds that the Framework is consistent with Rule 17Ad–22(e)(7)(viii) under the Act.[61]

Rule 17Ad–22(e)(7)(ix) under the Act requires that a covered clearing agency describe the covered clearing agency's process to replenish any liquid resources that the clearing agency may employ during a stress event.[62] The Framework would describe how the Clearing Agencies' existing liquid resources may be replenished in accordance with the respective rules of the Clearing Agencies. For example, the Framework would describe how the Clearing Agencies may use proceeds that may be available from the liquidation of a defaulting Member or Participant's portfolio (including the sale of collateral used to secure a borrowing) to repay liquidity borrowings, thus replenishing the relevant Clearing Agency's liquid resources. Therefore, the Commission finds that the Framework is consistent with Rule 17Ad–22(e)(7)(ix) under the Act.[63]

IV. Request for Written Comments

The Commission requests that interested persons provide written submissions of their views, data, and arguments concerning Amendment No. 6 to File Number SR–DTC–2017–004, SR–NSCC–2017–005, or SR–FICC–2017–008. In particular, the Commission invites the written views of interested persons concerning whether Amendment No. 6 is consistent with Section 17A(b)(3)(F) of the Act,[64] Rule 17Ad–22(e)(7) under the Act,[65] or any other provision of the Act, rules, and regulations thereunder. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–DTC–2017–004, SR–NSCC–2017–005, or SR–FICC–2017–008 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2017–004, SR–NSCC–2017–005, or SR–FICC–2017–008. One of these file numbers 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 Amendment No. 6 that are filed with the Commission, and all written communications relating to Amendment No. 6 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 Clearing Agencies, and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change.

[55] 17 CFR 240.17Ad–22(e)(7)(vi).

[56] 17 CFR 240.17Ad–22(e)(7)(vi)(A).

[57] 17 CFR 240.17Ad–22(e)(7)(vi).

[58] 17 CFR 240.17Ad–22(e)(7)(vii) and 17 CFR 240.17Ad–22(e)(3).

[59] 17 CFR 240.17Ad–22(e)(7)(vii).

[60] 17 CFR 240.17Ad–22(e)(7)(viii).

[61] *Id.*

[62] 17 CFR 240.17Ad–22(e)(7)(ix).

[63] *Id.*

[64] 15 U.S.C. 78q–1(b)(3)(F).

[65] 17 CFR 240.17Ad–22(e)(7).

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–DTC–2017–004, SR–NSCC–2017–005, or SR–FICC–2017–008 and should be submitted on or before January 18, 2018. If comments are received, any rebuttal comments should be submitted on or before February 1, 2018.

V. Accelerated Approval of the Amended Proposed Rule Changes

The Commission finds good cause, pursuant to Section 19(b)(2) of the Act,[66] to approve the Amended Proposed Rule Changes prior to the 30th day after the date of publication of Amendment No. 6 in the **Federal Register**.

As discussed more fully above, the Commission finds that the Framework could help Clearing Agencies to withstand the liquidity risks that arise in or are borne by the Clearing Agencies, and to continue their critical operations and services, which helps to promote the prompt and accurate clearance and settlement of securities transactions, consistent with Section 17A(b)(3)(F) of the Act.[67] By maintaining liquidity resources and monitoring sufficiency of the available liquidity resources, the Commission further finds that the Framework is designed to help reduce the possibility of the Clearing Agencies' failure, as well as mitigate the risk of financial loss contagion caused by the Clearing Agencies' failure. Therefore, the Framework could help further assure the safeguarding of securities and funds which are in the custody or control of the Clearing Agencies, or for which they are responsible, consistent with Section 17A(b)(3)(F).[68]

More specifically regarding Amendment No. 6, the amendment clarifies and modifies the Framework by (1) providing more accurate descriptions of DTC's Collateral Monitor and Net Debit Cap, (2) modifying and elaborating on FICC and NSCC's daily liquidity stress testing to ensure that their respective liquidity resources are sufficient to meet the cash settlement obligations of their respective largest Affiliated Family of Members, and (3) providing the analysis and escalation process for liquidity shortfalls that are identified through the daily testing with respect to Level 2 and Level 3 Scenarios.

[66] 15 U.S.C. 78s(b)(2).

[67] 15 U.S.C. 78q–1(b)(3)(F).

[68] *Id.*

By providing more accurate descriptions of DTC's liquidity risk management tools, Amendment No. 6 would help ensure that the DTC Rules are transparent and clear, which would help enable its Participants to better identify and understand the risks they incur by participating in DTC. In addition, by providing additional detail around FICC and NSCC's daily liquidity sufficiency testing, as well as the analysis and escalation process for liquidity shortfalls, Amendment No. 6 could help mitigate the risk that FICC and NSCC would be unable to promptly meet their settlement obligations due to insufficient liquidity. By doing so, the Commission finds that Amendment No. 6 could help FICC and NSCC to be in a better position to withstand their respective liquidity risks, thereby promoting the prompt and accurate clearance and settlement of securities, consistent with Section 17A(b)(3)(F) of the Act.[69]

Accordingly, the Commission finds good cause for approving the Amended Proposed Rule Changes on an accelerated basis, pursuant to Section 19(b)(2) of the Act.[70]

VI. Conclusion

On the basis of the foregoing, the Commission finds that the proposed rule changes, as modified by Amendment No. 1, 3, and 6 are consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act[71] and the rules and regulations thereunder.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule changes SR–DTC–2017–004, SR–NSCC–2017–005, or SR–FICC–2017–008 as modified by Amendment Nos. 1, 3, and 6 be, and hereby are, APPROVED on an accelerated basis.[72]

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[73]

Eduardo Aleman,

Assistant Secretary.

[FR Doc. 2017–27997 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[69] 15 U.S.C. 78q–1(b)(3)(F).

[70] 15 U.S.C. 78s(b)(2).

[71] 15 U.S.C. 78q–1.

[72] In approving the Amended Proposed Rule Changes, the Commission considered the proposals' impact on efficiency, competition and capital formation. 15 U.S.C. 78c(f).

[73] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82391; File No. SR–PEARL–2017–39]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX PEARL Rule 510 To Extend the Penny Pilot Program

December 22, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 11, 2017, MIAX PEARL LLC (''MIAX PEARL'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a 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 is filing a proposal to amend Exchange Rule 510, Interpretations and Policies .01 to extend the pilot program for the quoting and trading of certain options in pennies.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings/pearl,* at MIAX PEARL's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

[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 is a participant in an industry-wide pilot program that provides for the quoting and trading of certain option classes in penny increments (the ''Penny Pilot Program'' or ''Program''). The Penny Pilot Program allows the quoting and trading of certain option classes in minimum increments of $0.01 for all series in such option classes with a price of less than $3.00; and in minimum increments of $0.05 for all series in such option classes with a price of $3.00 or higher. Options overlying the PowerShares QQQ™ (''QQQ''), SPDR® S&P 500® ETF (''SPY''), and iShares® Russell 2000 ETF (''IWM''), however, are quoted and traded in minimum increments of $0.01 for all series regardless of the price. The Penny Pilot Program was initiated at the then existing option exchanges in January 2007 [3] and currently includes more than 300 of the most active option classes. The Penny Pilot Program is currently scheduled to expire on December 31, 2017.[4] The purpose of the proposed rule change is to extend the Penny Pilot Program in its current format through June 30, 2018.

In addition to the extension of the Penny Pilot Program through June 30, 2018, the Exchange proposes to extend one other date in the Rule. Currently, Interpretations and Policies .01 states that the Exchange will replace any Penny Pilot issues that have been delisted with the next most actively traded multiply listed option classes that are not yet included in the Penny Pilot Program, and that the replacement issues will be selected based on trading activity in the previous six months. Such option classes will be added to the Penny Pilot Program on the second trading day following July 1, 2017.[5] Because this date has expired and the Exchange intends to continue this practice for the duration of the Penny Pilot Program, the Exchange is proposing to amend the Rule to reflect that such option classes will be added to the Penny Pilot Program on the second trading day following January 1, 2018.

The purpose of this provision is to reflect the new date on which replacement issues may be added to the Penny Pilot Program.

2. Statutory Basis

MIAX PEARL believes that its proposed rule change 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 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 mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

In particular, the proposed rule change, which extends the Penny Pilot Program for six months, allows the Exchange to continue to participate in a program that has been viewed as beneficial to traders, investors and public customers and viewed as successful by the other options exchanges participating in it.

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. Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Penny Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace, facilitating investor protection, and fostering a competitive environment. In addition, consistent with previous practices, the Exchange believes the other options exchanges will be filing similar extensions of the Penny Pilot Program.

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

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) [10] normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the

[3] *See* Securities Exchange Act Release Nos. 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007) (SR–CBOE–2006–92); 55161 (January 24, 2007), 72 FR 4754 (February 1, 2007) (SR–ISE–2006–62); 54886 (December 6, 2006), 71 FR 74979 (December 13, 2006) (SR–Phlx–2006–74); 54590 (October 12, 2006), 71 FR 61525 (October 18, 2006) (SR–NYSEArca–2006–73); and 54741 (November 9, 2006), 71 FR 67176 (November 20, 2006) (SR–Amex–2006–106).

[4] *See* Securities Exchange Act Release No. 80758 (May 24, 2017), 82 FR 25022 (May 31, 2017) (SR–PEARL–2017–24) (extending the Penny Pilot Program to December 31, 2017).

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* June) is not used for purposes of the six-month analysis. For example, a replacement added on the second trading day following January 1, 2018, will be identified based on trading activity from June 1, 2017, through November 30, 2017.

[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).

[10] 17 CFR 240.19b–4(f)(6).

[11] 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 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 pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44).

Commission designates the proposed rule change as operative upon filing with the Commission.[14]

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)[15] 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–PEARL–2017–39 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–PEARL–2017–39. 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–PEARL–2017–39 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28079 Filed 12–27–17; 8:45 am]

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[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82386; File No. SR–FICC–2017–023]

Self-Regulatory Organizations; Fixed Income Clearing Corporation; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Eliminate the Development Fees From the Mortgage-Backed Securities Division Clearing Rules

December 21, 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 19, 2017, Fixed Income Clearing Corporation (''FICC'') 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 clearing agency. FICC filed the proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(2) thereunder.[4] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of the elimination of the Development Fees from the Fee Schedule in the FICC Mortgage-Backed Securities Division (''MBSD'') Clearing Rules (''MBSD Rules''),[5] as described in greater detail below.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the clearing agency 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 clearing agency has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On December 30, 2014, FICC filed proposed rule change SR–FICC–2014–12[6] with the Commission to amend the MBSD Rules to include fees to cover the development cost of the MBSD novation service (''Development Fees'').[7] The filing stated that Clearing Members would be assessed the Development Fees as of January 1, 2015 and such fees would remain in effect for three (3) consecutive years.[8] Because the Development Fees will have been in place for three (3) consecutive years as of December 31, 2017, and FICC has used the Development Fees to develop the operational aspect of the MBSD novation service,[9] FICC is proposing to

[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)(2).

[5] Capitalized terms not defined herein are defined in the MBSD Rules, *available at http://www.dtcc.com/legal/rules-and-procedures.*

[6] *See* Securities Exchange Act Release No. 74033 (January 12, 2015), 80 FR 2452 (January 16, 2015) (SR–FICC–2014–12).

[7] *Id.* at 2453.

[8] *Id.*

[9] *See* Securities Exchange Act Release No. 80716 (May 18, 2017), 82 FR 23852 (May 24, 2017) (SR–FICC–2017–012). Specifically, the purpose of the rule filing SR–FICC–2017–012 was to amend the MBSD Rules to (1) move the time that FICC treats itself as the settlement counterparty for SBO-Destined Trades to the time of trade comparison, which is earlier in the lifecycle of the trade, (2) move the time that FICC novates and treats itself as the settlement counterparty for Trade-for-Trade Transactions to the time of trade comparison, which is earlier in the lifecycle of the trade, (3) novate and establish FICC as the settlement counterparty at the time of trade comparison for Specified Pool Trades, and (4) guarantee and novate Stipulated Trades, a

eliminate the Development Fees from the MBSD Rules as of January 1, 2018.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act requires that the MBSD Rules provide for the equitable allocation of reasonable dues, fees, and other charges among its participants.[10] FICC believes that its proposal to eliminate the Development Fees would be equitable because the proposed change would be eliminated for all Clearing Members. FICC believes that the proposed change to eliminate the Development Fees is reasonable because, consistent with SR–FICC–2014–12 (which instituted these fees),[11] the Development Fees will have been in place for three (3) consecutive years as of December 31, 2017, and such fees have been used to develop the operational aspects of the MBSD novation service that has been implemented. Therefore, FICC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(D) of the Act.

The proposed rule change is also designed to be consistent with Rule 17Ad–22(e)(23) under the Act. Rule 17Ad–22(e)(23) requires FICC, *inter alia,* to establish, implement, maintain and enforce written policies and procedures reasonably designed to provide sufficient information to enable participants to identify and evaluate the risks, fees, and other material costs they incur by participating in FICC.[12] The proposed rule change, as described above, would amend the MBSD Rules to eliminate the Development Fees. As such, FICC believes that the proposed change would provide sufficient information to enable Clearing Members to evaluate fees and other material costs of utilizing MBSD's services, in accordance with the requirements of Rule 17Ad–22(e)(23), promulgated under the Act, cited above.

(B) Clearing Agency's Statement on Burden on Competition

FICC does not believe that the proposed change would impact, or impose any burden on, competition[13] because the elimination of the Development Fees would result in a reduction of costs incurred by Clearing Members that utilize MBSD's services.

(C) Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not been solicited or received. FICC will notify the Commission of any written comments received by FICC.

III. Date of Effectiveness of the Proposed Rule Change, and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[14] and paragraph (f) of Rule 19b–4 thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FICC–2017–023 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–FICC–2017–023. 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 20549–1090 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 FICC and on DTCC's website (*http://dtcc.com/legal/sec-rule-filings.aspx*). 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–FICC–2017–023 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28001 Filed 12–27–17; 8:45 am]

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proposed new trade type, at the time of trade comparison and treat FICC as the settlement counterparty at such time. In connection with these changes, FICC also proposed new processes that would promote operational efficiencies for Clearing Members. The full text of rule filing SR–FICC–2017–012 is *available at http://www.dtcc.com/legal/sec-rule-filings.*

[10] 15 U.S.C. 78q–1(b)(3)(D).

[11] *Supra* note 6.

[12] 17 CFR 240.17Ad–22(e)(23).

[13] 15 U.S.C. 78q–1(b)(3)(I).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82390; File No. SR–NYSE Arca–2017–107]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Amendment No. 1, and Order Granting Approval on an Accelerated Basis of a Proposed Rule Change, as Modified by Amendments No. 1 and No. 3, to List and Trade of Shares of the Breakwave Dry Bulk Shipping ETF Under NYSE Arca Rule 8.200–E, Commentary .02

December 22, 2017.

I. Introduction

On September 8, 2017, NYSE Arca, Inc. (''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act'' or ''Exchange Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change to

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

list and trade shares (''Shares'') of the Breakwave Dry Bulk Shipping ETF (''Fund'') under NYSE Arca Rule 8.200–E, Commentary .02. The proposed rule change was published for comment in the **Federal Register** on September 28, 2017.[4] On December 5, 2017, the Exchange filed Amendment No. 1 to the proposed rule change, which amended and replaced the proposed rule change in its entirety.[5] On December 20, 2017, the Exchange filed Amendment No. 2 to the proposed rule change. The Exchange withdrew Amendment No. 2 on December 21, 2017, and on the same day filed Amendment No. 3.[6] No comments have been received regarding the proposed rule change. The Commission is providing notice of the filing of Amendment No. 1 to interested persons, and is approving the proposed rule change, as modified by Amendments No. 1 and No. 3, on an accelerated basis.

II. Description of the Proposed Rule Change, as Modified by Amendment No. 1 and No. 3

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade shares (''Shares'') of the following under NYSE Arca Rule 8.200–E, Commentary .02, which governs the listing and trading of Trust Issued Receipts: Breakwave Dry Bulk Shipping ETF (the ''Fund'').[7]

The Fund will be a series of ETF Managers Group Commodity Trust I (the ''Trust).[8] The Fund and the Trust will be managed and controlled by their sponsor and investment manager, ETF Managers Capital LLC (the ''Sponsor''). The Sponsor is registered with the Commodity Futures Trading Commission (''CFTC'') as a commodity pool operator (''CPO'') and is a member of the National Futures Association (''NFA''). Breakwave Advisors LLC (''Breakwave'') is registered as a commodity trading advisor with the CFTC and will serve as the Fund's commodity trading advisor. ETFMG Financial LLC will be the Fund's distributor (''Distributor'' or ''Marketing Agent''). US Bancorp Fund Services LLC will be the Fund's ''Administrator'' and ''Transfer Agent''.

The Fund's Investment Objective and Strategy

According to the Registration Statement, the Fund's investment objective will be to provide investors with exposure to the daily change in the price of dry bulk freight futures, before expenses and liabilities of the Fund, by tracking the performance of a portfolio (the ''Benchmark Portfolio'') consisting of a three-month strip of the nearest calendar quarter of futures contracts on specified indexes (each a ''Reference Index'') that measure rates for shipping dry bulk freight (''Freight Futures''). Each Reference Index is published each U.K. business day by the London-based Baltic Exchange Ltd [9] and measures the charter rate for shipping dry bulk freight in a specific size category of cargo ship—Capesize, Panamax or Supramax. The three Reference Indexes are as follows: Capesize: The Capesize 5TC Index; Panamax: The Panamax 4TC Index; and Supramax: the Supramax 6TC Index.[10] The value of the Capesize

[4] *See* Securities Exchange Act Release No. 81681(September 22, 2017), 82 FR 45342.

[5] In Amendment No. 1, the Exchange: (1) Disclosed information regarding the dissemination of the Reference Indexes (defined below); (2) described further the exchanges that trade Freight Futures (defined below); (3) described the regulatory framework under which brokers that trade Freight Futures operate; (4) described how options held by the fund would be valued in calculating the Fund's net asset value; (5) discussed why it believes that the cut-off time for creation and redemption orders will not negatively impact arbitrage opportunities for the shares; (6) modified its description of how the indicative fund value would be calculated; (7) provided information regarding the availability of pricing information for Freight Futures and exchange listed options on such futures; (8) expanded its description of the scope of information that will be made available regarding the Fund's portfolio holdings; (9) expanded the continued listing standards applicable to the Shares; (10) limited the amount of exchange-listed options that may be held by the Fund that are not listed on an ISG/CSSA market; (11) expanded its description of the surveillance applicable to Freight Futures and exchange-listed options on such futures; and (12) made other technical amendments. Amendment No. 1 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nysearca-2017-107/nysearca2017107-2759312-161596.pdf.*

[6] In Amendment No. 3, the Exchange provided background information to support its proposal. Specifically, the Exchange: (1) identified the regulators of the markets that list Freight Futures; and (2) stated that Freight Futures have been cleared since 2005. Because Amendment No. 3 does not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, Amendment No. 3 is not subject to notice and comment. Amendment No. 3 to the proposed rule change is available at: *https://www.sec.gov/comments/sr-nysearca-2017-107/nysearca2017107-2837568-161712.pdf.*

[7] Commentary .02 to NYSE Arca Rule 8.200–E applies to Trust Issued Receipts that invest in ''Financial Instruments.'' The term ''Financial Instruments,'' as defined in Commentary .02(b)(4) to NYSE Arca Rule 8.200–E, means any combination of investments, including cash; securities; options on securities and indices; futures contracts; options on futures contracts; forward contracts; equity caps, collars, and floors; and swap agreements.

[8] On June 2, 2017, the Trust filed with the Commission a registration statement on Form S–1 under the Securities Act of 1933 (15 U.S.C. 77a) (''Securities Act'') relating to the Fund (File No. 333–218453) (the ''Registration Statement''). The description of the operation of the Trust and the Fund herein is based, in part, on the Registration Statement.

[9] The Baltic Exchange, which is a wholly owned subsidiary of the Singapore Exchange Ltd (''SGX''), is a membership organization and an independent source of maritime market information for the trading and settlement of physical and derivative shipping contracts. According to the Baltic Exchange, this information is used by shipbrokers, owners and operators, traders, financiers and charterers as a reliable and independent view of the dry and tanker markets.

[10] The Reference Indexes are published by the Baltic Exchange's subsidiary company, Baltic Exchange Information Services Ltd (''Baltic''), which publishes a wide range of market reports, fixture lists and market rate indicators on a daily and (in some cases) weekly basis. The Baltic indices, which include the Reference Indexes, are an assessment of the price of moving the major raw materials by sea. The indices are based on assessments of the cost of transporting various bulk cargoes, both wet (*e.g.,* crude oil and oil products) and dry (*e.g.,* coal and iron ore), made by leading shipbroking houses located around the world on a per tonne and daily hire basis. The information is collated and published by the Baltic Exchange. Procedures relating to administration of the Baltic indices are set forth in ''The Baltic Exchange, Guide to Market Benchmarks'' November 2016 (the ''Guide''), including production methods, calculation, confidentiality and transparency, duties of panelists, code of conduct, audits and quality control. The Guide is available at *www.balticexchange.com.* According to the Guide, these procedures are in compliance with the ''Principles for Financial Benchmarks'' issued by the International Organization of Securities Commissioners (or ''IOSCO'') (the ''IOSCO Principles''). The IOSCO Principles are designed to enhance the integrity, the reliability and the oversight of benchmarks by establishing guidelines for benchmark administrators and other relevant bodies in the following areas: Governance: to protect the integrity of the benchmark determination process and to address conflicts of interest; Benchmark quality: to promote the quality and integrity of benchmark determinations through the application of design factors; Quality of the methodology: To promote the quality and integrity of methodologies by setting out minimum information that should be addressed within a methodology. These principles also call for credible transition policies in case a benchmark may cease to exist due to market structure change. Accountability mechanisms: to establish complaints processes, documentation requirements and audit reviews. The IOSCO Principles provide a framework of standards that might be met in different ways, depending on the specificities of each benchmark. In addition to a set of high level principles, the framework offers a subset of more detailed principles for benchmarks having specific risks arising from their reliance on submissions and/or their ownership structure. For further information concerning the IOSCO Principles, *see*

5TC Index is disseminated at 11:00 a.m., London Time and the value of the Panamax 4TC Index and the Supramax 6TC Index each is disseminated at 1:00 p.m., London Time. The Reference Index information disseminated by the Baltic Exchange also includes the components and value of each component in each Reference Index. Such Reference Index information also is widely disseminated by Reuters and/ or other major market data vendors.

The Fund will seek to achieve its investment objective by investing substantially all of its assets in the Freight Futures currently constituting the Benchmark Portfolio. The Benchmark Portfolio will include all existing positions to maturity and settle them in cash. During any given calendar quarter, the Benchmark Portfolio will progressively increase its position to the next calendar quarter three-month strip, thus maintaining constant exposure to the Freight Futures market as positions mature.

The Benchmark Portfolio will maintain long-only positions in Freight Futures. The Benchmark Portfolio will hold a combination of Capesize, Panamax and Supramax Freight Futures. More specifically, the Benchmark Portfolio will hold 50% exposure in Capesize Freight Futures contracts, 40% exposure in Panamax Freight Futures contracts and 10% exposure in Supramax Freight Futures contracts. The Benchmark Portfolio will not include and the Fund will not invest in swaps, non-cleared dry bulk freight forwards or other over-the-counter derivative instruments that are not cleared through exchanges or clearing houses. The Fund may hold exchange-traded options on Freight Futures. The Benchmark Portfolio is maintained by Breakwave and will be rebalanced annually.

When establishing positions in Freight Futures, the Fund will be required to deposit initial margin with a value of approximately 10% to 40% of the notional value of each Freight Futures position at the time it is established. These margin requirements are established and subject to change from time to time by the relevant exchanges, clearing houses or the Fund's futures commission merchant (''FCM''). On a daily basis, the Fund will be obligated to pay, or entitled to receive, variation margin in an amount equal to the change in the daily settlement level of its Freight Futures positions. Any assets not required to be posted as margin with the FCM will be held at the Fund's custodian in cash or cash equivalents.[11]

The Fund will seek to achieve its objective by purchasing Freight Futures that are cleared through major exchanges (see description of Freight Futures below). The Fund will place purchase orders for Freight Futures with an execution broker. The broker will identify a selling counterparty and, simultaneously with the completion of the transaction, will submit the block traded Freight Futures to the relevant exchange or clearing house for clearing, thereby completing and creating a cleared futures transaction. If the exchange or clearing house does not accept the transaction for any reason, the transaction will be considered null and void and of no legal effect.

The principal markets for Freight Futures are Nasdaq Stockholm AB and SGX. Other exchanges that clear Freight Futures are ICE Futures US (the ''ICE''), the Chicago Mercantile Exchange (''CME'') and the European Energy Exchange (''EEX''). In each case, the applicable exchange acts as a counterparty for each member for clearing purposes.[12] The Fund's investments in Freight Futures will be cleared by Nasdaq Stockholm AB, CME, SGX, ICE and/or the European Energy Exchange (''EEX'').[13] Nasdaq Stockholm AB is regulated by the Swedish Financial Supervisory Authority. SGX is regulated by the Monetary Authority of Singapore. EEX is regulated by the Federal Financial Supervisory Authority in Germany. The ICE and CME are regulated in the U.S. by the CFTC.

Freight futures clearing has been occurring since 2005.

The Benchmark Portfolio will consist of positions in the three-month strip of the nearest calendar quarter of Freight Futures and roll them constantly to the next calendar quarter. The four-calendar quarters are January, February, and March (Q1), April, May, and June (Q2), July, August, and September (Q3), and October, November and December (Q4). The Benchmark Portfolio will consist of an equal number of Freight Futures in each of the three months comprising the nearby calendar quarter at the beginning of such quarter.

Throughout the quarter, the Fund will attempt to roll positions in the nearby calendar quarter, on a pro rata basis. For example, if the Fund was currently holding the Q1 calendar quarter comprising the January, February and March monthly contracts, each week in the month of February, the Fund will attempt to purchase Q2 contracts in an amount equal to approximately one quarter of the expiring February positions. As a result, by the end of February, the Fund would have rolled the February position to Q2 contracts, leaving the Fund with March and Q2 contracts. At the end of March, the Fund will have completed the roll and will then hold only Q2 exposure comprising April, May and June monthly contracts. Since Freight Futures contracts are cash settled, the Fund need not sell out of existing contracts. Rather, it will hold such contracts to expiration and apply the above methodology in order acquire the nearby calendar contract.

The Benchmark Portfolio will be rebalanced annually. The Benchmark Portfolio's initial allocation will be approximately 50% Capesize Freight Futures contracts, 40% Panamax Freight Futures contracts and 10% Supramax Freight Futures contracts. The above allocation will be based on contract value, not number of lots. Given each asset's individual price movements during the year, such percentages might deviate from the targeted allocation.

During the month of December of each year, the Fund will rebalance its portfolio in order to bring the allocation of assets back to the desirable levels. During this period, the Fund would purchase or sell Freight Futures to achieve its targeted allocation.

The Sponsor anticipates that the Fund's Freight Futures positions will be held to expiration and settle in cash against the respective Reference Index as published by the Baltic Exchange. However, positions may be closed out to meet orders for redemption of baskets, in which case the proceeds from the closed positions will not be reinvested.

The Fund's portfolio will be traded with a view to reflecting the performance of the Benchmark Portfolio, whether the Benchmark Portfolio is rising, falling or flat over any particular period. To maintain the correlation between the Fund and the change in the Benchmark Portfolio, the Sponsor may adjust the Fund's portfolio of investments on a daily basis in response to creation and redemption orders or otherwise as required.

http://www.iosco.org/library/pubdocs/pdf/IOSCOPD415.pdf.

[11] The Fund will hold cash or cash equivalents, such as U.S. Treasuries or other high credit quality, short-term fixed-income or similar securities for direct investment or as collateral for the U.S. Treasuries and for other liquidity purposes, and to meet redemptions that may be necessary on an ongoing basis.

[12] LCH.Clearnet currently clears Freight Futures but has announced that, as of December 28, 2017, it will no longer clear Freight Futures.

[13] Nasdaq Stockholm AB, SGX, CME and ICE are members of the Intermarket Surveillance Group (''ISG''). *See* note 19, *infra.*

Overview of the Dry Bulk Freight Industry

As stated in the Registration Statement, the following is a brief introduction of the global dry bulk freight industry. The data presented below is derived from information released from various third-party sources. The third-party sources from which certain of the information presented below include the United Nations Conference on Trade and Development, the Baltic and International Maritime Council, Bloomberg and others. Dry bulk shipping is a 150-plus year-old industry focusing on the transportation of dry bulk commodities using oceangoing vessels named dry bulk carriers. Dry bulk carriers are ships that have cargo loaded directly into the ship's storage holds. The cargos transported are dry commodities that do not need to be carried in packaged form. Dry commodity cargos (mainly iron ore, coal and grains) are homogenous and are loaded with bucket cranes, conveyors or pumps. Crude oil and refined products, while shipped in bulk, are wet cargos and are transported on tanker vessels, rather than dry bulk carriers. Dry bulk carriers have an average useful life of approximately 25 years and are measured on size or capacity in dead weight tons (''DWT'').

Dry bulk carriers come in various sizes:

Capesizes (100,000+ DWT) are the largest of the dry bulk asset classes. Capesizes primarily transport iron ore and coal. Traditional Capesize routes are from Australia to Asia, and from Brazil to Europe and Asia. There are about 1,650 Capesizes worldwide. The Capesize fleet is about 40% of the dry bulk fleet by DWT capacity.

Panamaxes (65,000—100,000 DWT) primarily transport coal, grain and iron ore. The Panamax is the largest vessel class that can transit the (old) Panama Canal. There are about 2,500 Panamaxes worldwide representing 24% of the global fleet by capacity.

Handymaxes (40,000—65,000 DWT) are the work horse of the industry, carrying the whole spectrum of dry bulk commodities: grain, coal, iron ore, and minor bulks. A sub-category of Handymaxes are vessels with capacities of 50,000–65,000 that are called Supramaxes. There are 3,400 Handymaxes worldwide representing about 25% of the global fleet by DWT capacity.

Handysizes (10,000—40,000 DWT) bulkers typically transport grain, coal, and minor bulks. Handysize bulkers tend to trade regionally. There are about 3,300 Handysize bulkers in the fleet, or about 11% of the global fleet by DWT capacity.

Dry Bulk Vessel Supply

According to the Registration Statement, there are approximately 10,500 dry bulk vessels worldwide with a carrying capacity of roughly 790 million DWT and an average age of approximately 8 years. Supply of dry bulk ships is dynamic.

Factors impacting dry bulk supply include new orders, the scrapping of older vessels, new shipbuilding technologies, vessel congestion in ports, closures of major waterways, including canals, and wars and other geopolitical conflicts that can restrict access to vessels available for shipping dry bulk freight.

Demand for Dry Bulk Freight

According to the Registration Statement, dry bulk demand has seen steady growth over the past two decades, as the Asian economies have exhibited robust demand for raw materials on the back of strong economic growth. Iron ore, the main component of steel production, has been the main driver of dry bulk freight demand growth. The higher demand for such raw materials has led to increasing demand for dry bulk shipping, as the regions that produce and consume raw materials are located far apart.

Demand for dry bulk freight is generally measured in ton-miles, which corresponds to one ton of freight carried one mile. Such measure takes into consideration both the quantity of cargo transport but also the distance between loading and offloading ports. Over the last 10 years, dry bulk freight demand growth for major commodities has averaged approximately 6% per year. In 2015, dry bulk freight demand growth for major commodities declined for the first time in at least 15 years, while in 2016, it is estimated to have increased by approximately 2%. Weaker iron ore and coal imports to China were the main reasons for the below trend growth.

Factors impacting demand for shipping dry bulk freight include global economic growth, demand for iron ore, demand for metallurgical and thermal coal, demand for grains, government regulations, taxes and tariffs, fuel prices, vessel speeds and new trade routes.

Dry Bulk Freight Charter Rates

According to the Registration Statement, dry bulk freight ''charter rates'' reflect the price paid for the use of the ship to transport a bulk commodity. The most commonly used freight rate is the timecharter rate, which is measured in U.S. Dollars per day. Dry bulk timecharter rates have exhibited significant volatility in the last 15 years. From 2003 to 2008, faster growth rates in demand for dry bulk ships was not matched by growth in supply of ships and thus, charter rates increased considerably, reaching their highest point in 2008. Following the global financial crisis, growth in supply of ships exceeded demand, leading to a considerable drop in charter rates. Over the last five years, rates have generally been weak compared to historical levels, as higher supply and relatively weak demand growth led to lower utilization rates in the industry.

A common industry measure of dry bulk rates is the Baltic Dry Index (''BDI''). The BDI is an economic indicator issued daily by the Baltic Exchange. The BDI provides an assessment of the price of moving the major raw materials by sea throughout the world. Taking in 21 shipping routes measured on a timecharter basis, the index covers Handysize, Supramax, Panamax, and Capesize dry bulk carriers carrying a range of commodities including coal, iron ore and grain. Each individual asset class also has its own index (*i.e.,* a Reference Index), which is also published daily by the Baltic Exchange and reflects a weighted average assessment of different standardized routes around the world.

The BDI has reflected the volatility of charter rates over the last 15 years, reaching its highest point on record in 2008 at 11,793. In 2016, it reached its lowest point on record at 290. The average price of the BDI in the 15 years from 2001 to 2016 has been 2,567, and the median price has been 1,747. As of March 31, 2017, the BDI stood at 1,200.

Freight Futures

According to the Registration Statement, freight futures are financial futures contracts that allow ship owners, charterers and speculators to hedge against the volatility of freight rates. The Freight Futures are built on indices composed of baskets of routes for dry bulk freight, such as the Capesize 5TC Index, Panamax 4TC Index and Supramax 6TC Index. Freight Futures are financial instruments that trade off-exchange but then are cleared through an exchange. Market participants communicate their buy or sell orders through a network of execution brokers mainly through phone or instant messaging platforms with specific trading instructions related to price, size, and type of order. The execution broker receives such order and then attempts to match it with a counterpart. Once there is a match and both parties confirm the transaction, the execution broker submits the transaction details including trade specifics, counterparty details and accounts to the relevant exchange for clearing, thus completing a cleared block futures transaction. The exchange will then require the relevant member or FCM to submit the necessary margin to support the position similar to other futures clearing and margin requirements.

Freight Futures are listed and cleared on the following exchanges: Nasdaq Stockholm AB, CME, ICE Futures U.S., SGX, and EEX.

Freight Futures settle monthly over the arithmetic average of spot index assessments in the contract month for the relevant underlying product, rounded to one decimal place. The daily index publication, against which Freight Futures settle, is published by the Baltic Exchange.

Generally, Freight Futures trade from approximately 12:00 a.m. Eastern Time (''E.T.'') to approximately 12:00 p.m. E.T. The great majority of trading volume occurs during London business hours, from approximately 3:00 a.m. E.T. time to approximately 12:00 p.m. E.T. Some limited trading takes place during Asian business hours as well (12:00 a.m.-3:00 a.m. E.T.).

Exchanges have a cutoff time of 1:00 p.m. E.T. for clearing the respective day's trades (SGX clears Freight Futures from 6:25 p.m. E.T. to 3:45 p.m. E.T. (next day) or, during part of the year, from 7:25 p.m. to 4:45 p.m. E.T. (next day)). The final closing prices for settlement are published daily around 1:30 p.m. E.T. Final cash settlement occurs the first business day following the expiry day.

Freight Futures are quoted in U.S. Dollars per day, with a minimum lot size of one. One lot represents one day of freight costs, as freight rates are measured in U.S. Dollars per day. The nominal value of a contract is simply the product of lots and Freight Futures prices. There are Futures Contracts of up to 72 consecutive months, starting with the current month, available for trading for each vessel class.

Similar to other futures, Freight Futures are subject to margin requirements by the relevant exchanges. The Sponsor anticipates that approximately 10% to 40% of the Fund's assets will be used as payment for or collateral for Freight Futures contracts. In order to collateralize its Freight Futures positions, the Fund will hold such assets, from which it will post margin to its FCM in an amount equal to the margin required by the relevant exchanges, and transfer to its FCM any additional amounts that may be separately required by the FCM.

According to the Registration Statement, most of the daily trading takes place over phones and instant messaging platforms.[14] Trading screens also exist and some trading also happens through such screens. Brokers are required to report to the relevant exchanges each trade that takes place. Freight Futures liquidity has remained relatively constant, in lot terms, over the last five years with approximately 1.1 million lots trading annually. Open interest currently stands at approximately 290,000 lots across all asset classes representing an estimated value of more than $3 billion. Of such open interest, Capesize contracts account for approximately 50%, Panamax for approximately 40% and Handymax for approximately 10%. Major market participants in Freight Futures market include: commodity producers, commodity users, commodity trading houses, ship operators, major banks, investment funds and independent ship owners.

Calculating Net Asset Value (''NAV'')

The Fund's NAV will be calculated by taking the current market value of its total assets, subtracting any liabilities; and dividing that total by the total number of outstanding Shares.

The Administrator will calculate the NAV of the Fund once each NYSE Arca trading day. The NAV for a particular trading day will be released after 4:00 p.m. E.T. The Administrator will use the Baltic Exchange closing price for the Freight Futures. Option contracts will be valued at their most recent sale price on the applicable exchange. The Administrator will calculate or determine the value of all other Fund investments using market quotations, if available, or other information customarily used to determine the fair value of such investments as of the close of the NYSE Arca Core Trading Session (normally 4:00 p.m. E.T.). The information may include costs of funding, to the extent costs of funding are not and would not be a component of the other information being utilized. Third parties supplying quotations or market data may include, without limitation, dealers in the relevant markets, end-users of the relevant product, information vendors, brokers and other sources of market information.

Indicative Fund Value

In order to provide updated information relating to the Fund for use by investors and market professionals, an updated indicative fund value (''IFV'') will be made available through on-line information services throughout the Exchange Core Trading Session (normally 9:30 a.m. to 4:00 p.m., E.T.) on each trading day. The IFV will be calculated by using the prior day's closing NAV per Share of the Fund as a base and updating that value throughout the trading day to reflect changes in the most recently reported trade price for the futures and/or options held by the Fund. The IFV disseminated during NYSE Arca Core Trading Session hours should not be viewed as an actual real time update of the NAV, because the NAV will be calculated only once at the end of each trading day based upon the relevant end of day values of the Fund's investments.

The IFV will be disseminated on a per Share basis every 15 seconds during regular NYSE Arca Core Trading Session hours of 9:30 a.m. E.T. to 4:00 p.m. E.T. The customary trading hours of the Freight Futures trading are 3:00 a.m. E.T. to 12:00 p.m. E.T. This means that there is a gap in time at the end of each day during which the Fund's Shares will be traded on the NYSE Arca, but real-time trading prices for contracts are not available. During such gaps in time the IFV will be calculated based on the end of day price of such contracts from the Baltic Exchange's immediately preceding settlement prices. In addition, other investments and U.S. Treasuries held by the Fund will be valued by the Administrator using rates and points received from client-approved third party vendors (such as Reuters and WM Company) and broker-dealer quotes. These investments will not be included in the IFV.

Dissemination of the IFV provides additional information that is not otherwise available to the public and is useful to investors and market professionals in connection with the trading of the Fund's Shares on the NYSE Arca. Investors and market professionals are able throughout the trading day to compare the market price of Fund Shares and the IFV. If the market price of the Fund Shares diverges significantly from the IFV, market professionals will have an incentive to execute arbitrage trades. For example, if the Fund's Shares appears to

[14] Freight Futures are primarily traded through broker members of the Forward Freight Agreement Brokers Association (''FFABA''), such as Clarkson's Securities, Simpson Spence Young, Freight Investor Services, GFI Group, BRS Group and ICAP. Members of the FFABA must be members of the Baltic Exchange and must be regulated by the Financial Conduct Authority if resident in the U.K., or if not resident in the U.K., by an equivalent body if required by the authorities in the jurisdiction. Source: The Baltic Code of the Baltic Exchange.

be trading at a discount compared to the IFV, a market professional could buy the Fund's Shares on the NYSE Arca and take the opposite position in Freight Futures. Such arbitrage trades can tighten the tracking between the market price of the Fund's Shares and the IFV and thus can be beneficial to all market participants.

Creation and Redemption of Shares

According to the Registration Statement, the Fund will create and redeem Shares from time to time in one or more ''Creation Baskets'' or ''Redemption Baskets'' (collectively, the ''Baskets''). A Basket consists of 50,000 Shares. The creation and redemption of Baskets will only be made in exchange for delivery to the Fund or the distribution by the Fund of the amount of Treasuries and any cash represented by the Baskets being created or redeemed, the amount of which is based on the combined NAV of the number of Shares included in the Baskets being created or redeemed determined as of 4:00 p.m. E.T. on the day the order to create or redeem Baskets is properly received.

''Authorized Participants'' are the only persons that may place orders to create and redeem Baskets. Authorized Participants must be (1) registered broker-dealers or other securities market participants, such as banks and other financial institutions, that are not required to register as broker-dealers to engage in securities transactions described below, and (2) Depository Trust Company (''DTC'') participants.

Creation Procedures

On any business day, an Authorized Participant may place an order with the Transfer Agent to create one or more Baskets. For purposes of processing purchase and redemption orders, a ''business day'' means any day other than a day when any of the NYSE Arca, the Baltic Exchange or the New York Stock Exchange is closed for regular trading. Purchase orders must be placed by 1:00 p.m. E.T. or the close of the Core Trading Session on NYSE Arca, whichever is earlier. The day on which a valid purchase order is received in accordance with the terms of the ''Authorized Participant Agreement'' is referred to as the purchase order date. Purchase orders are irrevocable.

Determination of Required Payment

The total payment required to create each Creation Basket is the NAV of 50,000 Shares on the purchase order date, but only if the required payment is timely received. To calculate the NAV, the Administrator will use the Baltic Exchange settlement price (typically determined after 2:00 p.m. E.T.) for the Freight Futures. Because orders to purchase Baskets must be placed no later than 1:00 p.m., E.T., but the total payment required to create a Basket typically will not be determined until after 2:00 p.m., E.T., on the date the purchase order is received, Authorized Participants will not know the total amount of the payment required to create a Basket at the time they submit an irrevocable purchase order.

Delivery of Required Payment

An Authorized Participant who places a purchase order shall transfer to the Administrator the required amount of Freight Futures, U.S. Treasuries and/or cash, or a combination of them, by the end of the next business day following the purchase order date. Upon receipt of the deposit amount, the Administrator will direct DTC to credit the number of Baskets ordered to the Authorized Participant's DTC account on the next business day following the purchase order date.

Redemption Procedures

According to the Registration Statement, the procedures by which an Authorized Participant can redeem one or more Baskets will mirror the procedures for the creation of Baskets. On any business day, an Authorized Participant may place an order with the Transfer Agent, and accepted by the Distributor, to redeem one or more Baskets. Redemption orders must be placed by 1:00 p.m. E.T. or the close of the Core Trading Session on the NYSE Arca, whichever is earlier.[15] A redemption order so received will be effective on the date it is received in satisfactory form in accordance with the terms of the Authorized Participant Agreement. The day on which the Marketing Agent receives a valid redemption order is the redemption order date. Redemption orders are irrevocable. By placing a redemption order, an Authorized Participant agrees to deliver the baskets to be redeemed through DTC's book-entry system to the Fund not later than 1:00 p.m., E.T., on the next business day immediately following the redemption order date.

Determination of Redemption Proceeds

The redemption proceeds from the Fund will consist of a cash redemption amount equal to the NAV of the number of Baskets requested in the Authorized Participant's redemption order on the redemption order date.

Because orders to redeem Baskets must be placed no later than 1:00 p.m., E.T., but the total amount of redemption proceeds typically will not be determined until after 2:00 p.m., E.T., on the date the redemption order is received, Authorized Participants will not know the total amount of the redemption proceeds at the time they submit an irrevocable redemption order.

The redemption proceeds due from the Fund will be delivered to the Authorized Participant at 1:00 p.m., E.T., on the next business day immediately following the redemption order date if, by such time, the Fund's DTC account has been credited with the Baskets to be redeemed.

Availability of Information

The NAV for the Fund's Shares will be disseminated daily to all market participants at the same time. The intraday, closing prices, and settlement prices of the Freight Futures will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors.

Complete real-time data for Freight Futures is available by subscription through on-line information services. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the Consolidated Tape Association (''CTA''). The IFV will be available through on-line information services. The Freight Futures and exchange-traded options on Freight Futures trading prices will be disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. E.T. Nasdaq Stockholm AB, SGX, CME, ICE Futures US and EEX provide on a daily basis, transaction volumes, transaction prices, trade time, and open interest on their respective websites. In addition, historical data also exists for volumes and open interest. Daily settlement prices and historical settlement prices are available through a subscription service to the Baltic Exchange, which maintains the licensing rights of relevant freight data. However, the exchanges provide the daily settlement

[15] The Sponsor represents that it believes that the designated time by which orders to create or redeem must be received by the Transfer Agent (1:00 p.m. E.T.) will not have a material impact on an Authorized Participant's arbitrage opportunities with respect to the Fund. As noted above, Freight Futures are cleared by SGX until 3:45 p.m. E.T (or 4:45 p.m. E.T. during part of the year) and such clearing activity on SGX will serve as an arbitrage mechanism for trading in the Fund's Shares. In addition, price information regarding trading of Freight Futures and options on Freight Futures on the applicable exchange and end-of-day settlement prices published by the applicable exchange will be available during the Core Trading Session.

price change of Freight Futures on their respective websites. Certain Freight Futures brokers provide real time pricing information to the general public either through their websites or through data vendors such as Bloomberg or Reuters. Most Freight Futures brokers provide, upon request, individual electronic screens that market participants can use to transact, place orders or only monitor Freight Futures market price levels.

In addition, the Fund's website, *www.drybulketf.com,* will display the applicable end of day closing NAV. The Freight Futures currently constituting the Benchmark Portfolio, as well as the daily holdings of the Fund will be available on the Fund's website. The daily holdings of the Benchmark Portfolio and the Fund will be available on the Fund's website before 9:30 a.m. E.T. each day. The website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the quantity and type of each holding (including the ticker symbol, maturity date or other identifier, if any) and other descriptive information including, in the case of an option, its strike price, (iii) the percentage weighting of each holding in the Fund's portfolio; (iv) the number of Freight Futures contracts and the value of each Freight Futures (in U.S. dollars), (v) the type (including maturity, ticker symbol, or other identifier) and value of each Treasury security and cash equivalent, and (vi) the amount of cash held in the Fund's portfolio. The Fund's website will be publicly accessible at no charge.

The daily closing Benchmark Portfolio level and the percentage change in the daily closing level for the Benchmark Portfolio will be publicly available from one or more major market data vendors. The intraday value of the Benchmark Portfolio, updated every 15 seconds, will also be available through major market data vendors.

This website disclosure of the Benchmark Portfolio's and the Fund's daily holdings will occur at the same time as the disclosure by the Trust of the daily holdings to Authorized Participants so that all market participants are provided daily holdings information at the same time. Therefore, the same holdings information will be provided on the public website as well as in electronic files provided to Authorized Participants. Accordingly, each investor will have access to the current daily holdings of the Fund through the Fund's website.

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.[16] Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. Trading also may be halted because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares of the Fund inadvisable.

The Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark Portfolio occurs. If the interruption to the dissemination of the IFV, or the value of the Benchmark Portfolio persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. In addition, if the Exchange becomes aware that the NAV with respect to the Shares is not 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.

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. Shares will trade on the NYSE Arca Marketplace from 4 a.m. to 8 p.m. E.T. in accordance with NYSE Arca Rule 7.34–E (Early, Core, and Late Trading Sessions). The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions. As provided in NYSE Arca Rule 7.6–E, the minimum price variation (''MPV'') for quoting and entry of orders in equity securities traded on the NYSE Arca Marketplace is $0.01, with the exception of securities that are priced less than $1.00 for which the MPV for order entry is $0.0001.

The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.200–E. The trading of the Shares will be subject to NYSE Arca Rule 8.200–E, Commentary .02(e), which sets forth certain restrictions on Equity Trading Permit (''ETP'') Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance. The Exchange represents that, for initial and continued listing, the Funds will be in compliance with Rule 10A–3 [17] under the Act, as provided by NYSE Arca Rule 5.3–E. A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

Surveillance

The Exchange represents that trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by the Financial Industry Regulatory Authority (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[18] The Exchange represents that these procedures are adequate to properly monitor Exchange trading of the Shares of the Funds in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures from markets and other entities that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement (''CSSA'').[19]

Not more than 10% of the net assets of the Fund in the aggregate invested in Freight Futures and exchange-traded options on Freight Futures shall consist of Freight Futures and exchange-traded

[16] *See* NYSE Arca Rule 7.12–E.

[17] 17 CFR 240.10A–3.

[18] FINRA conducts cross-market surveillances on behalf of the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[19] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Funds may trade on markets that are members of ISG or with which the Exchange has in place a CSSA.

options on Freight Futures whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA.

In addition, the Exchange also has a general policy prohibiting the distribution of material, non-public information by its employees.

All statements and representations made in this filing regarding (a) the description of the Reference Indexes and portfolios, (b) limitations on portfolio holdings or reference assets, or (c) applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for listing the Shares on the Exchange.

The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

Information Bulletin

Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (1) The risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (2) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (3) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (4) how information regarding the IFV is disseminated; (5) how information regarding portfolio holdings is disseminated; (6) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (7) trading information.

In addition, the Information Bulletin will advise ETP Holders, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. The Exchange notes that investors purchasing Shares directly from the Fund will receive a prospectus. ETP Holders purchasing Shares from the Fund for resale to investors will deliver a prospectus to such investors. The Information Bulletin will also discuss any exemptive, no-action, and interpretive relief granted by the Commission from any rules under the Act. In addition, the Information Bulletin will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Bulletin will also reference that the CFTC has regulatory jurisdiction over the trading of Freight Futures traded on U.S. markets.

The Information Bulletin will also disclose the trading hours of the Shares and that the NAV for the Shares will be calculated after 4:00 p.m. E.T. each trading day. The Information Bulletin will disclose that information about the Shares will be publicly available on the Fund's website.

Prior to the commencement of trading, the Exchange will inform its ETP Holders of the suitability requirements of NYSE Arca Rule 9.2–E(a) in an Information Bulletin. Specifically, ETP Holders will be reminded in the Information Bulletin that, in recommending transactions in the Shares, they must have a reasonable basis to believe that (1) The recommendation is suitable for a customer given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such ETP Holder, and (2) the customer can evaluate the special characteristics, and is able to bear the financial risks, of an investment in the Shares. In connection with the suitability obligation, the Information Bulletin will also provide that ETP Holders must make reasonable efforts to obtain the following information: (1) The customer's financial status; (2) the customer's tax status; (3) the customer's investment objectives; and (4) such other information used or considered to be reasonable by such ETP Holder or registered representative in making recommendations to the customer.

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement under Section 6(b)(5)[20] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares will be listed and traded on the Exchange pursuant to the initial and continued listing criteria in NYSE Arca Rule 8.200–E. The Exchange has in place surveillance procedures that are adequate to properly monitor trading in the Shares of the Fund in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. The Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares, Freight Futures, and exchange-traded options on Freight Futures from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA. Not more than 10% of the net assets of the Fund in the aggregate invested in Freight Futures and exchange-traded options on Freight Futures shall consist of Freight Futures and exchange-traded options on Freight Futures whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA. The Exchange will make available on its website daily trading volume of each of the Shares, closing prices of such Shares, and number of Shares outstanding. The intraday, closing prices, and settlement prices of Freight Futures will be readily available from the Baltic Exchange website, automated quotation systems, published or other public sources, or on-line information services.

Complete real-time data for the Freight Futures is available by subscription from on-line information services. Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The IFV will be available through on-line information services. The Freight Futures trading prices will be disseminated by one or more major market data vendors every 15 seconds during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. E.T. Nasdaq Stockholm AB, SGX, CME, ICE

[20] 15 U.S.C. 78f(b)(5).

Futures US and EEX provide on a daily basis, transaction volumes, transaction prices, trade time, and open interest on their respective websites. In addition, the Fund's website, will display the applicable end of day closing NAV. The daily holdings of the Fund will be disclosed on the Fund's website before 9:30 a.m. E.T. each day. The daily holdings of the Fund will be available on the Fund's website before 9:30 a.m. E.T. each day. The Fund's website disclosure of portfolio holdings will be made daily and will include, as applicable, (i) the composite value of the total portfolio, (ii) the quantity and type of each holding (including the ticker symbol, maturity date or other identifier, if any) and other descriptive information including, in the case of an option, its strike price, (iii) the value of each Freight Futures (in U.S. dollars), (iv) the type (including maturity, ticker symbol, or other identifier) and value of each Treasury security and cash equivalent, and (v) the amount of cash held in the Fund's portfolio.

Moreover, prior to the commencement of trading, the Exchange will inform its Equity Trading Permit Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Trading in Shares of the Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached or because of market conditions or for reasons that, in the view of the Exchange, make trading in the Shares inadvisable.

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 Trust Issued Receipts based on Freight Futures 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 that are adequate to properly monitor trading in the Shares in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws.

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 purpose of the Act. The Exchange notes that the proposed rule change will facilitate the listing and trading of a new type of Trust Issued Receipts based on Freight Futures and 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

No written comments were solicited or received with respect to the proposed rule change.

III. Discussion and Commission Findings

After careful review, the Commission finds that the Exchange's proposal to list and trade the Shares is consistent with the Exchange Act and the rules and regulations thereunder applicable to a national securities exchange.[21] In particular, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 3 thereto, is consistent with: (1) Section 6(b)(5) of the Exchange Act,[22] which requires, among other things, that the Exchange's rules be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to 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; and (2) Section 11A(a)(1)(C)(iii) of the Exchange Act,[23] which sets forth Congress' finding that it is in the public interest and appropriate for the protection of investors and the maintenance of fair and orderly markets to assure the availability to brokers, dealers and investors of information with respect to quotations for and transactions in securities.

The Commission notes that the Exchange has represented that the Freight Futures trade on well-established, regulated markets that are members of the ISG.[24] The Commission finds that the Exchange will be able to share surveillance information with a significant regulated market for trading futures on dry bulk freight.

To be listed and traded on the Exchange, the Shares must comply with the requirements of NYSE Arca Rule 8.200–E, Commentary .02 thereto on an initial and continuing basis. 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.

Quotation and last-sale information regarding the Shares will be disseminated through the facilities of the CTA. The intraday, closing prices, and settlement prices of the Freight Futures will be readily available from the applicable futures exchange websites, automated quotation systems, published or other public sources, or major market data vendors. Complete real-time data for Freight Futures is available by subscription through on-line information services. Trading prices for the Freight Futures will be disseminated by one or more major market data vendors during the NYSE Arca Core Trading Session of 9:30 a.m. to 4:00 p.m. E.T. Nasdaq Stockholm AB, SGX, CME, ICE Futures US and EEX provide on a daily basis, transaction volumes, transaction prices, trade time, and open interest on their respective websites.

In addition, the Fund's website, *www.drybulketf.com,* will display the applicable end of day closing NAV. The daily holdings of the Fund will be disclosed on the Fund's website before 9:30 a.m. E.T. each day, and will be made available to all market participants at the same time. The Fund's website disclosure of portfolio holdings will include, as applicable: (1) The composite value of the total portfolio, (2) the quantity and type of each holding (including the ticker symbol, maturity date or other identifier, if any) and other descriptive information including, in the case of an option, its strike price, (3) the value of each Freight Futures (in U.S. dollars), (4) the type (including maturity, ticker symbol, or other identifier) and value of each Treasury security and cash equivalent, and (5) the amount of cash held in the Fund's portfolio.

The intraday value of the Benchmark Portfolio, updated every 15 seconds, will be available through major market data vendors. The IFV will be disseminated on a per Share basis every 15 seconds during regular NYSE Arca Core Trading Session hours of 9:30 a.m. E.T. to 4:00 p.m. E.T. The Administrator will calculate the NAV of the Fund on each NYSE Arca trading day, and will disseminate that value after 4:00 p.m. E.T. The NAV for the Shares will be disseminated daily to all market participants at the same time.

The Commission also believes that the proposal to list and trade the Shares is reasonably designed to promote fair disclosure of information that may be necessary to price the Shares appropriately and to prevent trading when a reasonable degree of

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[21] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[22] 15 U.S.C. 78f(b)(5).

[23] 15 U.S.C. 78k–1(a)(1)(C)(iii).

[24] *See generally* Amendments No. 1 and No. 3.

transparency cannot be assured. If the Exchange becomes aware that the NAV with respect to the Shares is not 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. Further, the Exchange may halt trading during the day in which an interruption to the dissemination of the IFV or the value of the Benchmark Portfolio occurs; if the interruption to the dissemination of the IFV or the value of the Benchmark Portfolio persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption. Trading in Shares of a Fund will be halted if the circuit breaker parameters in NYSE Arca Rule 7.12–E have been reached. 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. The Exchange states that it has a general policy prohibiting the distribution of material, non-public information by its employees. Moreover, trading of the Shares will be subject to NYSE Arca Rule 8.200–E, Commentary .02(e), which sets forth certain restrictions on ETP Holders acting as registered Market Makers in Trust Issued Receipts to facilitate surveillance.

The Commission notes that the Exchange or FINRA, on behalf of the Exchange, or both, will communicate as needed regarding trading in the Shares and Freight Futures with other markets and other entities that are members of the ISG, and the Exchange or FINRA, on behalf of the Exchange, or both, may obtain trading information regarding trading in the Shares and Freight Futures from such markets and other entities. In addition, the Exchange may obtain information regarding trading in the Shares and Freight Futures from markets and other entities that are members of ISG or with which the Exchange has in place a CSSA.

In support of this proposal, the Exchange represented that:

(1) The Shares will conform to the initial and continued listing criteria under NYSE Arca Rule 8.200–E.

(2) The Exchange has appropriate rules to facilitate transactions in the Shares during all trading sessions.

(3) Trading in the Shares will be subject to the existing trading surveillances administered by the Exchange, as well as cross-market surveillances administered by FINRA on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws, and these procedures are adequate to properly monitor Exchange trading of the Shares in all trading sessions and to deter and detect violations of Exchange rules and federal securities laws applicable to trading on the Exchange.

(4) Prior to the commencement of trading, the Exchange will inform its ETP Holders in an Information Bulletin of the special characteristics and risks associated with trading the Shares. Specifically, the Information Bulletin will discuss the following: (a) The risks involved in trading the Shares during the Early and Late Trading Sessions when an updated IFV will not be calculated or publicly disseminated; (b) the procedures for purchases and redemptions of Shares in Creation Baskets and Redemption Baskets (and that Shares are not individually redeemable); (c) NYSE Arca Rule 9.2–E(a), which imposes a duty of due diligence on its ETP Holders to learn the essential facts relating to every customer prior to trading the Shares; (d) how information regarding the IFV is disseminated; (e) how information regarding portfolio holdings is disseminated; (f) the requirement that ETP Holders deliver a prospectus to investors purchasing newly issued Shares prior to or concurrently with the confirmation of a transaction; and (g) trading information.

(5) For initial and/or continued listing, the Funds will be in compliance with Rule 10A–3 under the Act,[25] as provided by NYSE Arca Rule 5.3–E.

(6) A minimum of 100,000 Shares will be outstanding at the commencement of trading on the Exchange.

(7) The Fund invest substantially all of its assets in the Freight Futures currently constituting the Benchmark Portfolio, and not more than 10% of the net assets of the Fund in the aggregate invested in Freight Futures or options on Freight Futures shall consist of derivatives whose principal market is not a member of the ISG or is a market with which the Exchange does not have a CSSA.

(8) The Benchmark Portfolio will not include, and the Fund will not invest in, swaps, non-cleared dry bulk freight forwards or other over-the-counter derivative instruments that are not cleared through exchanges or clearing houses.

(9) Statements and representations made in this filing regarding (a) the description of the Reference Indexes and portfolios, (b) limitations on portfolio holdings or reference assets, or (c) applicability of Exchange listing rules specified in this filing shall constitute continued listing requirements for listing the Shares on the Exchange.

(10) The issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements.[26] If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under NYSE Arca Rule 5.5–E(m).

This approval order is based on all of the Exchange's representations and description of the Fund, including those set forth above and in Amendments No. 1 and No. 3.

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendments No. 1 and No. 3 thereto, is consistent with Section 6(b)(5) of the Act[27] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Solicitation of Comments on Amendment No. 1

Interested persons are invited to submit written data, views, and arguments concerning Amendment No. 1. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2017–107 on the subject line.

Paper Comments

• Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2017–107. This file number should be included on the

[25] 17 CFR 240.10A–3.

[26] The Commission notes that certain other proposals for the listing and trading of exchange-traded products include a representation that the listing exchange will "surveil" for compliance with the continued listing requirements. *See, e.g.,* Securities Exchange Act Release No. 77620 (April 14, 2016), 81 FR 23339 (April 20, 2016) (SR–BATS–2015–124). In the context of this representation, it is the Commission's view that "monitor" and "surveil" both mean ongoing oversight of the Fund's compliance with the continued listing requirements. Therefore, the Commission does not view "monitor" as a more or less stringent obligation than "surveil" with respect to the continued listing requirements.

[27] 15 U.S.C. 78f(b)(5).

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 this 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 Number SR–NYSEArca–2017–107 and should be submitted on or before January 18, 2018.

V. Accelerated Approval of Proposed Rule Change, as Modified by Amendment No. 1

The Commission finds good cause to approve the proposed rule change, as modified by Amendments No. 1 and No. 3, prior to the 30th day after the date of publication of notice of Amendment No. 1 in the **Federal Register**.[28] Amendment No. 1 does not expand the structure of the proposed rule change as it was previously published for notice and comment; Amendment No. 1 supplements the proposal by, among other things, limiting the amount of listed options held by the Fund that are listed on a non-ISG/CSSA market and expanding the continued listing requirements applicable to the Shares. These changes helped the Commission to evaluate the Shares' susceptibility to manipulation, and determine that the listing and trading of the Shares would be consistent with the protection of investors and the public interest. Accordingly, the Commission finds good cause, pursuant to Section 19(b)(2) of the Exchange Act,[29] to approve the proposed rule change, as modified by Amendments No. 1 and No. 3, on an accelerated basis.

[28] As noted above, Amendment No. 2 is not subject to notice and comment. *See supra* note 6.

VI. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[30] that the proposed rule change (SR–NYSEArca–2017–107), as modified by Amendments No. 1 and No. 3, be, and it hereby is, approved on an accelerated basis.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[31]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28078 Filed 12–27–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82376; File No. SR–C2–2017–032]

Self-Regulatory Organizations; C2 Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 6.4, Minimum Increments for Bids and Offers, To Extend the Penny Pilot Program

December 21, 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 14, 2017, C2 Exchange, Inc. (the "Exchange" or "C2") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a "non-controversial" proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[29] 15 U.S.C. 78s(b)(2).

[30] 15 U.S.C. 78s(b)(2).

[31] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 6.4 by extending the Penny Pilot Program through June 30, 2018.

(additions are *italicized;* deletions are [bracketed])

*   *   *   *   *

Cboe C2 Exchange, Inc.

Rules

*   *   *   *   *

Rule 6.4. Minimum Increments for Bids and Offers

The Board of Directors may establish minimum quoting increments for options traded on the Exchange. When the Board of Directors determines to change the minimum increments, the Exchange will designate such change as a stated policy, practice, or interpretation with respect to the administration of this Rule within the meaning of subparagraph (3)(A) of subsection 19(b) of the Exchange Act and will file a rule change for effectiveness upon filing with the Commission. Until such time as the Board of Directors makes a change to the minimum increments, the following minimum increments shall apply to options traded on the Exchange:

(1) No change.

(2) No change.

(3) The decimal increments for bids and offers for all series of the option classes participating in the Penny Pilot Program are: $0.01 for all option series quoted below $3 (including LEAPS), and $0.05 for all option series $3 and above (including LEAPS). For QQQQs, IWM, and SPY, the minimum increment is $0.01 for all option series. The Exchange may replace any option class participating in the Penny Pilot Program that has been delisted with the next most actively-traded, multiply-listed option class, based on national average daily volume in the preceding six calendar months, that is not yet included in the Pilot Program. Any replacement class would be added on the second trading day following [July 1, 2017]*January 1, 2018.* The Penny Pilot shall expire on [December 31, 2017]*June 30, 2018.* Also, for so long as SPDR options (SPY) and options on Diamonds (DIA) participate in the Penny Pilot Program, the minimum increments for Mini-SPX Index Options (XSP) and options on the Dow Jones Industrial Average (DJX), respectively, may be $0.01 for all option series quoting less than $3 (including LEAPS), and $0.05 for all option series quoting at $3 or higher (including LEAPS).

(4) No change.

* * * * *

The text of the proposed rule change is also available on the Exchange's website (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Penny Pilot Program (the ''Pilot Program'') is scheduled to expire on December 31, 2017. The Exchange proposes to extend the Pilot Program until June 30, 2018. The Exchange believes that extending the Pilot Program will allow for further analysis of the Pilot Program and a determination of how the Pilot Program should be structured in the future.

During this extension of the Pilot Program, the Exchange proposes that it may replace any option class that is currently included in the Pilot Program and that has been delisted with the next most actively traded, multiply listed option class that is not yet participating in the Pilot Program (''replacement class''). Any replacement class would be determined based on national average daily volume in the preceding six months,[5] and would be added on the second trading day following January 1, 2018. The Exchange will announce to its Trading Permit Holders by circular any replacement classes in the Pilot Program. The Exchange notes that it intends to utilize the same parameters to select prospective replacement classes as was originally approved.

The Exchange is specifically authorized to act jointly with the other options exchanges participating in the Pilot Program in identifying any replacement class.

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.[6] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5)[7] 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 facilitation 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)[8] 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 allows for an extension of the Pilot Program for the benefit of market participants.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

Specifically, the Exchange believes that, by extending the expiration of the Pilot Program, the proposed rule change will allow for further analysis of the Pilot Program and a determination of how the Program should be structured in the future. In doing so, the proposed rule change will also serve to promote regulatory clarity and consistency, thereby reducing burdens on the marketplace and facilitating investor protection. In addition, the Exchange has been authorized to act jointly in extending the Pilot Program and believes the other exchanges will be filing similar extensions.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[9] and Rule 19b–4(f)(6) thereunder.[10] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[12] However, pursuant to Rule 19b–4(f)(6)(iii),[13] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of

[5] The month immediately preceding a replacement class's addition to the Pilot Program (*i.e.,* December) would not be used for purposes of the six-month analysis. Thus, a replacement class to be added on the second trading day following January 1, 2018 would be identified based on The Option Clearing Corporation's trading volume data from June 1, 2017 through November 30, 2017.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(3)(A)(iii).

[10] 17 CFR 240.19b–4(f)(6).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 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 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 pre-filing requirement.

[13] 17 CFR 240.19b–4(f)(6)(iii).

the Pilot Program.[14] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [16] 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–C2–2017–032 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–C2–2017–032. 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–C2–2017–032 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–27996 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[14] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 5.

[15] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[16] 15 U.S.C. 78s(b)(2)(B).

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82398; File No. SR–CBOE–2017–070]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Order Approving a Proposed Rule Change To Amend Rule 6.56 To Include Procedures for Multi-Leg Positions

December 22, 2017.

I. Introduction

On November 3, 2017, the Cboe Exchange, Inc. (''Exchange'' or ''Cboe Options'') 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 to amend Rule 6.56 (Compression Forums) to include procedures for multi-leg positions. The proposed rule change was published for comment in the **Federal Register** on November 22, 2017.[3] The Commission did not receive any comment letters on the proposed rule change. This order approves the proposed rule change.

II. Description of the Proposed Rule Change

As described in more detail in the Notice,[4] the Exchange proposes to amend its SPX Compression Forum procedures set forth in Cboe Rule 6.56, primarily to authorize the Exchange to include information on hypothetical multi-leg positions constructed from the single series voluntarily submitted by Trading Permit Holders (''TPHs''). Specifically, in addition to the information Cboe Options currently provides on single series interest, the Exchange now also will generate a list, using the individual series of SPX options submitted by TPHs, of all possible multi-leg positions based on the three option strategies specified in Rule 6.56—vertical call spreads, vertical put spreads, and box spreads.[5]

In addition to listing hypothetical multi-leg positions with offsetting interest in the compression-list position file, the Exchange also will provide to each TPH that submitted compression-list positions, a new individualized multi-leg position file that includes: (a) A complete list of all possible combinations of offsetting multi-leg positions that are composed of series the individual TPH submitted as part of a compression-list position; (b) a unique identification number for each multi-leg position (''PID'') that would enable the TPH to identify particular multi-leg positions; (c) the series that make up the multi-leg position; and (d) the offsetting size of the multi-leg position against other TPHs on an individualized and anonymous basis.[6] TPHs would be able to give the Exchange permission to share their identity with the contra-party for a particular multi-leg position, and vice-versa, provided that both parties have agreed to reveal their identities.[7]

Finally, Exchange will extend the hours for submitting compression-list positions from 3:15pm to 4:30pm Chicago time.[8]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 82102 (Nov. 16, 2017), 82 FR 55667 (Nov. 22, 2017) (''Notice'').

[4] *Id.*

[5] *Id.* at 55667. The Exchange represents that its ''provision of the list does not constitute advice, guidance, a commitment to trade, an execution, or a recommendation to trade.'' *See id.* Furthermore, the Exchange notes that TPHs determine whether to submit compression-list positions, whether to participate in the compression forum, and whether to represent orders on the trading floor.

[6] *Id.* at 55671.

[7] *Id.* at 55673. The disclosure of the TPH's identity would be done on a multi-leg position by multi-leg position basis, as referenced by the PID.

[8] *Id.* at 55674.

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change is consistent with the requirements of the Act [9] and the rules and regulations thereunder applicable to a national securities exchange.[10] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[11] which requires, among other things, that the rules of a national securities exchange be designed 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 and that the rules are not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission believes that the proposed rule change is designed to remove impediments to and perfect the mechanism of a free and open market and a national market system by providing TPHs with information that may encourage them to close positions in series of SPX options at the end of the month, which the Exchange has stated is intended to ''foster liquidity in the SPX options market in light of the bank regulatory capital requirements.'' [12] The Commission notes the Exchange has represented that the proposed multi-leg compression-list position file provided by the Exchange is for informational purposes only and does not constitute advice, guidance, a commitment to trade, an execution, or a recommendation to trade, and that participation in the process by TPHs is entirely voluntary.[13] TPHs who receive the individualized multi-leg positions and wish to enter into a trade may only do so by finding a counterparty on the trading floor and executing a trade thereon, and all transactions must be effected in accordance with applicable rules.[14] Furthermore, all TPHs on the trading floor, whether or not they submitted compression-list positions, have the opportunity to respond to orders on the trading floor, including orders represented in compression forums. For the reasons noted above, the Commission believes that the proposal to amend Rule 6.56 to include the proposed procedures for multi-leg compression-list positions is consistent with the Act.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–CBOE–2017–070) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28082 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[9] 15 U.S.C. 78f.

[10] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[11] 15 U.S.C. 78f(b)(5).

[12] *See* Notice, *supra* note 3, at 55674. The Exchange stated its belief that those capital requirements ''could potentially limit the amount of capital clearing TPHs can allocate to their clients' transactions, which in turn, may impact liquidity, particularly in the SPX market.'' *Id.*

[13] *See* Notice, *supra* note 3, at 55667. The list is not ranked or weighted and contains all potential multi-leg positions with offsetting interest. Accordingly, not all the multi-leg positions on the list would be possible to trade since one series may be used to construct multiple potential multi-leg positions.

[14] *See* Notice, *supra* note 3, at 55675.

[15] 15 U.S.C. 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82394; File No. SR–MIAX–2017–49]

Self-Regulatory Organizations; Miami International Securities Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend MIAX Options Rule 612, Aggregate Risk Manager (ARM) and Rule 518, Complex Orders

December 22, 2017.

Pursuant to the provisions of Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 15, 2017, Miami International Securities Exchange, LLC (''MIAX Options'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is filing a proposal to amend Rule 612, Aggregate Risk Manager (ARM), and Rule 518, Complex Orders.

The text of the proposed rule change is available on the Exchange's website at *http://www.miaxoptions.com/rule-filings,* at MIAX's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend Rule 612, Aggregate Risk Manager (ARM), and Rule 518, Complex Orders, to enhance the Aggregate Risk Manager (''ARM'') protections available to Market Makers [3] on the Exchange, for both simple and complex quotes. Specifically, the Exchange proposes to adopt a Market Maker single side protection (''SSP'') feature, which is an additional, optional, and more granular feature of the ARM protections that are currently offered by the Exchange. Accordingly, the Exchange proposes to modify: (i) Rule 612, Interpretations and Policies .02, to adopt new subsection (c), Market Maker Single Side Protection, as well as to make minor, non-substantive clarifications to subsections (a) and (b) for greater precision for simple quotes; and (ii) Rule 518, Interpretations and Policies .05, to adopt new subsection (g), Market Maker Single Side Protection for complex quotes.

The Exchange currently offers a number of risk protection mechanisms to its Members in both the simple and complex markets. For Market Makers, an important risk protection mechanism is the ARM. The purpose of the ARM is to remove the Market Maker from the market, once certain pre-determined trading limit thresholds (set up in advance by the Market Maker) have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The term ''Market Makers'' refers to ''Lead Market Makers'', ''Primary Lead Market Makers'' and ''Registered Market Makers'' collectively. *See* Exchange Rule 100.

been triggered, to limit the risk exposure of the Market Maker. ARM was implemented by the Exchange upon its launch in 2012, and the Exchange has continued to refine and enhance the ARM over time based on Member feedback. For example, in 2015, the Exchange enhanced the ARM to include a 'class protection' feature, which provides that when the Allowable Engagement Percentage for a particular option class in which the Market Maker is appointed, has been equaled or exceeded a specified number of times within the ARM trigger counting period, the Class Protection feature will remove the Market Maker's quotations from the Exchange's disseminated quotation in such appointed option class until the Market Maker instructs the Exchange to reset the Class Protection feature.[4] Additionally at that time, the Exchange also enhanced the ARM to include an 'aggregate class protection' feature, which would remove the Market Maker organization's quotations in all of the Market Maker organization's appointed option classes when the Allowable Engagement Percentage had been equaled or exceeded in the Market Maker organization's specified number of appointed option classes within the ARM trigger counting period, regardless of how many individual Market Makers in the same Market Maker organization are submitting quotations on MIAX Options.[5]

Now, based on additional Member feedback, the Exchange is proposing to further enhance the ARM to introduce an SSP feature. The SSP feature, which is optional, will provide an additional level of granularity to the ARM, as this protection will apply only to quotes that are on the same side (bid or offer) of an individual option.[6] Market Makers who avail themselves of the SSP feature will have even greater precision to tailor their risk tolerance levels.

To implement the SSP feature in the simple market, the Exchange proposes to adopt new subsection (c) to Interpretations and Policies .02 of Rule 612, entitled Market Maker Single Side Protection. Subsection (c) will provide that a Market Maker may determine to engage the Market Maker Single Side Protection (''SSP'') feature. If engaged, if the full remaining size of a Market Maker's Standard quote,[7] IOC eQuote,[8] or FOK eQuote,[9] in an individual option, is exhausted by a trade, the System [10] will trigger the SSP. When triggered, the System will cancel all Standard quotes and block all new inbound Standard quotes, IOC eQuotes, and FOK eQuotes, for that particular side of that individual option for that MPID. The System will provide a notification message to the Market Maker that the SSP has been triggered. The block will remain in effect until the Market Maker notifies the Exchange (in a manner required by the Exchange and communicated to Members by Regulatory Circular) to reset the SSP (''SSP Reset''). The SSP feature is optionally available and may be enabled for a Market Maker's MPID.[11]

Additionally, the Exchange proposes to amend Rule 612, Interpretations and Policies .02, to make clarifying amendments to existing rule text. Specifically, current Interpretations and Policies .02, Enhanced Aggregate Risk Manager Protections, provides that Market Makers may determine to engage any of the following Enhanced Aggregate Risk Manager Protections in the System. Currently it provides for two protections; Class Protection, in subsection (a), and Market Maker Protection, in subsection (b). The Exchange now proposes to amend subsection (a) to make a non-substantive amendment to the rule text to change the title of the rule from Class Protection to Market Maker Single Class Protection, to provide greater specificity concerning the scope of the protection. Further, the Exchange proposes to amend the rule text to clarify that the scope of the risk protection available under this rule is for a single class of options only, by changing the first sentence of the rule to provide that, ''[a] Market Maker may determine to engage the Market Maker Single Class Protection feature for a particular option class in which the Market Maker is appointed (an ''appointed option class'')''. The Exchange proposes to make the same clarifying change throughout the rule to provide additional clarity regarding the scope of the rule.

Additionally, the Exchange proposes to amend the text in subsection (b), Market Maker Protection, to make a non-substantive amendment to the rule text to change the title of the rule from Market Maker Protection, to Market Maker Aggregate Class Protection, to provide greater specificity concerning the scope of the protection. Further, the Exchange proposes to amend the rule text to refer to the Market Maker Aggregate Class Protection feature. Specifically, the Exchange proposes to amend the first sentence of the rule to provide that, ''[a] Market Maker may determine to engage the Market Maker Aggregate Class Protection feature for all of the Market Maker's appointed option classes.'' The Exchange proposes to make the same clarifying change throughout the rule to provide additional clarity regarding the scope of the rule.

To implement the SSP feature in the complex market, the Exchange proposes to adopt new subsection (g) to Interpretations and Policies .05 of Rule 518, entitled Market Maker Single Side Protection. Subsection (g) will provide that a Market Maker may determine to engage the Market Maker Single Side Protection (''SSP'') feature. If engaged, if the full remaining size of a Market Maker's complex Standard quote [12] or cIOC eQuote [13] in a strategy is exhausted by a trade, the System will trigger the SSP for the traded side of the strategy for that MPID. When triggered, the System will cancel all complex Standard quotes and block all new inbound complex Standard quotes and cIOC eQuotes for that particular side of that strategy. The System will provide a notification message to the Market Maker that the SSP has been triggered. The block will remain in effect until the Market Maker notifies the Exchange (in a manner required by the Exchange and communicated to Members by Regulatory Circular) to reset the SSP (''SSP Reset'').

The SSP feature is optionally available and may be enabled for a Market Maker's MPID. If enabled, the

[4] *See* Securities Exchange Act Release No. 75361 (July 6, 2015), 80 FR 39824 (July 10, 2015) (SR–MIAX–2015–44).

[5] *See id.*

[6] The term ''individual option'' means an option contract that is either a put or a call, covering a specific underlying security and having a specific exercise price and expiration date. *See* Exchange Rule 100.

[7] A Standard quote is a quote submitted by a Market Maker that cancels and replaces the Market Maker's previous Standard quote, if any. *See* Exchange Rule 517(a)(1).

[8] An immediate or cancel or ''IOC'' eQuote is an eQuote submitted by a Market Maker that must be matched with another quote or order for an execution in whole or in part upon receipt into the System. *See* Exchange Rule 517(a)(2)(iv).

[9] A fill or kill or ''FOK'' eQuote is an eQuote submitted by a Market Maker that must be matched with another quote or order for an execution in its entirety at a single price upon receipt into the System or will be immediately cancelled. *See* Exchange Rule 517(a)(2)(v).

[10] The term ''System'' means the automated trading system used by the Exchange for the trading of securities. *See* Exchange Rule 100.

[11] The term ''MPID'' means Market Participant Identifier.

[12] A complex Standard quote is a complex quote submitted by a Market Maker that cancels and replaces the Market Maker's previous complex Standard quote for that side of the strategy, if any. *See* Exchange Rule 518.02(a)(1).

[13] A ''Complex Immediate or Cancel eQuote'' or ''cIOC eQuote,'' which is a complex eQuote with a time-in-force of IOC that may be matched with another complex quote or complex order for an execution to occur in whole or in part upon receipt into the System. *See* Exchange Rule 518.02(c)(2).

SSP protection will cover both the simple market and complex market,[14] with each market requiring its own SSP Reset when the SSP is triggered as discussed above. However, the protections operate independently, that is, if an eQuote on the bid side of series A triggers the SSP in the simple market, a simple market SSP Reset is required to re-enable quoting on the bid side of series A; however a complex eQuote for a strategy which includes the bid side of series A would not be blocked as the complex market SSP was not triggered.

The Exchange will announce the implementation date of the proposed rule change by Regulatory Circular to be published no later than 60 days following the operative date of the proposed rule. The implementation date will be no later than 60 days following the issuance of the Regulatory Circular.

2. Statutory Basis

The Exchange believes that its proposed rule change is consistent with Section 6(b) of the Act[15] in general, and furthers the objectives of Section 6(b)(5) of the Act[16] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in, securities, to remove impediments to and perfect the mechanisms of a free and open market and a national market system and, in general, to protect investors and the public interest.

The Exchange believes the proposed changes remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protects [sic] investors and the public interest by providing Market Makers with an additional risk management tool for both simple and complex quotes. Market Makers on the simple market have a heightened obligation on the Exchange and are obligated to submit continuous two-sided quotations in a certain number of series in their appointed classes for a certain percentage of time in each trading session,[17] rendering them vulnerable to risk from market conditions. Market Makers are vulnerable to risk from market events that may cause them to receive automatic executions before they can adjust their exposure in the market. Market Makers on the complex market are also vulnerable to risk from market events and the Exchange believes providing this risk protection feature on both the simple and complex markets promotes just and equitable principles of trade and helps to perfect the mechanisms of a free and open market and a national market system.

Without adequate risk management tools Market Makers could reduce the size of their quotations which could undermine the quality of the markets available to customers and other market participants. The ability of a Market Maker to engage the SSP feature of ARM is a valuable tool in assisting Market Makers in risk management. The proposed rule change removes impediments to and perfects the mechanism of a free and open market by giving Market Makers the ability to further refine their risk protections from an option class level to a single side of an individual option in the simple market and to a single side of a complex strategy in the complex market. Accordingly, the SSP feature is designed to provide Market Makers greater control over their quotations in the market thereby removing impediments to and helping perfect the mechanisms of a free and open market and a national market system and, in general, protecting investors and the public interest. In addition, providing Market Makers with more tools for managing risk will facilitate transactions in securities because, as noted above, the Market Makers will have more confidence that protections are in place that reduce the risks from market events. As a result, the new functionality has the potential to promote just and equitable principles of trade.

The Exchange notes that the proposed rule change will not relieve Exchange Market Makers of their continuous quoting obligations under Exchange Rule 604 or any other obligations under Reg NMS Rule 602.[18] Nor will the proposed rule change prohibit the Exchange from taking disciplinary action against a Market Maker for failing to meet their continuous quoting obligation each trading day.

The Exchange believes the proposed changes to MIAX Rule 612.02(a) and (b) promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system because they seek to improve the accuracy of the Exchange's rules. In particular, the Exchange believes that clarifying the scope of single class protection and aggregate class protection features of ARM for Market Makers will provide greater clarity to Members and the public regarding the Exchange's Rules, and it is in the public interest for rules to be accurate and concise so as to eliminate the potential for confusion.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

The Exchange believes that the proposed rule change will foster competition by providing Exchange Market Makers with the ability to specifically customize their use of the Exchange's risk management tools in order to compete for executions and order flow.

Additionally, the Exchange believes that the proposed rule change should promote competition as it is designed to allow Exchange Market Makers greater flexibility and control of their risk exposure to protect them from market conditions that may increase their risk exposure in the market. The Exchange does not believe the proposed rule change will impose a burden on intra-market competition as the optional risk protection feature is equally available to all Market Makers on the Exchange.

For all the reasons stated, 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, and believes the proposed change will enhance competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has

[14] The Exchange notes that complex cAOC eQuotes are not impacted by the SSP. A ''Complex Auction or Cancel eQuote'' or ''cAOC eQuote,'' which [sic] is an eQuote submitted by a Market Maker that is used to provide liquidity during a specific Complex Auction with a time in force that corresponds with the duration of the Complex Auction. *See* Exchange Rule 518.02(c)(1).

[15] 15 U.S.C. 78f(b).

[16] 15 U.S.C. 78f(b)(5).

[17] *See* Exchange Rule 604(e).

[18] 17 CFR 242.602.

become effective pursuant to 19(b)(3)(A) of the Act [19] and Rule 19b–4(f)(6) [20] thereunder.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

• Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or

• Send an email to *rule-comments@sec.gov.* Please include File Number SR–MIAX–2017–49 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–MIAX–2017–49. 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–MIAX–2017–49 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[21]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28080 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[19] 15 U.S.C. 78s(b)(3)(A).

[20] 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.

[21] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82381; File No. SR–NYSE–2017–69]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rules Relating to Investment Company Units, Index-Linked Securities and Managed Trust Securities

December 21, 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 15, 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, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes (1) to amend Supplementary Material .01 and .02 to NYSE Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units, which amendments conform to amendments to NYSE Arca Rule 5.2–E(j)(3) previously approved by the Securities and Exchange Commission (''Commission''); (2) to amend NYSE Rule 5.2(j)(6) to exclude Investment Company Units, securities defined in Section 2 of NYSE Rule 8P (Trading of Certain Exchange Traded Products) and Index-Linked Securities when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities, which amendments conform to amendments to NYSE Arca 5.2–E(j)(6) previously approved by the Commission; and (3) to amend NYSE Rule 8.700 (''Managed Trust Securities'') to permit the use of swaps on stock indices, fixed income indices, commodity indices, commodities, currencies, currency indices, or interest rates, and to add EURO STOXX 50 Volatility Index (VSTOXX®) futures and swaps on VSTOXX to the financial instruments that an issue of Managed Trust Securities may hold, which amendments conform to amendments to NYSE Arca Rule 8.700–E previously approved by the Commission. 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

The Exchange proposes (1) to amend Supplementary Material .01 and .02 to NYSE Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units (''Units''), which amendments conform to amendments to NYSE Arca Rule 5.2–E(j)(3) previously approved by the

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

Securities and Exchange Commission (''Commission''); [4] (2) to amend NYSE Rule 5.2(j)(6) to exclude Investment Company Units, securities defined in Section 2 of NYSE Rule 8P (Trading of Certain Exchange Traded Products) and Index-Linked Securities when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities, which amendments conform to amendments to NYSE Arca 5.2–E(j)(6) previously approved by the Commission; [5] and (3) to amend NYSE Rule 8.700 (''Managed Trust Securities'') to permit the use of swaps on stock indices, fixed income indices, commodity indices, commodities, currencies, currency indices, or interest rates, and to add VSTOXX futures and swaps on VSTOXX to the financial instruments that an issue of Managed Trust Securities may hold, which amendments conform to amendments to NYSE Arca Rule 8.700–E previously approved by the Commission.[6]

Amendments to NYSE Rule 5.2(j)(3)

NYSE Rule 5.2(j)(3) permits the trading, whether by listing or pursuant to unlisted trading privileges (''UTP'') of Units. The Exchange proposes to amend Supplementary Material .01 and .02 to NYSE Rule 5.2(j)(3) to permit trading of Units based on an index or portfolio that includes cash as a component. While Units, like mutual funds, will generally hold an amount of cash, Rule 5.2(j)(3) currently provides that components of an index or portfolio underlying a series of Units consist of securities—namely, US Component Stocks, Non-US Component Stocks, Fixed Income Securities or a combination thereof. As described below, the proposed amendments to Supplementary Material .01 and .02 to Rule 5.2(j)(3) would permit inclusion of cash as an index or portfolio component.

Currently, Supplementary Material .01(a)(A) provides that an underlying index or portfolio of US Component Stocks [7] must meet specified criteria. The Exchange proposes to amend Supplementary Material .01(a)(A) to provide that the components of an index or portfolio underlying a series of Units may also include cash. In addition, the percentage weighting criteria in Supplementary Material .01(a)(A)(1) through (4) each would be amended to make clear that such criteria would be applied only to the US Component Stocks portion of an index or portfolio. For example, in applying the criteria in proposed Supplementary Material .01(a)(A)(1),[8] if 85% of the weight of an index consists of US Component Stocks and 15% of the index weight is cash, the requirement that component stocks (excluding Exchange Traded Products) that in the aggregate account for at least 90% of the weight of the US Component Stocks portion of the index or portfolio (excluding such Exchange Traded Products) each will have a minimum market value of $75 million minimum would be applied only to the 85% portion consisting of US Component Stocks.

Supplementary Material .01 (a)(B), which relates to international or global indexes or portfolios, would be amended to provide that components of an index or portfolio underlying a series of Units may consist of (a) only Non-US Component Stocks, (b) Non-US Component Stocks and cash, (c) both US Component Stocks and Non-US Component Stocks, or (d) US Component Stocks, Non-US Component Stocks and cash. In addition, the percentage weighting criteria in Supplementary Material .01(a)(B)(1) through (4) each would be amended to make clear that such criteria would be applied only to the combined US and Non-US Component Stocks portions of an index or portfolio.

Supplementary Material .02 to NYSE Rule 5.2(j)(3) provides generic criteria applicable to trading of Units whose underlying index or portfolio includes Fixed Income Securities.[9] Currently, Supplementary Material .02(a)(1) provides that an underlying index or portfolio must consist of Fixed Income Securities. The Exchange proposes to amend Supplementary Material .02(a)(1) to provide that the index or portfolio may also include cash. In addition, the percentage weighting criteria in Supplementary Material .02(a)(2), (a)(4) and (a)(6) each would be amended to make clear that such criteria would be applied only to the Fixed Income Securities portion of an index or portfolio. For example, in applying the criteria in the proposed amendments to Supplementary Material .01(a)(2),[10] if 90% of the weight of an index or portfolio consists of Fixed Income Securities and 10% of the index weight is cash, the requirement that Fixed Income Security components accounting for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each will have a minimum original principal amount outstanding of $100 million would be applied only to the 90% portion consisting of Fixed Income Securities.

The Exchange notes that the Commission has previously approved Exchange rules allowing portfolios held by issues of Managed Fund Shares (actively-managed exchange-traded funds) to include cash.[11] Like the provision in Supplementary Material .01(c) to Rule 8.600, which states that there is no limit to cash holdings by an issue of Managed Fund Shares traded under Supplementary Material .01 to Rule 8.600, there is no proposed limit to the weighting of cash in an index underlying a series of Units. The Exchange believes this is appropriate in that cash does not, in itself, impose investment or market risk.

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[4] *See* Securities Exchange Act Release No. 80777 (May 25, 2017) (SR–NYSEArca–2017–30) (order approving proposed rule change to amend Commentary .01 and Commentary.02 to NYSE Arca Equities Rule 5.2(j)(3) to provide for the inclusion of cash in an index underlying a series of Investment Company Units).

[5] *See* Securities Exchange Act Release No. 81442 (August 18, 2017), 82 FR 40178 (August 24, 2017) (SR–NYSEArca–2017–54) (order approving a proposed rule change to amend the generic listing criteria applicable to Equity Index-Linked Securities).

[6] *See* Securities Exchange Act Release Nos. 80254 (March 15, 2017), 82 FR 14548 (March 21, 2017) (SR–NYSEArca–2016–96) (order approving proposed rule change to amend NYSE Arca Equities Rule 8.700 and to list and trade shares of the Managed Emerging Markets Trust under NYSE Arca Equities Rule 8.700); 82066 (November 13, 2017), 82 FR 54434 (November 17, 2017) (SR–NYSEArca–2017–85) (order approving proposed rule change to amend NYSE Arca Rule 8.700–E and to list and trade shares of the ProShares European Volatility Futures ETF).

[7] Rule 5.2(j)(3) defines ''US Component Stock'' as 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] Supplementary Material .01(a)(A)(1) provides that component stocks (excluding Units and Exchange Traded Products) that in the aggregate account for at least 90% of the weight of the US Component Stocks portion of the index or portfolio (excluding Units and securities defined in Section 2 of Rule 8P, collectively ''Exchange Traded Products'') each will have a minimum market value of at least $75 million.

[9] As defined in Supplementary Material .02 to NYSE Rule 5.2(j)(3), Fixed Income Securities are debt securities that are notes, bonds, debentures or evidence of indebtedness that include, but are not limited to, U.S. Department of Treasury securities (''Treasury Securities''), government-sponsored entity securities (''GSE Securities''), municipal securities, trust preferred securities, supranational debt and debt of a foreign country or a subdivision thereof.

[10] Supplementary Material .01(a)(2) provides that Fixed Income Security components that in aggregate account for at least 75% of the Fixed Income Securities portion of the weight of the index or portfolio each will have a minimum original principal amount outstanding of $100 million or more.

[11] *See* Supplementary Material .01(c) to NYSE Rule 8.600, approved in Securities Exchange Act Release No. 80214 (March 10, 2017), 82 FR 14050 (March 16, 2017) (SR–NYSE–2016–44) (order approving proposed rule change to allow the Exchange to trade pursuant to UTP any NMS Stock listed on another national securities exchange; establishing listing and trading requirements for Exchange Traded Products; and adopting new equity trading rules relating to trading halts of securities traded pursuant to UTP on the Pillar platform).

The Exchange believes the proposed amendments, by permitting inclusion of cash as a component of indexes underlying series of Units, would provide issuers of Units with additional choice in indexes permitted to underlie Units that are permitted to trade on the Exchange, which would enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the proposed amendments would provide investors with greater ability to hold Units based on underlying indexes that may accord more closely with an investor's assessment of market risk, in that some investors may view cash as a desirable component of an underlying index under certain market conditions.

Amendments to NYSE Rule 5.2 (j)(6)

The Exchange proposes to amend NYSE Rule 5.2 (j)(6) to exclude Investment Company Units (''Units'') and securities defined in Section 2 of NYSE Rule 8P (collectively, together with Units, ''Derivative Securities Products''),[12] as well as Index-Linked Securities,[13] when applying the quantitative generic listing criteria applicable to Equity Index-Linked Securities.[14]

Equity Index-Linked Securities are securities that provide for the payment at maturity (or earlier redemption) based on the performance of an underlying index or indexes of equity securities, securities of closed end management investment companies registered under the Investment Company Act of 1940 (''1940 Act'') [15] and/or Units.[16] In addition to certain other generic listing criteria, Equity Index-Linked Securities must satisfy the generic quantitative initial and continued listing criteria under NYSE Rule 5.2 (j)(6)(B)(I) in order to become, and continue to be, listed and traded on the Exchange. Certain of the applicable quantitative criteria specify minimum or maximum thresholds that must be satisfied with respect to, for example, market value, trading volume, and dollar weight of the index represented by a single component or groups of components.

The applicable initial quantitative listing criteria include (i) that each underlying index is required to have at least ten component securities; [17] (ii) that each component security has a minimum market value of at least $75 million, except that for each of the lowest dollar weighted component securities in the index that in the aggregate account for no more than 10% of the dollar weight of the index, the market value can be at least $50 million; (iii) that component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 1,000,000 shares, or minimum global notional volume traded per month of $25,000,000, averaged over the last six months; (iv) that no underlying component security represents more than 25% of the dollar weight of the index, and the five highest dollar weighted component securities in the index do not in the aggregate account for more than 50% of the dollar weight of the index (60% for an index consisting of fewer than 25 component securities); and (v) that 90% of the index's numerical value and at least 80% of the total number of component securities meet the then current criteria for standardized option trading set forth in NYSE Arca Rule 5.3–O; except that an index will not be subject to this last requirement if (a) no underlying component security represents more than 10% of the dollar weight of the index and (b) the index has a minimum of 20 components.[18] The applicable continued quantitative listing criteria require that (1) no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced; [19] and (2) component stocks that in the aggregate account for at least 90% of the weight of the index each have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of $12,500,000, averaged over the last six months.[20]

The Exchange proposes to amend NYSE Rule 5.2 (j)(6)(B)(I)(1)(a), which provides that each underlying index is required to have at least ten component securities, to provide that there will be no minimum number of component securities if one or more issues of Derivative Securities Products or Index-Linked Securities constitute, at least in part, component securities underlying an issue of Equity Index-Linked Securities. The proposed amendment to NYSE Rule 5.2 (j)(6)(B)(I)(1)(a) also would provide that the securities described in Rule 5.2 (j)(3)) and Section 2 of Rule 8P (that is, Derivative Securities Products), and Rule 5.2 (j)(6) (that is, Index-Linked Securities), as referenced in proposed amended Rule 5.2 (j)(6)(B)(I)(1)(b)(2) and Rule 5.2 (j)(6)(B)(I)(2)(a) would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

The Exchange also proposes to exclude Derivative Securities Products and Index-Linked Securities from consideration when determining whether the applicable quantitative generic thresholds have been satisfied under the initial listing standards specified in NYSE Rule 5.2 (j)(6)(B)(I)(1)(b)(i)–(iv) and the continued listing standards specified in NYSE Rules 5.2 (j)(6)(B)(I)(2)(a)(i) and (ii).[21] Thus, for example, when

[12] Units are securities that represent an interest in a registered investment company that could be organized as a unit investment trust, an open-end management investment company, or a similar entity, that holds securities comprising, or otherwise based on or representing an interest in, an index or portfolio of securities or securities in another registered investment company that holds such securities. *See* NYSE Rule 5.2 (j)(3). The following securities currently are included in Section 2 of NYSE Rule 8P: Portfolio Depositary Receipts (Rule 8.100); Trust Issued Receipts (Rule 8.200); Commodity-Based Trust Shares (Rule 8.201); Currency Trust Shares (Rule 8.202); Commodity Index Trust Shares (Rule 8.203); Commodity Futures Trust Shares (Rule 8.204); Partnership Units (Rule 8.300); Paired Trust Shares (Rule 8.400);Trust Units (Rule 8.500); Managed Fund Shares (Rule 8.600); and Managed Trust Securities (Rule 8.700).

[13] Index-Linked Securities are securities that qualify for Exchange listing and trading under NYSE Rule 5.2(j)(6). The securities described in Rule 5.2(j)(3), Rule 5.2(j)(6) and Section 2 of Rule 8P, as referenced above, would include securities listed on another national securities exchange pursuant to substantially equivalent listing rules.

[14] The Commission has approved amendments to NYSE Arca Rule 5.2–E(j)(6) that are substantially identical to those proposed herein. *See* Securities Exchange Act Release No. 81442 (August 18, 2017), 82 FR 40178 (August 24, 2017) (SR–NYSEArca–2017–54) (order approving a proposed rule change to amend the generic listing criteria applicable to Equity Index-Linked Securities).

[15] 15 U.S.C. 80–1.

[16] *See* Rule 5.2(j)(6)(B)(I)(1).

[17] *See* Rule 5.2 (j)(6)(B)(I)(1)(a).

[18] *See* Rule 5.2 (j)(6)(B)(I)(1)(b)(i)–(iv).

[19] *See* Rule 5.2 (j)(6)(B)(I)(2)(a)(i).

[20] *See* Rule 5.2 (j)(6)(B)(I)(2)(a)(ii).

[21] NYSE Rules 5.2 (j)(6)(B)(I)(2)(a)(i) and (ii) provide that the Exchange will maintain surveillance procedures for securities listed under Rule 5.2 (j)(6) and may halt trading in such securities and will initiate delisting proceedings pursuant to Rule 5.5(m) (unless the Commission has approved the continued trading of the subject Index-Linked Security), if any of the standards set forth in Rules 5.2 (j)(6)(B)(I)(1)(a) and 5.2 (j)(6)(B)(I)(1)(b)(2) are not continuously maintained, except that: (i) The criteria that no single component represent more than 25% of the dollar weight of the index and the five highest dollar weighted components in the index cannot represent more than 50% (or 60% for indexes with less than 25 components) of the dollar weight of the index, need only be satisfied at the time the index is rebalanced (Rule 5.2 (j)(6)(B)(I)(2)(a)(i)), and (ii) component stocks that in the aggregate account for at least 90% of the weight of the index each will have a minimum global monthly trading volume of 500,000 shares, or minimum global notional volume traded per month of $12,500,000, averaged over the last six months (Rule 5.2 (j)(6)(B)(I)(2)(a)(ii)).

determining compliance with NYSE Rule 5.2 (j)(6)(B)(I)(1)(b)(ii), component stocks, excluding Derivative Securities Products or Index-Linked Securities, that in the aggregate account for at least 90% of the remaining index weight would be required to have a minimum global monthly trading volume of 1 million shares, or minimum global notional volume traded per month of 25 million, averaged over the last six months.

The Exchange proposes further to provide that the weighting limitation for the five highest weighted component securities in an index in NYSE Rules 5.2 (j)(6)(B)(I)(1)(b)(iii) and 5.2 (j)(6)(B)(I)(2)(a)(i) would apply ''to the extent applicable.'' [22] When considered in conjunction with the proposed amendment to NYSE Rule 5.2 (j)(6)(B)(I)(1)(a) referenced above, this language would make clear that an index that includes Derivative Securities Products or Index-Linked Securities may include fewer than five component securities.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic listing and continued listing criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. Also, Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2) or 19(b)(3)(A) of the Act,[23] or would have been listed by an exchange pursuant to the requirements of Rule 19b–4(e) under the Act.[24] Derivative Securities Products and Index-Linked Securities are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic quantitative criteria (*e.g.,* market capitalization, trading volume, or component weighting) applicable to securities that are not Derivative Securities Products or Index-Linked Securities (*e.g.,* common stocks) to such products. Finally, by way of comparison, Derivative Securities Products are excluded from consideration when determining whether the components of Units satisfy the applicable listing criteria in Rule 5.2 (j)(3),[25] and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Supplementary Material .01 to Rule 8.600.[26]

The Exchange also proposes (1) to replace ''investment company units'' with ''Investment Company Units'' in two places in NYSE Rule 5.2 (j)(6)(B)(I)(1) in order to conform to other usages of this term in Exchange rules; and (2) to replace the word ''Index'' with ''index'' in two places in Rule 5.2 (j)(6)(B)(I)(2)(a)(i) to conform to other usages of this word in Rule 5.2 (j)(6)(B)(I)(2).

Amendments to NYSE Rule 8.700

NYSE Rule 8.700 permits the trading, whether by listing or pursuant to UTP, of Managed Trust Securities pursuant to UTP. The Exchange proposes to amend NYSE Rule 8.700 to permit the use of swaps on stock indices, fixed income indices, commodity indices, commodities, currencies, currency indices, or interest rates, and to add VSTOXX futures and swaps on VSTOXX to the financial instruments that an issue of Managed Trust Securities may hold. The proposed amendments are substantially identical to amendments to NYSE Arca Rule 8.700–E approved by the Commission for issues of Managed Trust Securities listed and traded on NYSE Arca, Inc.[27]

The Exchange proposes to amend NYSE Rule 8.700(c)(1) to specify that the trust issuing a series of Managed Trust Securities, or any series of such trust, is not registered or required to be registered as an investment company. This change makes clear that issuers of Managed Trust Securities are not investment companies under the 1940 Act, and, therefore, distinguishes issuances of Managed Trust Securities from, for example, Managed Fund Shares traded pursuant to NYSE Rule 8.600 or Investment Company Units traded pursuant to NYSE Rule 5.2(j)(3).

Permitting the use of swaps as referenced above would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve its investment objective. For example, because the markets for certain futures contracts may be unavailable or cost prohibitive as compared to other derivative instruments, swaps may be an efficient alternative for an issuer of Managed Trust Securities to obtain the desired asset exposure. Additionally, swaps would allow parties to replicate desired returns. As such, the increased flexibility afforded by the ability of an issuer of Managed Trust Securities to use swaps may enhance investor returns by facilitating the ability to more economically seek its investment objective, thereby reducing the costs incurred by such issuer. Permitting the use of such futures would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve its investment objective by allowing such issuer to gain additional asset exposure to currencies and commodities. The Exchange also proposes to amend NYSE Rule 8.700(c)(1) to specify cash and cash equivalents as permitted trust holdings. Such instruments would be held, as needed, to secure a trust's trading obligations with respect to its positions in other financial instruments.

With respect to adding futures or swaps on VSTOXX to the financial instruments in which an issue of Managed Trust Securities may hold, the Exchange believes that the proposed amendment to will provide investors with the ability to better diversify and hedge their portfolios using an exchange traded security without having to trade directly in underlying futures contracts, and will facilitate the listing and trading on the Exchange of additional Managed Trust Securities that will enhance competition among market participants, to the benefit of investors and the marketplace.[28]

2. Statutory Basis

The basis under the Act for this proposed rule change is the requirement

[22] The phrase ''to the extent applicable'' also is included in Supplementary Material .01(a)(A)(3) to NYSE Rule 5.2 (j)(3) for Investment Company Units and Supplementary Material .01(a)(1)(C) to NYSE Rule 8.600 for Managed Fund Shares.

[23] 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

[24] 17 CFR 240.19b–4(e).

[25] *See* Supplementary Material .01 to NYSE Rule 5.2 (j)(3). *See also,* Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving amendments to the eligibility criteria for components of an index underlying Investment Company Units).

[26] *See* Supplementary Material .01 to NYSE Rule 8.600. *See also,* Securities Exchange Act Release No. 78397 (July 22, 2016), 81 FR 49320 (July 27, 2016) (SR–NYSEArca–2015–110) (order approving amendments to NYSE Arca Equities Rule 8.600 to adopt generic listing standards for Managed Fund Shares).

[27] *See* note 6, *supra.*

[28] The VSTOXX is based on EURO STOXX 50 Index (''Index'') real-time option prices that are listed on the Eurex Exchange and are designed to reflect the market expectations of near-term up to long-term volatility by measuring the square root of the implied variances across all options of a given time to expiration. The Index includes 50 stocks that are among the largest free-float market capitalization stocks from 11 Eurozone countries. For additional information regarding VSTOXX, see Securities Exchange Act Release No. 82066 (November 13, 2017), 82 FR 54434 (November 17, 2017) (SR–NYSEArca–2017–85) (order approving proposed rule change to amend NYSE Arca Rule 8.700–E and to list and trade shares of the ProShares European Volatility Futures ETF).

under Section 6(b)(5) [29] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

The proposed rule changes are designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest. The basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5) that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

With respect to the proposed amendments to NYSE Rule 5.2(j)(3), the Exchange notes that, as described above, the percentage weighting criteria in Supplementary Material .01(a)(B)(1) through (4) to Rule 5.2(j)(3) each would be amended to make clear that such criteria would be applied only to the combined US and Non-US Component Stocks portions of an index or portfolio. The percentage weighting criteria in Supplementary Material .02(a)(2), (a)(4) and (a)(6) to NYSE Rule 5.2(j)(3) each would be amended to make clear that such criteria would be applied only to the Fixed Income Securities portion of an index or portfolio. Such applications of the proposed amendments would assure that the weighting requirements in Supplementary Material .01 and .02 would continue to be applied only to securities in an index or portfolio, and would not be diluted as a result of inclusion of a cash component. In addition, the addition of cash as a permitted component of indexes underlying Units traded on the Exchange pursuant to Rule 19b–4(e) does not raise regulatory issues because cash does not, in itself, impose investment or market risk and is not susceptible to manipulation.

The Exchange believes these proposed amendments to NYSE Rule 5.2(j)(3), by permitting inclusion of cash as a component of indexes underlying series of Units, would provide issuers of Units with additional choice in indexes permitted to underlie Units that are permitted to trade on the Exchange pursuant to UTP, which would enhance competition among market participants, to the benefit of investors and the marketplace. In addition, the proposed amendments would provide investors with greater ability to hold Units based on underlying indexes that may accord more closely with an investor's assessment of market risk.

With respect to the proposed amendments to NYSE Rule 5.2(j)(6), the Exchange believes that the proposed change would facilitate the listing and trading of additional types of Equity Index-Linked Securities, which would enhance competition among market participants, to the benefit of investors and the marketplace. The proposed change would also result in greater efficiencies in the listing process with respect to Equity Index-Linked Securities by eliminating an unnecessary consideration regarding underlying components, which would therefore remove impediments to, and perfect the mechanism of, a free and open market. In addition, the proposed amendment to the Equity Index-Linked Securities listing criteria is intended to protect investors and the public interest in that it is consistent with the manner in which Derivative Securities Products are also excluded from consideration when determining whether the components of an index or portfolio underlying an issue of Units satisfy the applicable listing criteria,[30] and both Derivative Securities Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Supplementary Material .01 to Rule 8.600.[31] Additionally, Equity Index-Linked Securities would remain subject to all existing listing standards, thereby maintaining existing levels of investor protection. The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices because the Equity Index-Linked Securities would continue to be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Rule 5.2 (j)(6). Further, the proposed change would not impact the existing listing process for Derivative Securities Products and Index-Linked Securities, whereby the exchanges on which such securities are listed must, for example, submit proposed rule changes with the Commission prior to listing and trading.

The Exchange believes that it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the generic criteria specified above for Equity Index-Linked Securities because Derivative Securities Products and Index-Linked Securities that may be included in an index or portfolio underlying a series of Equity Index-Linked Securities are themselves subject to specific initial and continued listing requirements of the exchange on which they are listed. For example, Units listed and traded on the Exchange are subject to the listing standards specified under NYSE Rule 5.2 (j)(3). Also, such Derivative Securities Products and Index-Linked Securities would have been listed and traded on an exchange pursuant to a filing submitted under Sections 19(b)(2) or 19(b)(3)(A) of the Act,[32] or would have been listed by an exchange pursuant to the requirements of Rule 19b-4(e) under the Act.[33] The Exchange believes that quantitative factors—such as market value, global monthly trading volume, or weighting—when applied to index components (such as common stocks) underlying a series of Equity Index-Linked Securities, are relevant criteria in establishing that such series is sufficiently broad-based to minimize potential manipulation.[34] Derivative Securities Products and Index-Linked Securities, however, are derivatively priced, and, therefore, the Exchange does not believe that it is necessary to apply the generic quantitative criteria applicable to securities that are not Derivative Securities Products and Index-Linked Securities (*e.g.,* common stocks) to such products. Derivative Securities Products are excluded from consideration on NYSE when determining whether the components of Units satisfy the applicable listing criteria,[35] and both Derivative Securities

[29] 15 U.S.C. 78f(b)(5).

[30] *See supra,* note 18.

[31] *See supra,* note 19.

[32] 15 U.S.C. 78s(b)(2); 15 U.S.C. 78s(b)(3)(A).

[33] 17 CFR 240.19b–4(e).

[34] *See, e.g.,* Securities Exchange Act Release No. 54739 (November 9, 2006), 71 FR 66693 (SR–Amex–2006–78) (order approving generic listing standards for Portfolio Depositary Receipts and Index Fund Shares based on international or global indexes), in which the Commission stated that ''these standards are reasonably designed to ensure that stocks with substantial market capitalization and trading volume account for a substantial portion of any underlying index or portfolio, and that when applied in conjunction with the other applicable listing requirements, will permit the listing only of ETFs that are sufficiently broad-based in scope to minimize potential manipulation.''

[35] *See* Supplementary Material .01 to NYSE Rule 5.2 (j)(3). *See also* Securities Exchange Act Release No. 57751 (May 1, 2008), 73 FR 25818 (May 7, 2008) (SR–NYSEArca–2008–29) (order approving amendments to eligibility criteria for components of an index underlying Investment Company Units), in which the Commission noted that ''based on the trading characteristics of Derivative Securities Products, it may be difficult for component Derivative Securities Products to satisfy certain quantitative index criteria, such as the minimum market value and trading volume limitations. However, because Derivative Securities Products are themselves subject to specific initial and continued listing requirements, the Commission

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Products and Index-Linked Securities are excluded from the applicable listing criteria for Managed Fund Shares holding equity securities in Supplementary Material .01 to Rule 8.600. Moreover, for shares of Derivative Securities Products that are not listed on an exchange pursuant to an exchange's generic listing rules, the Commission must first approve an exchange's proposed rule change under Section 19(b) of the Act regarding a particular Derivative Securities Product or Index-Linked Securities, which is subject to the representations and restrictions included in such proposed rule change.

The Exchange also believes it is appropriate to exclude Derivative Securities Products and Index-Linked Securities from the requirement under NYSE Rule 5.2 (j)(6)(B)(I)(1)(b)(iv) that 90% of the applicable index's numerical value and at least 80% of the total number of component securities will meet the criteria for standardized option trading set forth in NYSE Arca Rule 5.3–O. NYSE Arca Rule 5.3–O includes criteria for securities underlying option contracts approved for listing and trading on NYSE Arca. The Exchange does not believe that criteria in NYSE Arca Rule 5.3–O should be applied to Derivative Securities Products and Index-Linked Securities because such securities are subject to separate numerical and other criteria included in the applicable exchange listing rules, including both generic listing rules permitting listing pursuant to Rule 19b–4(e) and non-generic listing rules. Derivative Securities Products and Index-Linked Securities that are the subject of a Commission approval order under Section 19(b) of the Act also are subject to specific representations made in the applicable Rule 19b–4 filing. These include representations regarding the existence of comprehensive surveillance agreements between the applicable exchange and the principal markets for certain financial instruments underlying Derivative Securities Products, or percentage limitations on assets (*e.g.,* non-U.S. stocks, futures and options) whose principal market is not a member of the Intermarket Surveillance Group (''ISG'').[36]

The Exchange believes it is appropriate to provide that the weighting limitation for the five highest weighted component securities in an index in NYSE Rules 5.2 (j)(6)(B)(I)(1)(b)(iii) and 5.2 (j)(6)(B)(I)(2)(a)(i) would apply ''to the extent applicable.'' When considered in conjunction with the proposed amendment to NYSE Rule 5.2 (j)(6)(B)(I)(1)(a) referenced above, this language would make clear that an index that includes Derivative Securities Products or Index-Linked Securities may include fewer than five component securities. In addition, the phrase ''to the extent applicable'' is included in Supplementary Material .01(a)(A)(3) to NYSE Rule 5.2 (j)(3) for Investment Company Units and Supplementary Material .01(a)(1)(C) to NYSE Rule 8.600 for Managed Fund Shares.

The proposed replacement of ''investment company units'' with ''Investment Company Units'' in two places in NYSE Rule 5.2 (j)(6)(B)(I)(1) is appropriate as such changes conform to other usages of this term in Exchange rules. The proposed replacement of the word ''Index'' with ''index'' in two places in Rule 5.2 (j)(6)(B)(I)(2)(a)(i) is appropriate as such changes would conform to other usages of this word in Rule 5.2 (j)(6)(B)(I)(2).

The proposed amendment to NYSE Rule 8.700(c)(1) to specify that the trust issuing a series of Managed Trust Securities is not an investment company or similar entity makes clear that issuers of Managed Trust Securities are not investment companies under the 1940 Act, and, therefore, distinguishes issuances of Managed Trust Securities from, for example, Managed Fund Shares traded under NYSE Rule 8.600 or Investment Company Units traded under NYSE Rule 5.2(j)(3). In permitting the use of specified swaps, the proposed amendment to NYSE Rule 8.700 would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve its investment objective. Additionally, swaps would allow parties to replicate desired returns. As such, the increased flexibility afforded by the ability of an issuer of Managed Trust Securities to use swaps may enhance investor returns by facilitating the ability to more economically seek its investment objective, thereby reducing the costs incurred by such issuer. The Exchange's proposal to amend NYSE Rule 8.700(c)(1) to specify cash and cash equivalents as permitted trust holdings is appropriate in that such holdings would be held, as needed, to secure its trading obligations with respect to its positions in other financial instruments, and, therefore, may assist a trust in fulfilling its investment objective. Permitting the use of futures on currency indices and commodity indices would provide additional flexibility to an issuer of Managed Trust Securities seeking to achieve its investment objective by allowing such issuer to gain additional asset exposure to currencies and commodities. With respect to adding futures or swaps on VSTOXX to the financial instruments in which an issue of Managed Trust Securities may hold, the Exchange believes that the proposed amendment to will provide investors with the ability to better diversify and hedge their portfolios using an exchange traded security without having to trade directly in underlying futures contracts.

The Exchange has in place surveillance procedures that are adequate to properly monitor trading in Investment Company Units, Index-Linked Securities and Managed Trust Securities in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws. Such procedures will continue to be adequate to properly monitor trading in Investment Company Units, Index-Linked Securities and Managed Trust Securities in all trading sessions and to deter and detect violations of Exchange rules and applicable federal securities laws following implementation of the rule changes proposed in this filing. Investment Company Units, Index-Linked Securities and Managed Trust Securities listed and traded pursuant to NYSE Rules 5.2(j)(3), 5.2 (j)(6) and 8.700, respectively, are included within the definition of ''security'' or ''securities'' as such terms are used in the Exchange rules and, as such, are subject to Exchange rules and procedures that currently govern the trading of securities on the Exchange. Trading in the securities will be halted under the conditions specified in NYSE Rules 5.5(g)(2)(b), 5.2 (j)(6)(E) and 8.700(e)(2)(D), respectively.

For these reasons, the Exchange believes that the proposal is consistent with the Act.

believes that it would be reasonable to exclude Derivative Securities Products, as components, from certain index component eligibility criteria for [Investment Company] Units.''

[36] *See, e.g.,* Securities Exchange Act Release No. 76719 (December 21, 2015), 80 FR 80859 (December 28, 2015) (order approving Exchange listing and trading of shares of the Guggenheim Total Return Bond ETF (''Fund'') under NYSE Arca Equities Rule 8.600), which filing stated: ''Not more than 10% of the net assets of the Fund in the aggregate invested in equity securities (other than non-exchange-traded investment company securities) will consist of equity securities whose principal market is not a member of the ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement. In addition, not more than 10% of the net assets of the Fund in the aggregate invested in futures contracts or exchange-traded options contracts will consist of futures contracts or exchange-traded options contracts whose principal market is not a member of ISG or is a market with which the Exchange does not have a comprehensive surveillance sharing agreement.''

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 purpose of the Act. The Exchange believes the proposed rule change will enhance competition by permitting Exchange trading of additional types of Units, Index-Linked Securities and Managed Trust Securities, which would 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

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 [37] and Rule 19b–4(f)(6) thereunder.[38] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[39]

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) [40] 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–2017–69 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–NYSE–2017–69. 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–2017–69 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28000 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[37] 15 U.S.C. 78s(b)(3)(A)(iii).

[38] 17 CFR 240.19b–4(f)(6).

[39] 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.

[40] 15 U.S.C. 78s(b)(2)(B).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82389; File No. SR–CboeBZX–2017–016]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Rule 21.5, Minimum Increments, To Extend the Penny Pilot Program

December 22, 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 14, 2017, Cboe BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act [3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal for the BZX Options Market (''BZX Options'') to extend through June 30, 2018, the Penny Pilot Program (''Penny Pilot'') in options classes in certain issues (''Pilot Program'') previously approved by the Commission.[5]

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.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The rules of BZX Options, including rules applicable to BZX Options' participation in the Penny Pilot, were approved on January 26, 2010. *See* Securities Exchange Act Release No. 61419 (January 26, 2010), 75 FR 5157 (February 1, 2010) (SR–BATS–2009–031). BZX Options commenced operations on February 26, 2010.

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 the Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of this filing is to extend the Penny Pilot, which was previously approved by the Commission, through June 30, 2018, and to provide revised dates for adding replacement issues to the Pilot Program. The Exchange proposes that any Pilot Program issues that have been delisted may be replaced on the second trading day following January 1, 2018. The replacement issues will be selected based on trading activity for the most recent six month period excluding the month immediately preceding the replacement (*i.e.,* beginning June 1, 2017, and ending November 30, 2017).

The Exchange represents that the Exchange has the necessary system capacity to continue to support operation of the Penny Pilot. The Exchange believes the benefits to public customers and other market participants who will be able to express their true prices to buy and sell options have been demonstrated to outweigh the increase in quote traffic.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[6] In particular, the proposal is consistent with Section 6(b)(5) of the Act,[7] because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system. The Exchange believes that the Pilot Program promotes just and equitable principles of trade by enabling public customers and other market participants to express their true prices to buy and sell options. Accordingly, the Exchange believes that the proposal is consistent with the Act because it will allow the Exchange to extend the Pilot Program prior to its expiration on June 30, 2017. The Exchange notes that this proposal does not propose any new policies or provisions that are unique or unproven, but instead relates to the continuation of an existing program that operates on a pilot basis.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In this regard, the Exchange notes that the rule change is being proposed in order to continue the Pilot Program, which is a competitive response to analogous programs offered by other options exchanges. The Exchange believes this proposed rule change is necessary to permit fair competition among the options exchanges.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

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 [8] and Rule 19b–4(f)(6) thereunder.[9] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [10] and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative prior to 30 days after the date of the filing.[11] However, pursuant to Rule 19b–4(f)(6)(iii),[12] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative immediately upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because doing so will allow the Pilot Program to continue without interruption in a manner that is consistent with the Commission's prior approval of the extension and expansion of the Pilot Program and will allow the Exchange and the Commission additional time to analyze the impact of the Pilot Program.[13] Accordingly, the Commission designates the proposed rule change as operative upon filing with the Commission.[14]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [15] 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.

[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).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 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 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 pre-filing requirement.

[12] 17 CFR 240.19b–4(f)(6)(iii).

[13] *See* Securities Exchange Act Release No. 61061 (November 24, 2009), 74 FR 62857 (December 1, 2009) (SR–NYSEArca–2009–44). *See also supra* note 5.

[14] For purposes only of waiving the operative delay for this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 15 U.S.C. 78s(b)(2)(B).

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–CboeBZX–2017–016 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–CboeBZX–2017–016. 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–CboeBZX–2017–016 and should be submitted on or before January 18, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–28077 Filed 12–27–17; 8:45 am]

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[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82384; File No. 4–714]

Self-Regulatory Organizations; Miami International Securities Exchange, LLC; Order Declaring Effective a Minor Rule Violation Plan

December 21, 2017.

On November 16, 2017, Miami International Securities Exchange, LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed minor rule violation plan (''MRVP'' or ''Plan'') pursuant to Section 19(d)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19d–1(c)(2) thereunder.[2] The proposed MRVP was published for comment on November 28, 2017.[3] The Commission received no comments on the proposal. This order declares the Exchange's proposed MRVP effective.

The Exchange's MRVP specifies the rule violations which will be included in the Plan and will have sanctions not exceeding $2,500. Any violations which are resolved under the MRVP would not be subject to the provisions of Rule 19d–1(c)(1) of the Act,[4] which requires that a self-regulatory organization (''SRO'') promptly file notice with the Commission of any final disciplinary action taken with respect to any person or organization.[5] In accordance with Rule 19d–1(c)(2) under the Act,[6] the Exchange proposed to designate certain specified rule violations as eligible for consideration as minor rule violations, and requested that it be relieved of the prompt reporting requirements regarding such violations, provided it gives notice of the violations to the Commission on a quarterly basis.

The Exchange proposed to include in its MRVP the procedures and violations currently included in Exchange Rule 1014 (''Imposition of Fines for Minor Rule Violations'').[7] According to the Exchange's proposed MRVP, under Exchange Rule 1014, the Exchange may impose a fine (not to exceed $2,500) on any Member, or person associated with or employed by a Member, for any rule listed in Rule 1014(d).[8] The Exchange shall serve the person against whom a fine is imposed with a written statement setting forth the rule or rules violated, the act or omission constituting each such violation, the fine imposed, and the date by which such determination becomes final or by which such determination must be contested. If the person against whom the fine is imposed pays the fine, the payment shall be deemed to be a waiver of the person's right to a disciplinary proceeding and any review of the matter under the Exchange rules. Any person against whom a fine is imposed may contest the Exchange's determination by filing with the Exchange a written answer, at which point the matter shall proceed under the rules governing formal disciplinary proceedings.

Once the Exchange's MRVP is effective, the Exchange will provide to the Commission a quarterly report for any actions taken on minor rule violations under the MRVP. The quarterly report will include: The disposition date, the name of the firm/individual, the Exchange's internal enforcement number, the review period, the nature of the violation type, the number of the rule that was violated, the

[1] 15 U.S.C. 78s(d)(1)

[2] 17 CFR 240.19d–1(c)(2).

[3] *See* Securities Exchange Act Release No. 82145 (November 22, 2017), 82 FR 56291 (''Notice'').

[4] 17 CFR 240.19d–1(c)(1).

[5] The Commission adopted amendments to paragraph (c) of Rule 19d–1 to allow SROs to submit for Commission approval plans for the abbreviated reporting of minor disciplinary infractions. *See* Securities Exchange Act Release No. 21013 (June 1, 1984), 49 FR 23828 (June 8, 1984). Any disciplinary action taken by an SRO against any person for violation of a rule of the SRO which has been designated as a minor rule violation pursuant to a plan filed with and declared effective by the Commission is not considered ''final'' for purposes of Section 19(d)(1) of the Act if the sanction imposed consists of a fine not exceeding $2,500 and the sanctioned person has not sought an adjudication, including a hearing, or otherwise exhausted his administrative remedies.

[6] 17 CFR 240.19d–1(c)(2).

[7] The Exchange received its grant of registration on December 3, 2012, which included approving the rules that govern the Exchange. *See* Securities Exchange Act Release No. 68341 (December 3, 2012), 77 FR 73065 (December 7, 2012). *See also* Securities Exchange Act Release No. 70357 (September 10, 2013), 78 FR 56960 (September 16, 2013) (Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 1014).

[8] While Rule 1014 allows the Exchange to administer fines up to $5,000, the Exchange is only seeking relief from the reporting requirements of paragraph (c)(1) of Rule 19d–1 for fines administered under Rule 1014(d) that do not exceed $2,500.

Under the proposed MRVP, violations of the following rules would be appropriate for disposition under the MRVP: Rule 307 (Position Limits); Rule 803 (Focus Reports); Rule 804 (Requests for Trade Data); Rule 520 (Order Entry); Rule 603 (Quotation Parameters); Rule 605 (Execution of Orders in Appointed Options); Rule 314 (Mandatory Systems Testing); Rule 700 (Exercise of Option Contracts); Rule 309 (Exercise Limits); Rule 310 (Reports Related to Position Limits); Rule 403 (Trading in Restricted Classes); Rule 604 (Market Maker Quotations); and Rules 1301, 1302, and 1303 (Failure to Timely File Amendments to Form U4, Form U5, and Form BD). According to the Exchange, Conduct and Decorum Policies under Rule 1014(d)(4) are excluded from the proposed MRVP. *See* Notice, *supra* note 3.

number of times the violation occurred, and the sanction imposed.[9]

The Commission finds that the proposal is consistent with the public interest, the protection of investors, or otherwise in furtherance of the purposes of the Act, as required by Rule 19d–1(c)(2) under the Act,[10] because the MRVP will permit the Exchange to carry out its oversight and enforcement responsibilities as an SRO more efficiently in cases where formal disciplinary proceedings are not necessary due to the minor nature of the particular violation.

In declaring the Exchange's MRVP effective, the Commission does not minimize the importance of compliance with Exchange rules and all other rules subject to the imposition of sanctions under Exchange Rule 1014. Violation of an SRO's rules, as well as Commission rules, is a serious matter. However, Exchange Rule 1014 provides a reasonable means of addressing violations that do not rise to the level of requiring formal disciplinary proceedings, while providing greater flexibility in handling certain violations. The Commission expects the Exchange to continue to conduct surveillance and make determinations based on its findings, on a case-by-case basis, regarding whether a violation requires formal disciplinary action or whether a sanction under the MRVP is appropriate.

It is therefore ordered, pursuant to Rule 19d–1(c)(2) under the Act,[11] that the proposed MRVP for Miami International Securities Exchange, LLC, File No. 4–714, be, and hereby is, declared effective.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[12]

Brent J. Fields,

Secretary.

[FR Doc. 2017–27989 Filed 12–27–17; 8:45 am]

BILLING CODE 8011–01–P

[9] The Exchange attached a sample form of the quarterly report with its submission to the Commission.

[10] 17 CFR 240.19d–1(c)(2).

[11] *Id.*

[12] 17 CFR 200.30–3(a)(44).

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration #15412 and #15413; NEW MEXICO Disaster Number NM–00052]

Presidential Declaration of a Major Disaster for Public Assistance Only for the State of New Mexico

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of New Mexico (FEMA–4352–DR), dated 12/20/2017.

Incident: Severe Storms and Flooding.

Incident Period: 10/04/2017 through 10/06/2017.

DATES: Issued on 12/20/2017.

Physical Loan Application Deadline Date: 02/19/2018.

Economic Injury (EIDL) Loan Application Deadline Date: 09/20/2018.

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: Alan 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 President's major disaster declaration on 12/20/2017; Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications 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: Pueblo of Acoma

The Interest Rates are:

	Percent
For Physical Damage:	
Non-Profit Organizations With Credit Available Elsewhere ...	2.500
Non-Profit Organizations Without Credit Available Elsewhere	2.500
For Economic Injury:	
Non-Profit Organizations Without Credit Available Elsewhere	2.500

The number assigned to this disaster for physical damage is 15412B and for economic injury is 154130.

(Catalog of Federal Domestic Assistance Number 59008)

Jerome Edwards,

Acting Associate Administrator for Disaster Assistance.

[FR Doc. 2017–28099 Filed 12–27–17; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

[Public Notice 10244]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition Determinations: "A Queen's Treasure at Versailles: Marie-Antoinette's Japanese Lacquer" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition "A Queen's Treasure at Versailles: Marie-Antoinette's Japanese Lacquer," imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owner or custodian. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum at the Getty Villa, Malibu, California, from on or about January 23, 2018, until on or about January 6, 2019, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–28017 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10245]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: "Thomas Cole's Journey: Atlantic Crossings" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Thomas Cole's Journey: Atlantic Crossings,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Metropolitan Museum of Art, New York, New York, from on or about January 30, 2018, until on or about May 13, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–28018 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice: 10241]

60-Day Notice of Proposed Information Collection: Foreign Diplomatic Services Applications (FDSA)

ACTION: Notice of request for public comment.

SUMMARY: The Department of State is seeking Office of Management and Budget (OMB) approval for the information collection described below. In accordance with the Paperwork Reduction Act of 1995, we are requesting comments on this collection from all interested individuals and organizations. The purpose of this notice is to allow 60 days for public comment preceding submission of the collection to OMB.

DATES: The Department will accept comments from the public up to February 26, 2018.

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

• *Web:* Persons with access to the internet may comment on this notice by going to *www.Regulations.gov*. You can search for the document by entering ''Docket Number: DOS–2017–0048'' in the Search field. Then click the ''Comment Now'' button and complete the comment form.

• *Email: OFMinfo@state.gov.*

• *Regular Mail:* Send written comments to: 2201 C St. NW, Washington, DC 20520; 3507 International Place NW, Washington, DC 20008.

You must include the DS form number (if applicable), information collection title, and the OMB control number in any correspondence.

FOR FURTHER INFORMATION CONTACT: Direct requests for additional information regarding the collection listed in this notice, including requests for copies of the proposed collection instrument and supporting documents, to Patrice Johnson at 3507 International Place NW, Washington, DC 20008, who may be reached on 202–895–3504 or at *johnsonpd@state.gov.*

SUPPLEMENTARY INFORMATION:

• *Title of Information Collection:* Foreign Diplomatic Services Applications (FDSA).

• *OMB Control Number:* 1405–0105.

• *Type of Request:* Revision of a Currently Approved Collection.

• *Originating Office:* M/OFM.

• *Form Number:* DS–98, DS–99, DS–100, DS–101, DS–102, DS–104, DS–1504, DS–1972D, DS–1972T, DS–2003, DS–2004, DS–2005, DS–2006, DS–2008, DS–4138, DS- 4139, DS–4140, DS–4155, DS–4284, DS–4285, DS–4298, DS–4299, DS–7675.

• *Respondents:* Foreign Mission Community.

• *Estimated Number of Respondents:* 98,770.

• *Estimated Number of Responses:* 98,770.

• *Average Time per Response:* 12 minutes.

• *Total Estimated Burden Time:* 20,726 hours annually.

• *Frequency:* For each specific event; annually.

• *Obligation to Respond:* Mandatory and/or Required to Obtain or Retain a Benefit.

We are soliciting public comments to permit the Department to:

• Evaluate whether the proposed information collection is necessary for the proper functions of the Department.

• Evaluate the accuracy of our estimate of the time and cost burden for this proposed collection, including the validity of the methodology and assumptions used.

• Enhance the quality, utility, and clarity of the information to be collected.

• Minimize the reporting burden on those who are to respond, including the use of automated collection techniques or other forms of information technology.

Please note that comments submitted in response to this Notice are public record. Before including any detailed personal information, you should be aware that your comments as submitted, including your personal information, will be available for public review.

Abstract of Proposed Collection

Collection information instruments dealing with information collection from the foreign mission community, to include the electronic data compilation (e-Gov), have been combined under one information collection request, collectively referred to as the ''Foreign Diplomatic Services Applications''. These information collection instruments provide the Office of Foreign Missions and the Office of the Chief of Protocol with the information necessary to provide and administer an effective and efficient benefits, privileges, and immunities program by which foreign missions and eligible applicants may apply for benefits from the U.S. Department of State, to which they are entitled pursuant to the Foreign Missions Act.

Methodology

Information may be received via Email, fax, or electronic submission through eGov at *https://egov.ofm.state.gov/.*

Patrice D. Johnson,

Executive Director, Office of Foreign Missions, Department of State.

[FR Doc. 2017–28075 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–43–P

DEPARTMENT OF STATE

[Public Notice 10247]

Notice of Determinations; Culturally Significant Objects Imported for Exhibition Determinations: "Rembrandt and the Inspiration of India" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Rembrandt and the Inspiration of India,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum at the Getty Center, Los Angeles, California, from on or about March 13, 2018, until on or about June 24, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–28020 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10246]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition Determinations: "Mirroring China's Past: Emperors, Scholars, and Their Bronzes" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Mirroring China's Past: Emperors, Scholars, and Their Bronzes,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to a loan agreement with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The Art Institute of Chicago, in Chicago, Illinois, from on or about February 25, 2018, until on or about May 13, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–28019 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 10243]

Notice of Determinations: Culturally Significant Objects Imported for Exhibition Determinations: "Towards Impressionism: Landscape Painting from Corot to Monet" Exhibition

SUMMARY: Notice is hereby given of the following determinations: I hereby determine that certain objects to be included in the exhibition ''Towards Impressionism: Landscape Painting from Corot to Monet,'' imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Cornell Fine Arts Museum, Winter Park, Florida, from on or about January 20, 2018, until on or about April 8, 2018, at the Frye Art Museum, Seattle, Washington, from on or about May 12, 2018, until on or about August 5, 2018, and at possible additional exhibitions or venues yet to be determined, is in the national interest.

FOR FURTHER INFORMATION CONTACT: Elliot Chiu in the Office of the Legal Adviser, U.S. Department of State (telephone: 202–632–6471; email: *section2459@state.gov*). The mailing address is U.S. Department of State, L/PD, SA–5, Suite 5H03, Washington, DC 20522–0505.

SUPPLEMENTARY INFORMATION: The foregoing determinations were made pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), E.O. 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.;* 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236–3 of August 28, 2000 (and, as appropriate, Delegation of Authority No. 257–1 of December 11, 2015). I have ordered that Public Notice of these determinations be published in the **Federal Register**.

Alyson Grunder,

Deputy Assistant Secretary for Policy, Bureau of Educational and Cultural Affairs, Department of State.

[FR Doc. 2017–28016 Filed 12–27–17; 8:45 am]

BILLING CODE 4710–05–P

SURFACE TRANSPORTATION BOARD

[Docket No. EP 730 (Sub-No. 1)]

Revisions to Arbitration Procedures

Under Section 13 of the Surface Transportation Board Reauthorization Act of 2015 (STB Reauthorization Act), codified at 49 U.S.C. 11708, Congress directed the Board to ''promulgate regulations to establish a voluntary and binding arbitration process to resolve rail rate and practice complaints'' that are subject to the Board's jurisdiction. In May 2016, the Board issued a Notice of Proposed Rulemaking proposing to modify its existing regulations at 49 CFR pt. 1108 and § 1115.8 to conform to the requirements of the STB Reauthorization Act. *Revisions to Arbitration Procedures,* EP 730 (STB served May 12, 2016). Section 11708(f) provides that, unless parties otherwise agree, an arbitrator or panel of arbitrators shall be selected from a roster maintained by the Board. Accordingly, the Board's rules establish a process for creating and maintaining a roster of arbitrators. *See Revisions to Arbitration Procedures* (*Final Rule*), EP 730, slip op. at 3–4 (STB served Oct. 11, 2016).

By decision served December 2, 2016, the Board sought applications from all interested persons who wished to be considered for inclusion on the initial roster. The Board assessed each applicant's qualifications to identify individuals who can ably serve as arbitrators based on the criteria established by the Board in its *Final Rule* at 49 CFR 1108.6(b). By decision served February 23, 2017, the Board adopted and issued its roster of arbitrators. The roster is published on the Board's website at *https://www.stb.gov/stb/litigationalternatives/CurrentArbitration.html* (a link to the current arbitrator roster is located in the section titled, ''Arbitration Procedures'').

Section 1108.6(b) requires that the Board update the roster of arbitrators every year. Accordingly, the Board is now requesting the names and qualifications of new arbitrators who wish to be placed on the roster. Arbitrators who wish to remain on the roster must notify the Board of their continued availability and confirm that the biographical information on file with the Board remains accurate and if not, provide any necessary updates. Arbitrators who do not confirm their continued availability will be removed from the roster. This decision will be served on all current arbitrators.

Any person who wishes to be added to the roster should file an application describing his or her experience with rail transportation and economic regulation, as well as professional or business experience, including agriculture, in the private sector. Each applicant should also describe his or her training in dispute resolution and/or experience in arbitration or other forms of dispute resolution, including the number of years of experience. Lastly, the applicant should provide his or her contact information and fees.

All comments—including filings from new applicants, updates to existing arbitrator information, and confirmations of continued availability—should be submitted by January 22, 2018.[1] The Board will assess each new applicant's qualifications to determine which individuals can ably serve as arbitrators based on the criteria established under section 1108.6(b). The Board will then establish an updated roster of arbitrators by no-objection vote. The roster will include a brief biographical sketch of each arbitrator, including information such as background, area(s) of expertise, arbitration experience, and geographical location, as well as contact information and fees. The roster will be published on the Board's website.

It is ordered:

1. Applications from persons interested in being added to the Board's roster of arbitrators and confirmations of continued availability (with updates, if any, to existing arbitrator information) from persons currently on the arbitration roster, are due by January 22, 2018.

2. This decision will be served on all current arbitrators and published in the **Federal Register**.

3. This decision is effective on the date of service.

Decided: December 21, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–28009 Filed 12–27–17; 8:45 am]

BILLING CODE 4915–01–P

[1] Persons who have informally indicated an interest in being included on the arbitrator roster (*e.g.,* correspondence to Board members) should submit a comment pursuant to this decision.

SURFACE TRANSPORTATION BOARD

[Docket No. EP 526 (Sub-No. 10)]

Notice of Railroad-Shipper Transportation Advisory Council Vacancies

AGENCY: Surface Transportation Board (Board).

ACTION: Notice of vacancies on the Railroad-Shipper Transportation Advisory Council (RSTAC) and solicitation of nominations.

SUMMARY: The Board hereby gives notice of vacancies on RSTAC for two small shipper representatives, one large shipper representative, two small railroad representatives, and two large railroad representatives. The Board seeks suggestions for candidates to fill these vacancies.

DATES: Nominations are due on January 22, 2018.

ADDRESSES: Suggestions may be submitted either via the Board's e-filing format or in the traditional paper format. Any person using e-filing should attach a document and otherwise comply with the instructions at the E–FILING link on the Board's website, at *http://www.stb.gov.* Any person submitting a filing in the traditional paper format should send an original and 10 copies to: Surface Transportation Board, Attn: Docket No. EP 526 (Sub–No. 10), 395 E Street SW, Washington, DC 20423–0001 (if sending via express company or private courier, please use zip code 20024). Please note that submissions will be available to the public at the Board's offices and posted on the Board's website under Docket No. EP 526 (Sub–No. 10).

FOR FURTHER INFORMATION CONTACT: Katherine Bourdon at 202–245–0285. Assistance for the hearing impaired is available through the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: The Board, created in 1996 to take over many of the functions previously performed by the Interstate Commerce Commission, exercises broad authority over transportation by rail carriers, including regulation of railroad rates and service (49 U.S.C. 10701–47, 11101–24), the construction, acquisition, operation, and abandonment of rail lines (49 U.S.C. 10901–07), as well as railroad line sales, consolidations, mergers, and common control arrangements (49 U.S.C. 10902, 11323–27).

RSTAC was established upon the enactment of the ICC Termination Act of 1995 (ICCTA) on December 29, 1995, to advise the Board's Chairman, the Secretary of Transportation, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Transportation and Infrastructure of the House of Representatives with respect to rail transportation policy issues RSTAC considers significant. RSTAC focuses on issues of importance to small shippers and small railroads, including car supply, rates, competition, and procedures for addressing claims. ICCTA instructs RSTAC to endeavor to develop private-sector mechanisms to prevent, or identify and address, obstacles to the most effective and efficient transportation system practicable. RSTAC also prepares an annual report concerning its activities and recommendations on whatever regulatory or legislative relief it considers appropriate. RSTAC is not subject to the Federal Advisory Committee Act.

RSTAC currently consists of 19 members. Of this number, 15 members are appointed by the Chairman of the Board, and the remaining four members are comprised of the Secretary of Transportation and the Members of the Board, who serve as *ex officio,* nonvoting members. Of the 15 appointed members, nine are voting members and are appointed from senior executive officers of organizations engaged in the railroad and rail shipping industries. At least four of the voting members must be representatives of small shippers as determined by the Chairman, and at least four of the voting members must be representatives of Class II or III railroads. The remaining six members to be appointed—three representing Class I railroads and three representing large shipper organizations—serve in a nonvoting, advisory capacity, but are entitled to participate in RSTAC deliberations.

RSTAC is required by statute to meet at least semi-annually. In recent years, RSTAC has met four times a year. Meetings are generally held at the Board's headquarters in Washington, DC, although some meetings are held in other locations.

RSTAC members receive no compensation for their services and are required to provide for the expenses incidental to their service, including travel expenses, as the Board cannot provide for these expenses. RSTAC may solicit and use private funding for its activities, again subject to certain restrictions in ICCTA. RSTAC members currently have elected to submit annual dues to pay for RSTAC expenses.

RSTAC members must be citizens of the United States and represent as broadly as practicable the various segments of the railroad and rail shipper industries. They may not be full-time employees of the United States. According to revised guidance issued by the Office of Management and Budget, it is permissible for federally registered lobbyists to serve on advisory committees, such as RSTAC, as long as they do so in a representative capacity, rather than an individual capacity. *See Revised Guidance on Appointment of Lobbyists to Fed. Advisory Comms., Bds., & Comm'ns.,* 79 FR 47,482 (Aug. 13, 2014). Members of RSTAC are appointed to serve in a representative capacity.

RSTAC members are appointed for three-year terms. A member may serve after the expiration of his or her term until a successor has taken office. No member will be eligible to serve in excess of two consecutive terms.

Due to the expiration of several RSTAC members' terms, vacancies exist for the following: Two small shipper representatives, one large shipper representative, two small railroad representatives, and two large railroad representatives. Upon appointment by the Board Chairman, the new representatives will serve for three years and may be eligible to serve a second three-year term following the end of their first term.

Suggestions for candidates to fill these vacancies should be submitted in letter form, identify the name of the candidate, provide a summary of why the candidate is qualified to serve on RSTAC, and contain a representation that the candidate is willing to serve as an RSTAC member effective immediately upon appointment. RSTAC candidate suggestions should be filed with the Board by January 22, 2018. Members selected to serve on RSTAC are chosen at the discretion of the Board Chairman. Please note that submissions will be available to the public at the Board's offices and posted on the Board's website under Docket No. EP 526 (Sub-No. 10).

Authority: 49 U.S.C. 1325.

Decided: December 21, 2017.

By the Board, Scott M. Zimmerman, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2017–28011 Filed 12–27–17; 8:45 am]

BILLING CODE 4915–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Determination of Trade Surplus in Certain Sugar and Syrup Goods and Sugar-Containing Products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia, and Panama

AGENCY: Office of the United States Trade Representative.

ACTION: Notice.

SUMMARY: In accordance with the Harmonized Tariff Schedule of the United States (HTS), the Office of the United States Trade Representative (USTR) is providing notice of its determination of the trade surplus in certain sugar and syrup goods and sugar-containing products of Chile, Morocco, Costa Rica, the Dominican Republic, El Salvador, Guatemala, Honduras, Nicaragua, Peru, Colombia and Panama. The level of a country's trade surplus in these goods relates to the quantity of sugar and syrup goods and sugar-containing products for which the United States grants preferential tariff treatment under (i) the United States-Chile Free Trade Agreement (Chile FTA); (ii) the United States-Morocco Free Trade Agreement (Morocco FTA); (iii) the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA–DR); (iv) the United States-Peru Trade Promotion Agreement (Peru TPA); (v) the United States-Colombia Trade Promotion Agreement (Colombia TPA); and (vi) the United States-Panama Trade Promotion Agreement (Panama TPA).

DATES: This notice is applicable on January 1, 2018.

FOR FURTHER INFORMATION CONTACT: Ronald Baumgarten, Office of Agricultural Affairs, (202) 395–9583 or *Ronald_Baumgarten@ustr.eop.gov.*

SUPPLEMENTARY INFORMATION:

I. Chile FTA

Pursuant to section 201 of the United States-Chile Free Trade Agreement Implementation Act (Pub. L. 108–77; 19 U.S.C. 3805 note), Presidential Proclamation No. 7746 of December 30, 2003 (68 FR 75789) implemented the Chile FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Chile FTA.

Note 12(a) to subchapter XI of HTS chapter 99 requires USTR to publish annually a determination of the amount of Chile's trade surplus, by volume, with all sources for goods in Harmonized System (HS) subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.20, 1702.30, 1702.40, 1702.60, 1702.90, 1806.10, 2101.12, 2101.20, and 2106.90, except that Chile's imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Chile FTA are not included in the calculation of Chile's trade surplus. Proclamation 8771 of December 29, 2011 (77 FR 413) reclassified HS subheading 1701.11 as 1701.13 and 1701.14.

Note 12(b) to subchapter XI of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Chile entered under subheading 9911.17.05 in any calendar year (CY) (beginning in CY 2015) shall be the quantity of goods equal to the amount of Chile's trade surplus in subdivision (a) of the note.

During CY 2016, the most recent year for which data is available, Chile's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 593,524 metric tons according to data published by its customs authority, the Servicio Nacional de Aduana. Based on this data, USTR has determined that Chile's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) to subchapter XI of HTS chapter 99, goods of Chile are not eligible to enter the United States duty-free under subheading 9911.17.05 in CY 2018.

II. Morocco FTA

Pursuant to section 201 of the United States-Morocco Free Trade Agreement Implementation Act (Pub. L. 108–302; 19 U.S.C. 3805 note), Presidential Proclamation No. 7971 of December 22, 2005 (70 FR 76651) implemented the Morocco FTA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Morocco FTA.

Note 12(a) to subchapter XII of HTS chapter 99 requires USTR annually to publish a determination of the amount of Morocco's trade surplus, by volume, with all sources for goods in HS subheadings 1701.11, 1701.12, 1701.91, 1701.99, 1702.40, and 1702.60, except that Morocco's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the Morocco FTA are not included in the calculation of Morocco's trade surplus. Proclamation 8771 of December 29, 2011 (77 FR 413) reclassified HS subheading 1701.11 as 1701.13 and 1701.14.

Note 12(b) to subchapter XII of HTS chapter 99 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.05 in an amount equal to the lesser of Morocco's trade surplus or the specific quantity set out in that note for that calendar year.

Note 12(c) to subchapter XII of HTS chapter 99 provides preferential tariff treatment for certain sugar and syrup goods and sugar-containing products of Morocco entered under subheading 9912.17.10 through 9912.17.85 in an amount equal to the amount by which Morocco's trade surplus exceeds the specific quantity set out in that note for that calendar year.

During CY 2016, the most recent year for which data is available, Morocco's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 730,647 metric tons according to data published by its customs authority, the Office des Changes. Based on this data, USTR has determined that Morocco's trade surplus is negative. Therefore, in accordance with U.S. Note 12(b) and U.S. Note 12(c) to subchapter XII of HTS chapter 99, goods of Morocco are not eligible to enter the United States duty-free under subheading 9912.17.05 or at preferential tariff rates under subheading 9912.17.10 through 9912.17.85 in CY 2018.

III. CAFTA–DR

Pursuant to section 201 of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (Pub. L. 109–53; 19 U.S.C. 4031), Presidential Proclamation No. 7987 of February 28, 2006 (71 FR 10827), Presidential Proclamation No. 7991 of March 24, 2006 (71 FR 16009), Presidential Proclamation No. 7996 of March 31, 2006 (71 FR 16971), Presidential Proclamation No. 8034 of June 30, 2006 (71 FR 38509), Presidential Proclamation No. 8111 of February 28, 2007 (72 FR 10025), Presidential Proclamation No. 8331 of December 23, 2008 (73 FR 79585), and Presidential Proclamation No. 8536 of June 12, 2010 (75 FR 34311), implemented the CAFTA–DR on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the CAFTA–DR.

Note 25(b)(i) to subchapter XXII of HTS chapter 98 requires USTR to publish annually a determination of the amount of each CAFTA–DR country's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that each CAFTA–DR country's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 and its imports of goods classified under HS subheadings 1702.40 and 1702.60 that qualify for preferential tariff treatment under the CAFTA–DR are not included in the calculation of that country's trade surplus.

U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar and syrup goods and sugar-containing products of each CAFTA–DR country entered under subheading 9822.05.20 in an amount equal to the lesser of that country's trade surplus or the specific quantity set out in that note for that country and that calendar year.

A. Costa Rica

During CY 2016, the most recent year for which data is available, Costa Rica's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 122,509 metric tons according to data published by the Costa Rican Customs Department, Ministry of Finance. Based on this data, USTR has determined that Costa Rica's trade surplus is 122,509 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Costa Rica for CY 2018 is 13,640 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Costa Rica that may be entered duty-free under subheading 9822.05.20 in CY 2018 is 13,640 metric tons (*i.e.,* the amount that is the lesser of Costa Rica's trade surplus and the specific quantity set out in that note for Costa Rica for CY 2018).

B. Dominican Republic

During CY 2016, the most recent year for which data is available, the Dominican Republic's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 148,476 metric tons according to data published by the National Direction of Customs (DGA). Based on this data, USTR has determined that the Dominican Republic's trade surplus is negative. Therefore, in accordance with U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98, goods of the Dominican Republic are not eligible to enter the United States duty-free under subheading 9822.05.20 in CY 2018.

C. El Salvador

During CY 2016, the most recent year for which data is available, El Salvador's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 224,658 metric tons according to data published by the Salvadoran Sugar Council and the Central Bank of El Salvador. Based on this data, USTR has determined that El Salvador's trade surplus is 224,658 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for El Salvador for CY 2018 is 34,680 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of El Salvador that may be entered duty-free under subheading 9822.05.20 in CY 2018 is 34,680 metric tons (*i.e.,* the amount that is the lesser of El Salvador's trade surplus and the specific quantity set out in that note for El Salvador for CY 2018).

D. Guatemala

During CY 2016, the most recent year for which data is available, Guatemala's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 1,787,825 metric tons according to data published by the Asociación de Azucareros de Guatemala (ASAZGUA). Based on this data, USTR has determined that Guatemala's trade surplus is 1,787,825 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Guatemala for CY 2018 is 47,940 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Guatemala that may be entered duty-free under subheading 9822.05.20 in CY 2018 is 47,940 metric tons (*i.e.,* the amount that is the lesser of Guatemala's trade surplus and the specific quantity set out in that note for Guatemala for CY 2018).

E. Honduras

During CY 2016, the most recent year for which data is available, Honduras' exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 106,893 metric tons according to data published by the Central Bank of Honduras. Based on this data, USTR has determined that Honduras' trade surplus is 106,893 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Honduras for CY 2018 is 9,920 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Honduras that may be entered duty-free under subheading 9822.05.20 in CY 2018 is 9,920 metric tons (*i.e.,* the amount that is the lesser of Honduras' trade surplus and the specific quantity set out in that note for Honduras for CY 2018).

F. Nicaragua

During CY 2016, the most recent year for which data is available, Nicaragua's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 208,507 metric tons according to data published by the Nicaraguan Ministry of Development, Industry, and Trade (MIFIC). Based on this data, USTR has determined that Nicaragua's trade surplus is 208,507 metric tons. The specific quantity set out in U.S. Note 25(b)(ii) to subchapter XXII of HTS chapter 98 for Nicaragua for CY 2018 is 27,280 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Nicaragua that may be entered duty-free under subheading 9822.05.20 in CY 2018 is 27,280 metric tons (*i.e.,* the amount that is the lesser of Nicaragua's trade surplus and the specific quantity set out in that note for Nicaragua for CY 2018).

IV. Peru TPA

Pursuant to section 201 of the United States-Peru Trade Promotion Agreement Implementation Act (Pub. L. 110–138; 19 U.S.C. 3805 note), Presidential Proclamation No. 8341 of January 16, 2009 (74 FR 4105) implemented the Peru TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Peru TPA.

Note 28(c) to subchapter XXII of HTS chapter 98 requires USTR to annually publish a determination of the amount of Peru's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40, and 1702.60, except that Peru's imports of U.S. goods classified under HS subheadings 1702.40 and 1702.60 that are originating goods under the Peru TPA and Peru's exports to the United States of goods classified under HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, and 1701.99 are not included in the calculation of Peru's trade surplus.

Note 28(d) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Peru entered under subheading 9822.06.10 in an amount equal to the lesser of Peru's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2016, the most recent year for which data is available, Peru's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 248,472 metric tons according to data published by Superintendencia Nacional de Administración Tributaria (SUNAT). Based on this data, USTR has determined that Peru's trade surplus is negative. Therefore, in accordance with U.S. Note 28(d) to subchapter XXII of HTS chapter 98, goods of Peru are not eligible to enter the United States duty-free under subheading 9822.06.10 in CY 2018.

V. Colombia TPA

Pursuant to section 201 of the United States-Colombia Trade Promotion Agreement Implementation Act (Pub. L. 112–42; 19 U.S.C. 3805 note), Presidential Proclamation No. 8818 of May 14, 2012 (77 FR 29519) implemented the Colombia TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Colombia TPA.

Note 32(b) to subchapter XXII of HTS chapter 98 requires USTR to publish annually a determination of the amount of Colombia's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Colombia's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Colombia TPA and Colombia's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Colombia's trade surplus.

Note 32(c)(i) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Colombia entered under subheading 9822.08.01 in an amount equal to the lesser of Colombia's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2016, the most recent year for which data is available, Colombia's exports of the sugar and syrup goods and sugar-containing products described above exceeded its imports of those goods by 217,455 metric tons according to data published by Global Trade Atlas (GTA) and the Colombian Directorate of National Taxes and Customs (DIAN). Based on this data, USTR has determined that Colombia's trade surplus is 217,455 metric tons. The specific quantity set out in U.S. Note 32(c)(i) to subchapter XXII of HTS chapter 98 for Colombia for CY 2018 is 54,500 metric tons. Therefore, in accordance with that note, the aggregate quantity of goods of Colombia that may be entered duty-free under subheading 9822.08.01 in CY 2018 is 54,500 metric tons (*i.e.,* the amount that is the lesser of Colombia's trade surplus and the specific quantity set out in that note for Colombia for CY 2018).

VI. Panama TPA

Pursuant to section 201 of the United States-Panama Trade Promotion Agreement Implementation Act (Pub. L. 112–43; 19 U.S.C. 3805 note), Presidential Proclamation No. 8894 of October 29, 2012 (77 FR 66505) implemented the Panama TPA on behalf of the United States and modified the HTS to reflect the tariff treatment provided for in the Panama TPA.

Note 35(a) to subchapter XXII of HTS chapter 98 requires USTR to publish annually a determination of the amount of Panama's trade surplus, by volume, with all sources for goods in HS subheadings 1701.12, 1701.13, 1701.14, 1701.91, 1701.99, 1702.40 and 1702.60, except that Panama's imports of U.S. goods classified under subheadings 1702.40 and 1702.60 that are originating goods under the Panama TPA and Panama's exports to the United States of goods classified under subheadings 1701.12, 1701.13, 1701.14, 1701.91 and 1701.99 are not included in the calculation of Panama's trade surplus.

Note 35(c) to subchapter XXII of HTS chapter 98 provides duty-free treatment for certain sugar goods of Panama entered under subheading 9822.09.17 in an amount equal to the lesser of Panama's trade surplus or the specific quantity set out in that note for that calendar year.

During CY 2016, the most recent year for which data is available, Panama's imports of the sugar and syrup goods and sugar-containing products described above exceeded its exports of those goods by 705 metric tons according to data published by the National Institute of Statistics and Census, Office of the General Comptroller of Panama. Based on this data, USTR has determined that Panama's trade surplus is negative. Therefore, in accordance with U.S. Note 35(c) to subchapter XXII of HTS chapter 98, goods of Panama are not eligible to enter the United States duty-free under subheading 9822.09.17 in CY 2018.

Sharon Bomer Lauritsen,

Assistant U.S. Trade Representative for Agricultural Affairs.

[FR Doc. 2017–27975 Filed 12–27–17; 8:45 am]

BILLING CODE 3290–F8–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Approval of New Information Collection: Generic Clearance for Customer Interactions

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments concerning our intention to request the Office of Management and Budget (OMB) approval of a new generic information collection. As part of a Federal Government-wide effort to streamline the process to seek feedback from the public, FAA is requesting approval of a New Generic Information Collection Request: ''Generic Clearance for Customer Interactions''.

DATES: Written comments should be submitted by February 26, 2018.

FOR FURTHER INFORMATION CONTACT: Barbara Hall at (940) 594–5913, or by email at: *Barbara.L.Hall@faa.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–NEW.

Title: Generic Clearance for Customer Interactions.

Form Numbers: There are no FAA forms associated with this generic information collection.

Type of Review: New generic information collection.

Background: Customer Interactions provide the Federal Aviation Administration valuable information and connect the agency to the public that we serve. In order to ensure a timely and consistent process for Paperwork Reduction Act compliance, the Federal Aviation Administration is proposing to develop a Generic Information Collection Request to be utilized for Customer Interactions that support the Agency's mission.

Customer Interactions can support the Federal Aviation Administration's mission by allowing the Agency to collect qualitative and quantitative data that can help inform scientific research; aviation assessments and monitoring efforts; validate models or tools; and enhance the quantity and quality of data collected across communities. Customer Interactions also create an avenue to incorporate local knowledge and needs, and can contribute to increased data sharing, open data, and government transparency. The Federal Aviation Administration may sponsor the collection of this type of information in connection with aviation projects. All such collections will follow Agency policies and regulations. If a new collection is not within the parameters of this generic Information Collection Request (ICR), the Agency will submit a separate information collection request to Office of Management and Budget (OMB) for approval.

Collections under this generic ICR will be from volunteers who participate on their own initiative through an open and transparent process; the collections will be low-burden for participants; collections will be low-cost for both the participants and the Federal Government; and data will be available to support the endeavors of the Agency, states, tribal or local entities where data collection occurs.

Respondents: Approximately 11,000 Individuals and Households, Businesses and Organizations, State, Local or Tribal Government.

Frequency: Once per request.

Estimated Average Burden per Response: 10 minutes.

Estimated Total Annual Burden: 1,833 hours.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Issued in Fort Worth, TX, on December 19, 2017.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2017–28049 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Docket No. FAA–2017–1197; Notice of Availability Docket No. 17–AEA–25]

Notice of Availability of Categorical Exclusion and Record of Decision (CATEX/ROD) for LGA RNAV (GPS) Runway 13 Procedure

AGENCY: Federal Aviation Administration, (FAA), DOT.

ACTION: Notice of availability.

SUMMARY: The FAA, Eastern Service Area is issuing this notice to advise the public of the availability of the Categorical Exclusion/Record of Decision (CATEX/ROD) for the LaGuardia Airport (LGA) RNAV (GPS) Runway 13 (RWY 13) procedure. The FAA reviewed the action and determined it to be categorically excluded from further environmental documentation.

FOR FURTHER INFORMATION CONTACT: Mr. Ryan W. Almasy, Federal Aviation Administration, Operations Support Group, Eastern Service Center, 1701 Columbia Avenue, College Park, Georgia

30337, (404) 305–5601 or *http://www.faa.gov/air_traffic/environmental_issues/.*

SUPPLEMENTARY INFORMATION: The LGA RNAV (GPS) RWY 13 procedure provides a de-conflicted approach procedure when weather or winds require LGA to land RWY 13. Without this procedure, when the weather minimums fall below 1,500 feet, and 3-mile visibility and use of an ILS is required, Newark (EWR), Teterboro (TEB), and LGA cannot operate at the same time. Traffic at one of the three airports must be stopped to permit the other two airports to operate. The FAA is proposing to use the RNAV procedure for approximately 1,500 operations annually (0.8 percent of all LGA landings) to de-conflict the New York metro airspace. The FAA reviewed the action and determined it to be categorically excluded from further environmental documentation according to FAA Order 1050.1F, Environmental Impacts: Policies and Procedures. The applicable categorical exclusion is section 5–6.5(i.).

Issued in College Park, Georgia, on December 15, 2017.

Ryan W. Almasy,

Manager, Operations Support Group, Eastern Service Center, Air Traffic Organization.

[FR Doc. 2017–27965 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activities: Requests for Comments; Clearance of Renewed Approval of Information Collection: Certification: Air Carriers and Commercial Operators

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FAA invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. This collection involves air carrier and commercial operator certificate holders. The information collected will be used to ensure regulatory compliance.

DATES: Written comments should be submitted by February 26, 2018.

ADDRESSES: Send comments to the FAA at the following address: Barbara Hall, Federal Aviation Administration, ASP–110, 10101 Hillwood Parkway, Fort Worth, TX 76177.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for FAA's performance; (b) the accuracy of the estimated burden; (c) ways for FAA to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

FOR FURTHER INFORMATION CONTACT: Barbara Hall by email at: *Barbara.L.Hall@faa.gov;* phone: 940–594–5913.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2120–0593.

Title: Certification: Air Carriers and Commercial Operators.

Form Numbers: FAA Form 8400–6.

Type of Review: Renewal of an information collection.

Background: The request for clearance reflects requirements necessary under parts 135, 121, and 125 to comply with part 119. The FAA will use the information it collects and reviews to ensure compliance and adherence to regulations and, if necessary, to take enforcement action on violators of the regulations.

Respondents: Approximately 2,177 air carriers and commercial operators.

Frequency: Information is collected on occasion.

Estimated Average Burden per Response: 2.45 hours.

Estimated Total Annual Burden: 8,862 hours.

Issued in Fort Worth, TX, on December 19, 2017.

Barbara L. Hall,

FAA Information Collection Clearance Officer, Performance, Policy, and Records Management Branch, ASP–110.

[FR Doc. 2017–28052 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Buy America Waiver Notification

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for iron and steel components of Georgia Ports Authority (GPA)-procured Rail Mounted Gantry (RMG) cranes that will increase intermodal capacity at the Garden City Terminal in Garden City, Georgia. These iron and steel components are not manufactured (from melting to coating) in the United States in sufficient and reasonably available quantities and of a satisfactory quality. This notice follows FHWA's November 20, 2017, notice finding that a Buy America waiver is appropriate for 33 specific iron and steel components of the GPA Project by adding new items to the list of waived products.

DATES: The date of the waiver is December 29, 2017.

FOR FURTHER INFORMATION CONTACT: For questions about this notice, please contact Mr. Gerald Yakowenko, FHWA Office of Program Administration, (202) 366–1562, or via email at *Gerald.Yakowenko@dot.gov.* For legal questions, please contact Mr. Jomar Maldonado, FHWA Office of the Chief Counsel, 202–366–1373, or via email at *Jomar.Maldonado@dot.gov.* Office hours for the FHWA are from 8:00 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

An electronic copy of this document may be downloaded from the **Federal Register**'s home page at: *http://www.archives.gov* and the Government Publishing Office's database at: *http://www.access.gpo.gov/nara.* Comments may be submitted to FHWA's Buy America website for this waiver at: *https://www.fhwa.dot.gov/construction/contracts/waivers.cfm?id=150.*

Background

The FHWA's Buy America policy in 23 CFR 635.410 requires a domestic manufacturing process for any steel or iron products (including protective coatings) that are permanently incorporated in a Federal-aid construction project. The regulation also provides for a waiver of the Buy America requirements when satisfactory quality domestic steel and iron products are not sufficiently available (non-availability). This notice provides information regarding FHWA's finding that a Buy America waiver is appropriate for iron and steel components of eight RMG cranes that will be procured by GPA to increase intermodal capacity at the Garden City Terminal in Garden City, Georgia, due to non-availability.

On November 20, 2017, FHWA issued a Buy America waiver for 33 components of the Garden City Terminal Project (82 FR 55153). In response to this waiver, GPA contacted the FHWA with additional information about project components that are not manufactured in the U.S. in a manner that the iron and steel complies with FHWA's Buy America requirements. The GPA identified six categories of RMG crane components that are not domestically available: (1) Trolley components; (2) bogie components; (3) trolley structures; (4) bogie steel structures; (5) E-room structure, cab, and electrical components; and (6) head block and spreader bar. Of these components, only the trolley components and bogie components were identified in the November 20 waiver. The FHWA received no additional comments in response to the November 20 waiver publication. Accordingly, FHWA waives the Buy America requirements for these six categories of components. This adds trolley structures, bogie steel structures, E-room structure, cab, and electrical components, and the head block and spreader bar to the list of waived products. Like the November 20 waiver, this limited waiver does not include steel and iron components of the RMG cranes that are available with steel and iron produced domestically, such as the steel gantry structure.

This project will be completed under a Fostering Advancements in Shipping and Transportation for the Long-term Achievement of National Efficiencies, Significant Freight, and Highway Projects FY 2016 grant award (commonly referred to as FASTLANE grants).

In accordance with the provisions of section 117 of the SAFETEA–LU Technical Corrections Act of 2008 (Pub. L. 110–244, 122 Stat. 1572), FHWA is providing this notice as its finding that a waiver of Buy America requirements is appropriate. The FHWA invites public comment on this finding for an additional 15 days following the effective date of the finding. Comments may be submitted to FHWA's website via the link provided to the waiver page noted above.

Authority: 23 U.S.C. 313; Public Law 110–161, 23 CFR 635.410.

Issued on: December 22, 2017.

Brandye L. Hendrickson,

Acting Administrator, Federal Highway Administration.

[FR Doc. 2017–28150 Filed 12–26–17; 11:15 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2017–0053]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by February 26, 2018.

ADDRESSES: You may submit comments identified by DOT Docket ID FHWA 2017–0053 by any of the following methods:

Website: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

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

FOR FURTHER INFORMATION CONTACT: James March, 202–366–9237, or William Linde, 202–366–9637, Office of Transportation Policy Studies, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Using Behavioral Economics to Better Understand Managed Lane Use.

Background: The Exploratory Advanced Research (EAR) Program is administered by the Federal Highway Administration (FHWA) and intends to spur innovation by focusing on higher risk research. A research project awarded under the EAR program will use experiments with behavioral economics (BE) to improve models used to predict travelers' use of priced managed lanes (MLs). The research will recruit participants who currently travel on freeways with MLs. Based on prior research, travelers either make a pre-determined decision or consciously choose between taking and not taking the ML trip. Selected research participants will undergo laboratory-based BE tests to examine the personal decision-making process used to select or not select the ML trip. The laboratory-based tests will incorporate an initial survey of participants and the use of a driving simulator. The tests will also examine whether behavior can charge given stimuli. Follow-up field trials will attempt to generalize the results from the BE simulator experiments for use in real-world settings. The field trials will investigate the impact of how the communication of travel information will influence travelers' lane choice. The results from the research will potentially form a new model for estimating travelers' lane choice behavior, if findings show a deviation of practice from traditional estimates of ML use.

Respondents: Approximately 24,000 respondents will be engaged at the beginning of the project. The later tasks will require 240 respondents, with half from the Washington, DC metropolitan region and the other half from the Dallas/Fort Worth, TX metropolitan region. Approximately 400 student respondents will be surveyed to help refine the survey instrument.

Frequency: Approximately 24,000 potential participants will complete a short survey at to gauge interest for later research activities. Approximately 400 students will complete at least one survey collection and one in-person computer-based test. The 240-person respondent pool will complete at least one survey collection and one in-person computer-based test. An approximate subset of 40 participants from the 240-person respondent pool will participate in a second simulator test to help pre-test the methodology for the latter field trials. An approximate subset of 120 participants from the 240-person respondent pool will participate in the field test.

Estimated Average Burden per Response: The 24,000-person respondent pool will need 5 minutes to compete the initial survey. The 400-person student group will need 3 hours to complete the survey and in-person computer-based test. The 240-person respondent pool will need 3 hours to complete the survey and in-person computer-based test. The 40-person subset from the from the 240-person respondent pool will need 2 hours to complete a driving simulator study. The 120-person subset from the from the 240-person respondent pool will need 45 minutes to partake in the field test.

Estimated Total Annual Burden Hours: Approximately 2,000 hours to complete the initial 5-minute survey. Approximately 2,790 hours to complete all the other later activities.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: December 21, 2017.

Michael Howell,

Information Collection Officer.

[FR Doc. 2017–28034 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[Docket Number FRA–2002–13398]

Petition for Waiver of Compliance

Under part 211 of Title 49 Code of Federal Regulations (CFR), this document provides the public notice that on November 8, 2017, the Hillsborough Area Regional Transit Authority (HART) petitioned the Federal Railroad Administration (FRA) for an extension of its existing Shared Use waiver of compliance addressing its limited connection with CSX Transportation (CSX). The petition was assigned docket number FRA–2002–13398.

In its petition, HART seeks to extend the terms and conditions of its Shared Use waiver, originally granted by FRA's Railroad Safety Board (Board) on October 18, 2002, and extended in 2006, 2011, and 2013. This Shared Use waiver is for the continued operation of the TECO Line Streetcar System at a ''limited connection'' (across the 14th Street automatic interlocking at-grade rail-rail crossing) with a railroad operated by CSX in Tampa, Florida. Trains belonging to the National Railroad Passenger Corporation (Amtrak) also cross at this location. In its petition, HART sites that there have been no deficiencies with its operation since the last approval in 2013 and that HART, CSX, and Amtrak have continually interfaced with FRA Regional staff to monitor the safety at that location.

Although no relief from any specific regulations is sought, FRA has closely monitored this crossing to ensure that the HART streetcar personnel such as operators and dispatchers regularly communicate with CSX and Amtrak in order to ensure safety at this location. FRA's regular audits at this location focus on operating practices contained in 49 CFR part 217, *Railroad Operating Rules,* in order to ensure that CSX, Amtrak, and streetcar crews are trained properly at this location and understand what to do if signals malfunction or other issues arise.

A copy of the petition, as well as any written communications concerning the petition, is available for review online at *www.regulations.gov* and in person at the U.S. Department of Transportation's (DOT) Docket Operations Facility, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590. The Docket Operations Facility is open from 9 a.m. to 5 p.m., Monday through Friday, except Federal Holidays.

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested parties desire an opportunity for oral comment and a public hearing, they should notify FRA, in writing, before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number and may be submitted by any of the following methods:

• Website: *http://www.regulations.gov.* Follow the online instructions for submitting comments.

• *Fax:* 202–493–2251.

• *Mail:* Docket Operations Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, W12–140, Washington, DC 20590.

• *Hand Delivery:* 1200 New Jersey Avenue SE, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal Holidays.

Communications received by February 12, 2018 will be considered by FRA before final action is taken. Comments received after that date will be considered if practicable.

Anyone can search the electronic form of any written communications and comments received into any of our dockets by the name of the individual submitting the comment (or signing the document, if submitted on behalf of an association, business, labor union, etc.). Under 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its processes. DOT posts these comments, without edit, including any personal information the commenter provides, to *www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *https://www.transportation.gov/privacy.* See also *https://www.regulations.gov/privacyNotice* for the privacy notice of *regulations.gov.*

Robert C. Lauby,

Associate Administrator for Railroad Safety, Chief Safety Officer.

[FR Doc. 2017–28039 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. DOT–MARAD–2017–0194]

Request for Comments on the Renewal of a Previously Approved Information Collection: Seamen's Claims, Administrative Action and Litigation

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: The Maritime Administration (MARAD) invites public comments on our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. The information to be collected will be used to evaluate injury claims made by seamen working aboard government-owned vessels. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Comments must be submitted on or before February 26, 2018.

ADDRESSES: You may submit comments [identified by Docket No. DOT–MARAD–2017–0194] through one of the following methods:

• *Federal eRulemaking Portal: http://www.regulations.gov.* Search using the above DOT docket number and follow the online instructions for submitting comments.

- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Yarrington, (202) 366–1915, Office of Marine Insurance, Maritime Administration, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Washington, DC 20590.

SUPPLEMENTARY INFORMATION: Comments are invited on: (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Title: Seamen's Claims, Administrative Action and Litigation.

OMB Control Number: 2133–0522.

Type of Request: Renewal of a Previously Approved Information Collection.

Abstract: The information is submitted by claimants seeking payments for injuries or illnesses they sustained while serving as masters or members of a crew on board a vessel owned or operated by the United States. The filing of a claim is a jurisdictional requirement for MARAD liability for such claims. MARAD reviews the information and makes a determination regarding agency liability and payments.

Respondents: Officers or members of a crew who suffered death, injury, or illness while employed on vessels owned or operated by the United States. Also included in this description of respondents are surviving dependents, beneficiaries, and/or legal representatives of the officers or crew members.

Affected Public: Officers or members of a crew who suffered death, injury, or illness while employed on vessels owned or operated by the United States. Also included in this description of respondents are surviving dependents, beneficiaries, and/or legal representatives of the officers or crew members.

Estimated Number of Respondents: 15.

Estimated Number of Responses: 15.

Estimated Hours per Response: 12.5.

Annual Estimated Total Annual Burden Hours: 188.

Frequency of Response: Annually.

(Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. chapter 35, as amended; and 49 CFR 1.93.)

* * *

By Order of the Maritime Administrator.

Dated: December 15, 2017.

T. Mitchell Hudson, Jr.,

Secretary, Maritime Administration.

[FR Doc. 2017–27474 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket Number DOT–NHTSA–2017–0104]

Notice and Request for Comments

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

ACTION: Notice and request for comments.

SUMMARY: The Department of Transportation (DOT) invites public comments about our intention to request the Office of Management and Budget (OMB) approval to renew an information collection. Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatement of previously approved collections.

DATES: Comments must be received on or before February 26, 2018.

ADDRESSES: You may submit comments [identified by Docket No. DOT–NHTSA–20XX–XXXX] through one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments.
- *Fax:* 1–202–493–2251.
- *Mail or Hand Delivery:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE, West Building, Room W12–140, Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Gary R. Toth, Office of Data Acquisitions (NSA–0100), Room W53–505, 1200 New Jersey Avenue SE, Washington, DC 20590. Mr. Toth's telephone number is (202) 366–5378. Please identify the relevant collection of information by referring to its OMB Control Number.

SUPPLEMENTARY INFORMATION:

Title: Crash Investigation Sampling System (CISS).

OMB Control Number: 2127–0706.

Type of Request: Collection of motor vehicle crash data.

Abstract: The collection of crash data that support the establishment and enforcement of motor vehicle regulations that reduce the severity of injury and property damage caused by motor vehicle crashes is authorized under the National Traffic and Motor Vehicle Safety Act of 1966 (Pub. L. 89–563, Title 1, Sec. 106, 108, and 112). The National Highway Traffic Safety Administration has been investigating high severity crashes and collecting crash data through its National Automotive Sampling System (NASS) Crashworthiness Data System (NASS–CDS) and Special Crash Investigation (SCI) programs. The NASS was designed in the 1970's to collect data. Due to population shifts and vehicle transformation, among many other changes since NASS was established, the crash population has changed in the country. At the same time, the data needs of the transportation community have significantly increased over the last three decades. The scope of traffic safety studies has also been expanding. For example, the primary focus of the original NASS design was to enhance crashworthiness by providing detailed information about crush damage, restraint system performance and injury mechanisms. In recent years, however, the transportation community has been increasingly more interested in adding data elements related to what happens before a crash and related crash avoidance safety countermeasures.

Recognizing the importance as well as the limitations of the past NASS system, NHTSA has undertaken a modernization effort to upgrade our data systems by improving the information technology infrastructure, updating the data we collect and reexamining the sample sites. The goal of this overall modernization effort was to develop a new crash data system that meets current and future data needs. The newly redesigned investigation-based acquisition system is a nationally-representative sample of passenger vehicle crashes. This newly-designed system, the Crash Investigation Sampling System (CISS), will focus on detailed investigation of passenger vehicle crashes. CISS was implemented in 2015 with a goal of thirty-two (32) sites fully operational by July of 2018.

For the investigation-based acquisition process, once a crash has been selected for investigation, crash technicians locate, visit, measure, and photograph the crash scene; locate, inspect, and photograph vehicles; conduct a telephone or personal interview with the involved individuals or surrogate; and obtain and record injury information received from various medical data sources. These data are used to describe and analyze circumstances, mechanisms, and consequences of serious motor vehicle crashes in the United States. The collection of interview data aids in this effort.

Affected Public: Passenger Motor Vehicle Operators.

Estimated Number of Respondents: 9,450.

Frequency: Annual.

Estimated Total Annual Burden Hours: 5,605 hours.

Estimated Total Annual Burden Cost: $140,125.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including (a) Whether the proposed collection of information is necessary for the Department's performance; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1:48.

Terry T. Shelton,

Associate Administrator, National Center for Statistics and Analysis.

[FR Doc. 2017–28007 Filed 12–27–17; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions; Sanctions Actions Pursuant to Executive Order 13581

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of five individuals and three entities whose property and interests in property have been unblocked.

DATES: OFAC's actions described in this notice were taken on December 22, 2017.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List (SDN List) and additional information concerning OFAC sanctions programs are available from OFAC's website at *http://www.treasury.gov/ofac.*

Notice of OFAC Actions

On December 22, 2017, OFAC removed from the SDN List the individuals and entities listed below, whose property and interests in property were blocked pursuant to Executive Order 13581.

Individuals

1. ANAPIYAEV, Almanbet Mamadaminovich (a.k.a. ANAPIYAEV, Almanbaet; a.k.a. ANAPIYAEVA, Almambet; a.k.a. ANAPIYAYEV, Almanbet; a.k.a. ANAPIYEV, Almanbet; a.k.a. ''ALMANBET ALAISKII''; a.k.a. ''ALMANBET ALAY''); DOB 17 Aug 1973; POB Osh Region, Kyrgyzstan; alt. POB Zhkendi Village, Alai Region, Kyrgyzstan; nationality Kyrgyzstan (individual) [TCO].
2. BADALYAN, Artur (a.k.a. BADALYAN, Arthur); DOB 09 Sep 1963 (individual) [TCO].
3. LYALIN, Vadim Mikhaylovich, Oceana Residences, Unit Aegean/8/803, The Palm, Dubai, United Arab Emirates; 1102 Al Fattan Marine Tower, P.O. Box 1102, Dubai, United Arab Emirates; DOB 30 Sep 1973; Passport 4510935440 (Russia) (individual) [TCO].
4. MIRZOYEV, Temuri Suleimanovich (a.k.a. MIRZOEV, Temuri; a.k.a. ''TIMUR SVERDLOVSKIY''; a.k.a. ''TIMUR TBILISI''; a.k.a. ''TIMUR TBILISSKIY''); DOB 07 May 1957; POB Tbilisi, Georgia (individual) [TCO].
5. VAGIN, Vladimir Viktorovich (a.k.a. ''VAGON''), Sadaf 2 Sector, Tower C06–T06, Apartment 603, Dubai 32900, United Arab Emirates; DOB 03 Feb 1966; POB Raditshevo, Russia; nationality Russia (individual) [TCO].

Entities

1. THE BROTHERS' CIRCLE (a.k.a. MOSCOW CENTER; f.k.a. ''FAMILY OF ELEVEN''; f.k.a. ''THE TWENTY'') [TCO].
2. FASTEN TOURISM LLC (a.k.a. FASTEN TOURISM DUBAI; a.k.a. FASTEN TOURS LLC), P.O. Box 19583, Dubai, United Arab Emirates; 171 Omar Ibn Al Khattab Road, Dubai, United Arab Emirates; National ID No. 223263 (United Arab Emirates) [TCO].
3. MERIDIAN JET MANAGEMENT GMBH (f.k.a. SUN HANDELS UND BETEILIGUNGS GMBH), Tegetthoffstrasse 7, Vienna 1010, Austria; National ID No. FN 204685 h (Austria) [TCO].

Dated: December 22, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–28032 Filed 12–27–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Department of the Treasury.

ACTION: Notice.

SUMMARY: The U.S. Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them. Additionally, OFAC is publishing an update to the identifying information of persons currently included in the list of Specially Designated Nationals and Blocked Persons.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel.: 202–622–4855; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; or the Department of the Treasury's Office of the General Counsel: Office of the Chief

Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The list of Specially Designated Nationals and Blocked Persons (SDN List) and additional information concerning OFAC sanctions programs are available on OFAC's website (*http://www.treasury.gov/ofac*).

Notice of OFAC Actions

On December 22, 2017, OFAC determined that the property and interests in property subject to U.S. jurisdiction of the following persons are blocked under the relevant sanctions authority listed below.

Individuals

1. PICHUGIN, Yuri Viktorovich (Cyrillic: ПИЧУГИН, ЮРИЙ ВИКТОРОВИЧ) (a.k.a. PICHUGIN, Yuriy; a.k.a. PICHUGIN, Yury; a.k.a. ''PICHUGA'' (Cyrillic: ''ПИЧУГА''); a.k.a. ''VLADIMIR BILIY''; a.k.a. ''VOLODYMYR BILYY''), 2⁄1 Geroyev Panfilovtsev Street, Moscow, Russia; Barviha Hills, Moscow, Russia; DOB 18 Oct 1965; POB Azanka, Tavdinsky District, Sverdlovsk Oblast, Russia; nationality Russia; Gender Male; Passport 618684 (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

2. TATULIAN, Ruben Albertovich (Cyrillic: ТАТУЛЯН, РУБЕН АЛЬБЕРТОВИЧ) (a.k.a. CHOLOKYAN, Roberto; a.k.a. KARAKEYAN, Roberto Albertovich; a.k.a. KARAKEYAN, Ruben Albertovich; a.k.a. TATULYAN, Ruben Albertovich; a.k.a. ''ROBIK''; a.k.a. ''ROBSON'' (Cyrillic: ''РОБСОН'')), Trident Grand Residence, Unit 604, Dubai Marina, Dubai 93743, United Arab Emirates; DOB 08 Dec 1969; POB Sochi, Russia; Gender Male; Passport 710091868 (Russia); Tax ID No. 231704411067 (Russia); Identification Number 312236712500061 (Russia); alt. Identification Number 0184214173 (Russia) (individual) [TCO] (Linked To: VESNA HOTEL AND SPA; Linked To: NOVYI VEK—MEDIA; Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(B) of E.O. 13581 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the THIEVES–IN–LAW.

3. TOKHTAKHUNOV, Alimzhan Tursunovich (Cyrillic: ТОХТАХУНОВ, АЛИМЖАН ТУРСУНОВИЧ) (a.k.a. TAKHTAKHUNOV, Alimzhan Ursulovich; a.k.a. TOCHTACHUNOV, Alizam; a.k.a. TOHTAHUNOV, Olimjon; a.k.a. TOKHTAKHOUNOV, Alimjan; a.k.a. TOKHTAKHOUNOV, Alim-Jean; a.k.a. TOKHTAKHOUNOV, Alimzhan Tursunovich; a.k.a. TOKHTAKHOUNOV, Alinkhan; a.k.a. TOKHTAKHUNOV, Alimajan; a.k.a. TOKHTAKHUNOV, Alimkan; a.k.a. TOKHTAKHUNOV, Alimkhan; a.k.a. TOKHTAKHUNOV, Alimzan; a.k.a. TOKHTAKHUNOV, Alimzhon Tursonovich; a.k.a. TOKHTAKHUNOV, Alinjan; a.k.a. TOKHTAKHUNOV, Alinkhan; a.k.a. TOKHTAKHUNOV, Alizman; a.k.a. TOKHTAKOUNOV, Alinkhan; a.k.a. ''ALIK TAYVANCHIK''; a.k.a. ''LITTLE TAIWANESE''; a.k.a. ''TAIVANCHIK''; a.k.a. ''TAIWANCHIK''; a.k.a. ''TAYVANCHIK''; a.k.a. ''TAYVANIK''; a.k.a. ''TONTARHOVNOV, A.''), Peredelkino, Moscow, Russia; DOB 01 Jan 1949; alt. DOB 31 Dec 1949; POB Tashkent, Uzbekistan; alt. POB Israel; Gender Male; Passport 4507000833 (Russia); alt. Passport 50465506 (Russia); alt. Passport 5981915 (Israel); Tax ID No. 770465002364 (Russia); Identification Number 313617722 (Israel); alt. Identification Number TKHLZH49T31Z154A (Italy); alt. Identification Number 304770000196297 (Russia) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(B) of E.O. 13581 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the THIEVES–IN–LAW.

4. TYURIN, Vladimir Anatolyevich (Cyrillic: ТЮРИН, ВЛАДИМИР АНАТОЛЬЕВИЧ) (a.k.a. GROMOV, Vladimir Pavlovich (Cyrillic: ГРОМОВ, ВЛАДИМИР ПАВЛОВИЧ); a.k.a. PUGACHEV, Aleksei Vladimirovich (Cyrillic: ПУГАЧЕВ, АЛЕКСЕЙ ВЛАДИМИРОВИЧ); a.k.a. PUGACHEV, Alexei Pavlovich; a.k.a. PUGACHEV, Alexey; a.k.a. TIORINE, Vladimir; a.k.a. TIOURINE, Vladimir; a.k.a. TIURIN, Vladimir; a.k.a. TIURINE, Vladimir; a.k.a. TJRURIN, Vladimir; a.k.a. TJURIN, Wladimir; a.k.a. TURIN, Anatolievich; a.k.a. TURIN, Vladimir; a.k.a. TURIYAN, Vladimir; a.k.a. TYURIN, Anatoly; a.k.a. TYURIN, Vladimir Anatolievich; a.k.a. TYURIN, Volodya; a.k.a. TYURINE, Anatoly; a.k.a. TYURINE, Vladimir; a.k.a. ''TIURIK''; a.k.a. ''TYURIK'' (Cyrillic: ''ТЮРИК''); a.k.a. ''TYURYA''), Moscow, Russia; DOB 25 Nov 1958; alt. DOB 20 Dec 1958; POB Tirlyan, Beloretskiy Rayon, Bashkiria, Russia; alt. POB Irkutsk, Russia; alt. POB Bratsk, Russia; citizen Russia; alt. citizen Kazakhstan; Gender Male; Passport EA804478 (Belgium); alt. Passport 432062125 (Russia); alt. Passport 410579055 (Russia); alt. Passport 4511264874 (Russia) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

Entities

1. THIEVES–IN–LAW (a.k.a. KANONIERI KURDEBI; a.k.a. KANONIERI QURDEBI; a.k.a. KANONIERI QURDI; a.k.a. RAMKIANI QURDEBI; a.k.a. RAMKIANI QURDI; a.k.a. SINIE; a.k.a. THIEF–IN–LAW; a.k.a. THIEVES PROFESSING THE CODE; a.k.a. THIEVES–WITHIN–THE–LAW; a.k.a. VOR V ZAKONYE; a.k.a. VOR–V–ZAKONE (Cyrillic: ВОР В ЗАКОНЕ); a.k.a. VORY V ZAKONI; a.k.a. VORY V ZAKONYE; a.k.a. VORY–V–ZAKONE (Cyrillic: ВОРЫ В ЗАКОНЕ); a.k.a. VOR–ZAKONNIK; a.k.a. ZAKONNIK (Cyrillic: ЗАКОННИК)), Europe; Former Soviet Union; United States [TCO]. Designated pursuant to section 1(a)(ii)(A) of E.O. 13581 because it is a foreign person that constitutes a significant transnational criminal organization.

2. NOVYI VEK—MEDIA (a.k.a. NOVY VEK–MEDIA OOO), Ul. Demokraticheskaya, D. 52, Sochi 354340, Russia; Registration ID 1092367003849 (Russia); Tax ID No. 2317054915 (Russia); Identification Number 64022275 (Russia) [TCO]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for being owned or controlled by Ruben Albertovich TATULIAN.

3. VESNA HOTEL AND SPA (f.k.a. OAO KOTEHK VESNA; a.k.a. ZAO SPA–OTEL VESNA (Cyrillic: ЗАО СПА-ОТЕЛЬ ВЕСНА)), Ul. Lenina, D. 219A, Sochi 354364, Russia; Registration ID 1022302715214 (Russia); Tax ID No. 2317011051 (Russia); alt. Tax ID No. 231701001 (Russia); Identification Number 04816460 (Russia) [TCO]. Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for being owned or controlled by Ruben Albertovich TATULIAN.

Additionally, on December 22, 2017, OFAC updated the SDN List for the following persons, whose property and interests in property continue to be blocked under E.O. 13581.

Individuals

1. KALASHOV, Zakhary Knyazevich (a.k.a. KALACHOV, Zakhar; a.k.a. KALASCHOV, Sachary Knyasevich; a.k.a. KALASCHOW, Zachari; a.k.a. KALASH, Zakhary; a.k.a. KALASHOV, Sergio; a.k.a. KALASHOV, Zachari;

a.k.a. KALASHOV, Zahar; a.k.a. KALASHOV, Zahariy; a.k.a. KALASHOV, Zajar; a.k.a. KALASHOV, Zakaria Kniaz; a.k.a. KALASHOV, Zakhar; a.k.a. KALASHOV, Zakhar Kniezivich; a.k.a. KALASHOV, Zakhari; a.k.a. KALASHOV, Zakhariy; a.k.a. KALASIIOV, Zakhariy Kniazevich; a.k.a. KALASOV, Zacharias; a.k.a. KALASOV, Zaxar; a.k.a. ''SHAKRO JUNIOR''; a.k.a. ''SHAKRO KURTI''; a.k.a. ''SHAKRO MALADOI''; a.k.a. ''SHAKRO MOLODOY''; a.k.a. ''SHAKRO THE YOUNG''), General Tyulenev Street, 7, Building 2, Apartment 277, Moscow, Russia; Varketili Masivi, 4th Block, 1st Building, Flat #30, Tbilisi, Georgia; DOB 20 Mar 1953; POB Tbilisi, Georgia; citizen Georgia; alt. citizen Russia; Passport 60–4145924 (Russia); alt. Passport 60–4145934 (Russia) (individual) [TCO].

2. KOLBAYEV, Kamchybek Asanbekovich (a.k.a. KOLBAEV, Kamchibek; a.k.a. KOLBAYEV, Kamchi; a.k.a. KOLBAYEV, Kamchibek; a.k.a. KOLBAYEV, Kamchy; a.k.a. ''KAMCHI BISHKEKSKIY''; a.k.a. ''KOLYA–KYRGYZ''); DOB 3 Aug 1974; alt. DOB 1 Jan 1973; POB Cholpon-Ata, Kyrgyzstan; citizen Kyrgyzstan; Passport A0832532 (Kyrgyzstan) expires 17 Mar 2009 (individual) [SDNTK] [TCO]

3. KHRISTOFOROV, Vasily Alexandrovich (a.k.a. KHRISTOFOROV, Vasiliy; a.k.a. ''VASYA''; a.k.a. ''VOSKRES''), Murjan 6 Sector, Tower D01–T03.1, Apartment 401, Dubai 39409, United Arab Emirates; DOB 12 Mar 1972; POB Gorky Oblast, Russia; National ID No. 76481815 (United Arab Emirates); Passport 63–7186356 (Russia) (individual) [TCO]

4. LEONTYEV, Vladislav Vladimirovich (a.k.a. LEONTIEV, Vladislav; a.k.a. LEONTIEV, Vlantislav; a.k.a. LEONTYEV, Vyacheslav; a.k.a. LEONTYEV, Vadim; a.k.a. LEONTYEV, Vadik; a.k.a. ''BELOBRYSYY''; a.k.a. ''BELYY''), Al-Fattan Building, Dubai, United Arab Emirates; DOB 5 Jul 1971; POB Gorky, Russia; alt. POB Caracas, Venezuela; National ID No. 60229551 (United Arab Emirates); Passport AB4065216 (Greece); alt. Passport H2214925 (Ghana); alt. Passport C1602418 (Venezuela) (individual) [TCO]

5. RAKHIMOV, Gafur Akhmedovich (a.k.a. RAKHIMOV, Gofur-Arslonbek; a.k.a. RAKHIMOV, Gafur-Arslanbek Akhmedovich), The Meadows, Villa Number 64, Sheikh Zayed Road, near Emirates Hills, Dubai, United Arab Emirates; DOB 22 Jul 1951; POB Tashkent, Uzbekistan; National ID No. 03101200302034752 (United Arab Emirates); Passport CA1804389 (Uzbekistan); alt. Passport CA1890392 (Uzbekistan) (individual) [TCO]

6. SHUSHANASHVILI, Lasha Pavlovich (a.k.a. MALGASOV, Ymar; a.k.a. SHUSHANASHVILI, Iasha Pavlovich; a.k.a. ''LASHA RUSTAVSKI''; a.k.a. ''LASHA RUSTAVSKY''; a.k.a. ''LASHA TOLSTY''); DOB 25 Jul 1961; POB Rustavi, Georgia; nationality Georgia (individual) [TCO].

The listings for these previously designated persons now appear as follows:

Individuals

1. KALASHOV, Zakhary Knyazevich (Cyrillic: КАЛАШОВ, ЗАХАРИЙ КНЯЗЕВИЧ) (a.k.a. KALACHOV, Zakhar; a.k.a. KALASCHOV, Sachary Knyasevich; a.k.a. KALASCHOW, Zachari; a.k.a. KALASH, Zakhary; a.k.a. KALASHOV, Sergio; a.k.a. KALASHOV, Zachari; a.k.a. KALASHOV, Zahar; a.k.a. KALASHOV, Zajar; a.k.a. KALASHOV, Zakaria; a.k.a. KALASHOV, Zakhar; a.k.a. KALASHOV, Zakhar Kniezivich; a.k.a. KALASHOV, Zakhary; a.k.a. KALASIIOV, Zakhariy Kniazevich; a.k.a. KALASOV, Zacharias; a.k.a. KALASOV, Zaxar; a.k.a. ''SHAKRO JR.''; a.k.a. ''SHAKRO KURD'' (Cyrillic: ''ШАКРО КУРД''); a.k.a. ''SHAKRO KURTI''; a.k.a. ''SHAKRO MALADOI''; a.k.a. ''SHAKRO MOLODOY''; a.k.a. ''SHAKRO YOUNG''), General Tyulenev Street, 7, Building 2, Apartment 277, Moscow, Russia; Nikolina Gora, Odintsovo, Moscow, Russia; DOB 20 Mar 1953; POB Tbilisi, Georgia; nationality Georgia; alt. nationality Russia; Gender Male; Passport 604145924 (Russia); alt. Passport 604145934 (Russia) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

2. KOLBAYEV, Kamchybek Asanbekovich (a.k.a. ASANBEK, Kamchi; a.k.a. ASANBEK, Kamchy; a.k.a. KAMCHI, Asanbeka; a.k.a. KOLBAEV, Kamchi; a.k.a. KOLBAEV, Kamchibek; a.k.a. KOLBAYEV, Kamchi (Cyrillic: КОЛЬБАЕВ, КАМЧЫ); a.k.a. KOLBAYEV, Kamchibek (Cyrillic: КОЛЬБАЕВ, КАМЧИБЕК); a.k.a. KOLBAYEV, Kamchy; a.k.a. ''KAMCHI BISHKEKSKIY'' (Cyrillic: ''КАМЧИ БИШКЕКСКИЙ''); a.k.a. ''KOLYA–KYRGYZ''), Bahar 1 Sector, C09–T02 Tower, Apartment 3203, Dubai 31672, United Arab Emirates; Murjan 6, Jumeirah Beach Residences, Dubai, United Arab Emirates; DOB 03 Aug 1974; alt. DOB 01 Jan 1973; POB Cholpon-Ata, Kyrgyzstan; nationality Kyrgyzstan; Gender Male; Passport AC2499982 (Kyrgyzstan); alt. Passport AC732709 (Kyrgyzstan); Identification Number 20308197410028 (Kyrgyzstan); alt. Identification Number 1002001 (Kyrgyzstan) (individual) [SDNTK] [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

3. KHRISTOFOROV, Vasiliy Aleksandrovich (Cyrillic: ХРИСТОФОРОВ, ВАСИЛИЙ АЛЕКСАНДРОВИЧ) (a.k.a. KHRISTOFOROV, Vasili; a.k.a. ''VASYA VOSKRES''; a.k.a. ''VOSKRES'' (Cyrillic: ''ВОСКРЕС'')), Murjan 6 Sector, Tower D01–T03.1, Apartment 401, Dubai 39409, United Arab Emirates; 19 Berezovaya St., Apt. 152, Nizhny Novgorod, Russia; 2 Kommunalnaya Street, Vryazino, Shchelkovsky, Moscow, Russia; Apartment 2, House 4, Komsomolskaya Street, Fryazino Settlement, Moscow, Russia; DOB 12 Mar 1972; POB Dzerzhinsk, Nizhny Novgorod, Russia; nationality Russia; Gender Male; Passport 637186356 (Russia); alt. Passport 530266990 (Russia); alt. Passport 1175427; National ID No. 76481815 (United Arab Emirates); alt. National ID No. 2202546110 (Russia) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

4. LEONTYEV, Vladislav Vladimirovich (Cyrillic: ЛЕОНТЬЕВ, ВЛАДИСЛАВ ВЛАДИМИРОВИЧ) (a.k.a. LEONTIEV, Vladislav; a.k.a. LEONTIEV, Vlantislav; a.k.a. LEONTJEVAS, Vladislavas; a.k.a. LEONTYEV, Vadik; a.k.a. LEONTYEV, Vadim; a.k.a. LEONTYEV, Vyacheslav; a.k.a. ''BELOBRYSYY''; a.k.a. ''BELYY''; a.k.a. ''VADIK BELEY''; a.k.a. ''VADIK BELYY'' (Cyrillic: ''ВАДИК БЕЛЫЙ''); a.k.a. ''VADIM BELYY''), Al Fattan Marina Tower, #901, Dubai Marina, Dubai, United Arab Emirates; Nizhny Novgorod 6th District, #1A, Russia; Mikrorayon 6, 1/A–81, Avtozavodsky District, Nizhny Novgorod, Russia; DOB 05 Jul 1971; POB Nizhny Novgorod, Russia; nationality Russia; Gender Male; Passport 515731854 (Russia); alt. Passport 2200319927 (Russia); alt. Passport AK0517906 (Greece); alt. Passport H2214925 (Ghana); alt. Passport 326106; alt. Passport 1602418; alt. Passport 20382107; Identification Number 60229551 (United Arab Emirates) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for having acted or purported to act for or on behalf of the THIEVES–IN–LAW.

5. RAKHIMOV, Gafur-Arslanbek Akhmedovich (Cyrillic: РАХИМОВ, ГАФУР-АРСЛАНБЕК АХМЕДОВИЧ) (a.k.a. RAKHIMOV, Gafur Akhmedovich; a.k.a. RAKHIMOV, Gafur Arslanbek; a.k.a. RAKHIMOV, Ghafur Arslambek; a.k.a. RAKHIMOV, Gofur-Arslonbek; a.k.a. RAKHIMOV, Gofur-Arslonbek Akhmedovich), The Meadows, Villa Number 64, Sheikh Zayed Road, near Emirates Hills, Dubai, United Arab Emirates; Leninsky Prospekt, 128–1–125, Moscow, Russia; DOB 22 Jul 1951; POB Tashkent, Uzbekistan; Gender Male; Passport 645720381 (Russia); alt. Passport CA1804389 (Uzbekistan); alt. Passport CA1601000 (Uzbekistan); alt. Passport CA1521130 (Uzbekistan); alt. Passport CA1581065 (Uzbekistan); alt. Passport CA0960250 (Uzbekistan); National ID No. 03101200302034752 (United Arab Emirates); alt. National ID No. 4511669324 (Russia) (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(B) of E.O. 13581 for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services to or in support of, the THIEVES–IN–LAW.

6. SHUSHANASHVILI, Lasha Pavlovich (Cyrillic: ШУШАНАШВИЛИ, ЛАША ПАВЛОВИЧ) (a.k.a. MALGASOV, Ymar; a.k.a. SHUSHANASHVILI, Iasha Pavlovich; a.k.a. ''LASHA RUSTAVSKI''; a.k.a. ''LASHA RUSTAVSKIY'' (Cyrillic: ''ЛАША РУСТАВСКИЙ''); a.k.a. ''LASHA RUSTAVSKY''; a.k.a. ''LASHA TOLSTIY''; a.k.a. ''LASHA TOLSTY''), Greece; DOB 25 Jul 1961; POB Rustavi, Georgia; nationality Georgia; Gender Male; Passport 5752452 (individual) [TCO] (Linked To: THIEVES–IN–LAW). Designated pursuant to section 1(a)(ii)(C) of E.O. 13581 for acting for or on behalf of the THIEVES–IN–LAW.

Dated: December 22, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–28030 Filed 12–27–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Notice of OFAC Sanctions Actions

AGENCY: Office of Foreign Assets Control, Treasury

ACTION: Notice.

SUMMARY: The Department of the Treasury's Office of Foreign Assets Control (OFAC) is publishing the names of one or more persons that have been placed on OFAC's Specially Designated Nationals and Blocked Persons List based on being listed in the Annex to an Executive Order or OFAC's determination that one or more applicable legal criteria were satisfied. All property and interests in property subject to U.S. jurisdiction of these persons are blocked, and U.S. persons are generally prohibited from engaging in transactions with them.

DATES: See **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: OFAC: Associate Director for Global Targeting, tel.: 202–622–2420; Assistant Director for Sanctions Compliance & Evaluation, tel.: 202–622–2490; Assistant Director for Licensing, tel.: 202–622–2480; Assistant Director for Regulatory Affairs, tel. 202–622–4855; or the Department of the Treasury's Office of the General Counsel: Office of the Chief Counsel (Foreign Assets Control), tel.: 202–622–2410.

SUPPLEMENTARY INFORMATION:

Electronic Availability

The Specially Designated Nationals and Blocked Persons List and additional information concerning OFAC sanctions programs are available on OFAC's website (*www.treasury.gov/ofac*).

Notice of OFAC Action(s)

On December 20, 2017, the President listed certain persons in the Annex to the Executive Order of December 20, 2017, ''Blocking the Property of Persons Involved in Serious Human Rights Abuse and Corruption'' (the ''Order''). On December 21, 2017, the Director of OFAC, pursuant to the Order, determined that the property and interests in property subject to U.S. jurisdiction of certain other persons are blocked.

Individuals

1. KUSIUK, Sergey (a.k.a. KUSYUK, Sergej Nikolaevich; a.k.a. KUSYUK, Serhiy; a.k.a. KYSYUK, Sergei), Moscow, Russia; DOB 01 Dec 1966; POB Malaya Mochulka, Vinnitska, Ukraine; nationality Ukraine; alt. nationality Russia; Gender Male (individual) [GLOMAG].

A person listed in the Annex to the Order.

2. JUAREZ RAMIREZ, Julio Antonio (a.k.a. JUAREZ, Julio), Quinta Esterlima Km. 152.5, San Bernardino, Suchitepequez, Guatemala; DOB 01 Dec 1980; POB Mazatenango, Guatemala; nationality Guatemala; Gender Male (individual) [GLOMAG].

A person listed in the Annex to the Order.

3. SHAH, Mukhtar Hamid, 1 Hill Park Jhellum Road, Rawalpindi, Punjab, Pakistan; DOB 11 Aug 1939; alt. DOB 08 Nov 1939; POB Chakwal, Pakistan; nationality Pakistan; Gender Male; National ID No. 3740502728729 (Pakistan) (individual) [GLOMAG].

A person listed in the Annex to the Order.

4. GAO, Yan, Beijing, China; DOB Apr 1963; POB Hongtong, Shanxi, China; Gender Male (individual) [GLOMAG].

A person listed in the Annex to the Order.

5. GERTLER, Dan, 17 Daniel Street, Bnei Brak, Israel; 28 Daniel Street, Bnei Brak, Israel; Avenue Tchatchi 29, Gombe, Kinshasa, Congo, Democratic Republic of the; DOB 23 Dec 1973; POB Tel Aviv, Israel; nationality Israel; alt. nationality Congo, Democratic Republic of the; Gender Male; Passport 10945182 (Israel) issued 28 Jun 2010 expires 27 Jun 2020; alt. Passport 10926248 (Israel) issued 25 Feb 2008 expires 27 Feb 2018; alt. Passport DB0009084 (Congo, Democratic Republic of the) issued 28 May 2015 expires 27 May 2020; National ID No. 027100619 (Israel) (individual) [GLOMAG].

A person listed in the Annex to the Order.

6. SOE, Maung Maung, Burma; DOB Mar 1964; nationality Burma; Gender Male; National ID No. Tatmadaw Kyee 19571 (Burma) (individual) [GLOMAG].

A person listed in the Annex to the Order.

7. CHAYKA, Artem Yuryevich (a.k.a. CHAIKA, Artem), 38/2 Staraya Basmannaya, Apt. 310, Moscow, Russia; DOB 25 Sep 1975; POB Sverdlovsk, Russia; Gender Male; National ID No. 4501052463 (Russia) (individual) [GLOMAG].

A person listed in the Annex to the Order.

8. JAMMEH, Yahya (a.k.a. JAMMEH BABILI MANSA, Yahya AJJ; a.k.a. JAMMEH, Alhaji Dr. Abdul-Azziz Jemus Junkung; a.k.a. JAMMEH, Yahya Abdul-Aziz Jemus Junkung), Equatorial Guinea; DOB 25 May 1965; POB Kanilai, The Gambia; nationality The Gambia; Gender Male (individual) [GLOMAG].

A person listed in the Annex to the Order.

9. TESIC, Slobodan (a.k.a. SLOBODAN, Tezic), Serbia; DOB 21 Dec 1958; POB Kiseljak, Bosnia and Herzegovina; nationality Serbia; citizen Serbia; Gender Male; Passport 009511357 (Serbia) expires 27 Oct 2020; alt. Passport 007671811 (Serbia) expires 05 Aug 2019 (individual) [GLOMAG].

A person listed in the Annex to the Order.

10. BADJIE, Yankuba (a.k.a. BADGIE, Yankuba; a.k.a. BADJI, Yankouba),

Banjul, The Gambia; DOB 25 Feb 1973; alt. DOB 24 Feb 1973; POB New Jeshwang, Kanifang Municipality, The Gambia; Gender Male (individual) [GLOMAG].

Designated pursuant to section 1(a)(ii)(A) of the Order, for being responsible for or complicit in, or having directly or indirectly engaged in, serious human rights abuse.

Also designated pursuant to section 1(a)(ii)(C)(1) of the Order, for having been a leader or official of an entity, including any government entity, that has engaged, or whose members have engaged, in serious human rights abuse relating to the leader's or official's tenure.

11. DEBOUTTE, Pieter Albert; DOB 15 Jun 1966; POB Roeselare, Flanders, Belgium; nationality Belgium; Gender Male (individual) [GLOMAG] (Linked To: GERTLER, Dan; Linked To: FLEURETTE PROPERTIES LIMITED; Linked To: GERTLER FAMILY FOUNDATION).

Designated pursuant to section 1(a)(iii)(B) of the Order, for having acted or purported to act for or on behalf of, directly or indirectly, Dan Gertler, Fleurette Properties Limited, and Gertler Family Foundation, persons whose property and interests in property are blocked pursuant to the Order.

12. BOL MEL, Benjamin (a.k.a. BOL MEL KUOL, Benjamin; a.k.a. BOL MOL KUOT, Benjamin; a.k.a. BOL, Benjamin; a.k.a. BOR, Benjamin), Othaya Road, Othaya Villas House #2, Nairobi 00202, Kenya; Hai-Jalaba, Centre Street, Juba, Central Equatoria, South Sudan; Juba, South Sudan; DOB 03 Jan 1978; alt. DOB 24 Dec 1978; POB Awiil, Sudan; alt. POB Rialdit, South Sudan; alt. POB Warrap State, South Sudan; alt. POB Abiem, Aweil East County, Northern Bahr al Ghazal, South Sudan; nationality South Sudan; alt. nationality Sudan; Gender Male; Passport B00000006 (South Sudan) issued 26 Jul 2013 expires 26 Jul 2018; President of ABMC Thai-South Sudan Construction Company (individual) [GLOMAG].

A person listed in the Annex to the Order.

13. RONDON RIJO, Angel, Ave Anacaona #83 Torre Caney Apt 25, Santo Domingo, Dominican Republic; DOB 16 Jul 1950; POB Higuey, Dominican Republic; Gender Male; Passport SC2249384 (Dominican Republic) issued 14 Jan 2015 expires 14 Jan 2021; alt. Passport 3297843 (Dominican Republic) issued 14 Jan 2015 expires 14 Jan 2021; National ID No. 00101629970 (Dominican Republic) (individual) [GLOMAG].

A person listed in the Annex to the Order.

14. KARIMOVA, Gulnara (a.k.a. KARIMOVA, Goulnara; a.k.a. KARIMOVA, Goulnora Islamovna; a.k.a. ''Googoosha''), Tashkent, Uzbekistan; DOB 08 Jul 1972; POB Fergana, Uzbekistan; nationality Uzbekistan; citizen Uzbekistan; Gender Female; Passport DA0006735 (Uzbekistan) (individual) [GLOMAG].

A person listed in the Annex to the Order.

15. RIVAS REYES, Roberto Jose, Managua, Nicaragua; DOB 06 Jul 1954; POB Matagalpa, Nicaragua; nationality Nicaragua; Gender Male; Passport A00000604 (Nicaragua) issued 19 Jun 2013 expires 19 Jun 2023; alt. Passport 04091979435 (Nicaragua) issued 19 Jun 2013 expires 19 Jun 2023; National ID No. 4410607540007S (Nicaragua) (individual) [GLOMAG].

A person listed in the Annex to the Order.

Entities

1. CHARSO LIMITED, P. Lordos Center, Makariou C'Avenue & Vironos Street, Block B, Floor 2, Flat 203 3105, Limassol, Cyprus; Elli Court 210, Archiepiskopou Makariou C'Avenue, 2nd Floor Apt 4, 3030, Limassol, Cyprus; Registration ID C301690 (Cyprus) [GLOMAG] (Linked To: TESIC, Slobodan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Slobodan Tesic, a person whose property and interests in property are blocked pursuant to the Order.

2. GRAWIT LIMITED, Elli Court, Floor 2, Flat 4, 210, Makariou III Limassol, 3030, Limassol, Cyprus; Registration ID HE272654 (Cyprus) [GLOMAG] (Linked To: TESIC, Slobodan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Slobodan Tesic, a person whose property and interests in property are blocked pursuant to the Order.

3. PREDUZECE ZA TRGOVINU NA VELIKO I MALO PARTIZAN TECH DOO BEOGRAD–SAVSKI VENAC (a.k.a. PARTIZAN ARMS; a.k.a. PARTIZAN ARMS DOO; a.k.a. PARTIZAN TECH DOO; a.k.a. PARTIZAN TECH DOO BEOGRAD), Maglajska 19 11000, Beograd (Savski Venac), Serbia; website *www.partizanarms.rs;* Registration ID 20125225 (Serbia); Tax ID No. 104260278 [GLOMAG] (Linked To: TESIC, Slobodan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Slobodan Tesic, a person whose property and interests in property are blocked pursuant to the Order.

4. TECHNOGLOBAL SYSTEMS DOO BEOGRAD (a.k.a. CALIDUS TRADE DOO; a.k.a. CALIDUS TRADE DOO BEOGRAD), Maglajska 19 11000, Beograd 6, Beograd, Serbia; Registration ID 20295066 (Serbia); Tax ID No. 105012258 [GLOMAG] (Linked To: TESIC, Slobodan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Slobodan Tesic, a person whose property and interests in property are blocked pursuant to the Order.

5. AFRICADA AIRWAYS, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

6. AFRICADA FINANCIAL SERVICES AND BUREAU DE CHANGE LTD (a.k.a. AFRICADA FINANCIAL SERVICES & BUREAU DE CHANGE LTD), The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

7. AFRICADA INSURANCE COMPANY, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

8. AFRICADA MICRO–FINANCE LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

9. ATLANTIC PELICAN COMPANY LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

10. KANILAI GROUP INTERNATIONAL (a.k.a. KGI INTERNATIONAL COMPANY LTD), Banjul, The Gambia; P.O. Box 3070

Serrekunda, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

11. KANILAI WORNI FAMILY FARMS LTD (a.k.a. KANILAI FAMILY FARMS; a.k.a. KANILAI FARMS LIMITED; a.k.a. KANILAI WORNI FARMS), Kanilai, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

12. KORA MEDIA CORPORATION LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

13. PALM GROVE AFRICA DEV'T CORP. LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

14. PATRIOT INSURANCE BROKERS CO. LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

15. ROYAL AFRICA CAPITAL HOLDING LTD (a.k.a. ROYAL AFRICA HOLDING), The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

16. ROYAL AFRICA SECURITIES BROKERAGE CO LTD, The Gambia [GLOMAG] (Linked To: JAMMEH, Yahya).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Yahya Jammeh, a person whose property and interests in property are blocked pursuant to the Order.

17. ABMC THAI–SOUTH SUDAN CONSTRUCTION COMPANY LIMITED (a.k.a. ABM CONSTRUCTION COMPANY; a.k.a. ABMC THAI SOUTH SUDAN CONSTRUCTION; a.k.a. AGGREGATE BUILDING MATERIALS CONSTRUCTION COMPANY; a.k.a. THAI SOUTH SUDAN CRUSHER, AGGREGATES, AND BUILDING MATERIALS COMPANY; a.k.a. TSSABM), Customs Area, Adjacent to the Bus Park, Juba, South Sudan; Jebel Kujur, Juba-Yei Road, South Sudan; Luri, Central Equatoria State, South Sudan [GLOMAG] (Linked To: BOL MEL, Benjamin).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Benjamin Bol Mel, a person whose property and interests in property are blocked pursuant to the Order.

18. HOME AND AWAY LTD., Hai-Amarat (off May Street), Juba, South Sudan [GLOMAG] (Linked To: BOL MEL, Benjamin).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Benjamin Bol Mel, a person whose property and interests in property are blocked pursuant to the Order.

19. AFRICA HORIZONS INVESTMENT LIMITED, Cayman Islands; 57/63 Line Wall Road, Gibraltar GX11 1AA, Gibraltar [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

20. CAPRIKAT AND FOXWHELP SARL, Congo, Democratic Republic of the [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED; Linked To: CAPRIKAT LIMITED; Linked To: FOXWHELP LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, Caprikat Limited, and Foxwhelp Limited, persons whose property and interests in property are blocked pursuant to the Order.

21. CAPRIKAT LIMITED, Akara Building, 24 Castro Street, Wickhams Cay 1, P.O. Box 3136, Road Town, Tortola, Virgin Islands, British; Public Registration Number 1577164 (Virgin Islands, British) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

22. D.G.D. INVESTMENTS LTD. (f.k.a. DAN GERTLER DIAMONDS LTD.), 23 Tuval, Ramat Gan 5252238, Israel; P.O. Box 101, Ramat Gan 5210002, Israel; Public Registration Number 512253352 (Israel) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

23. D.G.I. ISRAEL LTD, 23 Tuval, Ramat Gan 5252238, Israel; P.O. Box 101, Ramat Gan 5210002, Israel; Public Registration Number 513686220 (Israel) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

24. DGI MINING LTD, Palm Grove House, P.O. Box 438, Road Town, Tortola, Virgin Islands, British; Public Registration Number 649877 (Virgin Islands, British) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

25. EMAXON FINANCE INTERNATIONAL INC. (a.k.a. INTERNATIONAL FINANCIAL CORPORATION EMAXON INC.), 8356 Rue Labarre, Montreal, Quebec H4P2E7, Canada; Business Number 1160199932 (Canada) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

26. FLEURETTE HOLDINGS NETHERLANDS B.V., Industrieweg 5, Nieuwkoop, Zuid-Holland 2421 LK, Netherlands; Chamber of Commerce Number 55389694 (Netherlands); Legal Entity Number 851683897 (Netherlands) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

27. FLEURETTE PROPERTIES LIMITED, Strawinskylaan 335, WTC, B-Tower 3rd floor, Amsterdam 1077 XX,

Netherlands; Gustav Mahlerplein 60, 7th Floor, ITO Tower, Amsterdam 1082 MA, Netherlands; 70 Batetela Avenue, Tilapia Building, 5th floor, Kinshasa, Gombe, Congo, Democratic Republic of the; 57/63 Line Wall Road, Gibraltar GX11 1AA, Gibraltar; Public Registration Number 99450 (Gibraltar) [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

28. FOXWHELP LIMITED, Akara Building, 24 Castro Street, Wickhams Cay 1, P.O. Box 3136, Road Town, Tortola, Virgin Islands, British; Public Registration Number 1577165 (Virgin Islands, British) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

29. GERTLER FAMILY FOUNDATION (a.k.a. LA FONDATION FAMILLE GERTLER), Congo, Democratic Republic of the [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler, a person whose property and interests in property are blocked pursuant to the Order.

30. INTERNATIONAL DIAMOND INDUSTRIES (a.k.a. ''IDI''), Kinshasa, Congo, Democratic Republic of the [GLOMAG] (Linked To: GERTLER, Dan).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler.

31. JARVIS CONGO SARL, No. 70 Batetela Avenue, Tilapia Building (Orange), 5th floor, Kinshasa, Congo, Democratic Republic of the; No. 790 Panda Avenue, Golf Quarter, Lubumbashi, Congo, Democratic Republic of the [GLOMAG] (Linked To: DEBOUTTE, Pieter Albert; Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Pieter Albert Deboutte and Fleurette Properties Limited, persons whose property and interests in property are blocked pursuant to the Order.

32. LORA ENTERPRISES LIMITED, Virgin Islands, British [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED; Linked To: ZUPPA HOLDINGS LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited and Zuppa Holdings Limited, persons whose property and interests in property are blocked pursuant to the Order.

33. OIL OF DR CONGO SPRL (a.k.a. OIL OF DRCONGO), 14 Avenue Sergent Moke, Kinshasa, Gombe, Congo, Democratic Republic of the [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

34. ORAMA PROPERTIES LTD, Palm Grove House, P.O. Box 438, Road Town, Tortola, Virgin Islands, British; Public Registration Number 1041202 (Virgin Islands, British) [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

35. PROGLAN CAPITAL LTD, 23 Tuval, Ramat Gan 5252238, Israel; P.O. Box 101, Ramat Gan 5210002, Israel; Public Registration Number 515000354 (Israel) [GLOMAG] (Linked To: D.G.D. INVESTMENTS LTD.).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by D.G.D. Investments Ltd, a person whose property and interests in property are blocked pursuant to the Order.

36. ROZARO DEVELOPMENT LIMITED, 57/63 Line Wall Road, Gibraltar [GLOMAG] (Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to Section 1(a)(iii)(B) of the Order, for being owned or controlled by Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

37. ZUPPA HOLDINGS LIMITED, Virgin Islands, British [GLOMAG] (Linked To: GERTLER, Dan; Linked To: FLEURETTE PROPERTIES LIMITED).

Designated pursuant to section 1(a)(iii)(B) of the Order, for being owned or controlled by Dan Gertler and Fleurette Properties Limited, a person whose property and interests in property are blocked pursuant to the Order.

Dated: December 22, 2017.

John E. Smith,

Director, Office of Foreign Assets Control.

[FR Doc. 2017–28031 Filed 12–27–17; 8:45 am]

BILLING CODE 4810–AL–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Internal Revenue Service, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995. The IRS is soliciting comments concerning changes in periods of accounting.

DATES: Written comments should be received on or before February 26, 2018 to be assured of consideration.

ADDRESSES: Direct all written comments to L. Brimmer, Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the revenue procedure should be directed to Kerry Dennis, at (202) 317–5751 or Internal Revenue Service, Room 6529, 1111 Constitution Avenue NW, Washington DC 20224, or through the internet, at *Kerry.Dennis@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Changes in Periods of Accounting.

OMB Number: 1545–1786.

Form Number: Revenue Procedures 2003–79, 2007–64, and 2006–46.

Abstract: Revenue Procedures 2003–79, 2007–64, and 2006–46, provide the comprehensive administrative rules and guidance, for affected taxpayers adopting, changing, or retaining annual accounting periods, for federal income tax purposes. In order to determine whether a taxpayer has properly adopted, changed to, or retained an annual accounting period, certain information regarding the taxpayer's qualification for and use of the requested annual accounting period is required. The revenue procedures request the information necessary to make that determination when the information is not otherwise available.

Current Actions: There are no changes being made to these revenue procedures at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, individuals or households, and farms.

Estimated Number of Respondents: 800.

Estimated Time per Respondent: 53 minutes.

Estimated Total Annual Burden Hours: 700.

The following paragraph applies to all of the collections of information covered by this notice.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: November 29, 2017.

L. Brimmer,

Senior Tax Analyst.

[FR Doc. 2017–28040 Filed 12–27–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost of Living Adjustments Effective December 1, 2017

AGENCY: Department of Veterans Affairs.

ACTION: Notice

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLA) in certain benefit rates and income limitations. These COLAs affect the pension and parents' dependency and indemnity compensation (DIC) programs. The rate of the adjustment is tied to the increase in Social Security benefits effective December 1, 2017, as announced by the Social Security Administration (SSA). SSA has announced an increase of 2.0 percent.

DATES: The COLAs are effective December 1, 2017.

FOR FURTHER INFORMATION CONTACT: Daniel McCargar, Pension Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (612) 713–8911.

SUPPLEMENTARY INFORMATION: The provisions of 38 U.S.C. 5312 and section 306 of Public Law 95–588 require VA to increase the benefit rates and income limitations in the pension and parents' DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act. VA must also publish the increased rates and income limitations in the **Federal Register**.

SSA has announced a 2.0 percent COLA increase in Social Security benefits, effective December 1, 2017. Therefore, applying the same percentage and rounding in accordance with 38 CFR 3.29, the following increased rates and income limitations for the VA pension and parents' DIC programs will be effective December 1, 2017:

Pension

Maximum Annual Rates

(1) Veterans permanently and totally disabled (38 U.S.C. 1521):

Veteran with no dependents, $13,166
Veteran with one dependent, $17,241
For each additional dependent, $2,250

(2) Veterans in need of aid and attendance (38 U.S.C. 1521):

Veteran with no dependents, $21,962
Veteran with one dependent, $26,036
For each additional dependent, $2,250

(3) Veterans who are housebound (38 U.S.C. 1521):

Veteran with no dependents, $16,089
Veteran with one dependent, $20,166
For each additional dependent, $2,250

(4) Two veterans married to one another, combined rates (38 U.S.C. 1521):

Neither veteran in need of aid and attendance or housebound, $17,241
Either veteran in need of aid and attendance, $26,036
Both veterans in need of aid and attendance, $34,837
Either veteran housebound, $20,166
Both veterans housebound, $23,087
One veteran housebound and one veteran in need of aid and attendance, $28,953
For each dependent child, $2,250

Mexican border period and World War I veterans: The applicable maximum annual rate payable to a Mexican border period or World War I veteran under this table shall be increased by $2,991. (38 U.S.C. 1521(g))

(5) Surviving spouse alone and with a child or children of the deceased veteran in custody of the surviving spouse (38 U.S.C. 1541):

Surviving spouse alone, $8,830
Surviving spouse and one child in his or her custody, $11,557
For each additional child in his or her custody, $2,250

(6) Surviving spouses in need of aid and attendance (38 U.S.C. 1541):

Surviving spouse alone, $14,113
Surviving spouse with one child in custody, $16,837
Surviving spouse of Spanish-American War veteran alone, $14,685
Surviving spouse of Spanish-American War veteran with one child in custody, $17,347
For each additional child in his or her custody, $2,250

(7) Surviving spouses who are housebound (38 U.S.C. 1541):

Surviving spouse alone, $10,792
Surviving spouse and one child in his or her custody, $13,514
For each additional child in his or her custody, $2,250

(8) Surviving child alone (38 U.S.C. 1542), $2,250.

Reduction for income: The rate payable is the applicable maximum rate minus the countable annual income of the eligible person. (38 U.S.C. 1521, 1541, and 1542).

Parents' DIC

DIC shall be paid monthly to parents of a deceased veteran in the following amounts (38 U.S.C. 1315):

One parent (38 U.S.C. 1315(b)): If there is only one parent, the monthly rate of DIC paid to such parent shall be $634, reduced on the basis of the parent's annual income according to the following formula:

For each $1 of annual income which is more than $0.00 but not more than $800, the $634 monthly rate shall not be reduced.

For each $1 of annual income which is more than $800 but not more than $8,662, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $8,862 but not more than $8,663, the monthly rate shall be reduced by $0.04.

For each $1 of annual income which is more than $8,663, the monthly rate will not be reduced.

No Parents' DIC is payable under this table if annual income exceeds $14,974.

One parent who has remarried: If there is only one parent, and the parent has remarried and is living with the parent's spouse, DIC shall be paid under 38 U.S.C. 1315(b) or under 38 U.S.C. 1315(d), whichever shall result in the greater benefit being paid to the veteran's parent. In the case of remarriage, the total combined annual income of the parent and the parent's spouse shall be counted in determining the monthly rate of DIC.

One of two parents not living with spouse (38 U.S.C. 1315(c)): The rates in Table 3 apply to (1) two parents who are not living together, or (2) an unmarried parent when both parents are living and the other parent has remarried. The monthly rate of DIC paid to each such parent shall be $459, reduced on the basis of each parent's annual income, according to the following formula:

For each $1 of annual income which is more than $0 but not more than $800, the $459 monthly rate shall not be reduced.

For each $1 of annual income which is more than $800 but not more than $6,475, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $6,475, the monthly rate shall not be reduced.

No Parents' DIC is payable under this table if annual income exceeds $14,974.

One of two parents living with spouse or other parent (38 U.S.C. 1315(d)): The rates below apply to each parent living with another parent; and each remarried parent, when both parents are alive. The monthly rate of DIC paid to such parents will be $431, reduced on the basis of the combined annual income of the two parents living together or the remarried parent or parents and spouse or spouses, as computed under the following formula:

For each $1 of annual income which is more than $0 but not more than $1,000, the $431 monthly rate shall not be reduced.

For each $1 of annual income which is more than $1,000 but not more than $1,500, the monthly rate shall be reduced by $0.03.

For each $1 of annual income which is more than $1,500 but not more than $2,000, the monthly rate shall be reduced by $0.04.

For each $1 of annual income which is more than $2,000 but not more than $2,400, the monthly rate shall be reduced by $0.05.

For each $1 of annual income which is more than $2,400 but not more than $2,900, the monthly rate shall be reduced by $0.06.

For each $1 of annual income which is more than $2,900 but not more than $3,200, the monthly rate shall be reduced by $0.07.

For each $1 of annual income which is more than $3,200 but not more than $7,187, the monthly rate shall be reduced by $0.08.

For each $1 of annual income which is more than $7,187 but not more than $7,188, the monthly rate shall be reduced by $0.04.

For each $1 of annual income which is more than $7,188, the monthly rate shall not be reduced.

No Parents' DIC is payable if the annual income exceeds $20,128.

These rates are also applicable in the case of one surviving parent who has remarried, computed on the basis of the combined income of the parent and spouse, if this would be a greater benefit than that specified in Table 2 for one parent.

Aid and attendance: The monthly rate of DIC payable to a parent under Tables 2 through 4 shall be increased by $343 if such parent is (1) a patient in a nursing home, or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

Minimum rate: The monthly rate of DIC payable to any parent under Tables 2 through 4 shall not be less than $5.

Section 306 Pension Income Limitations

Veteran or surviving spouse with no dependents, $14,974 (Pub. L. 95–588, section 306(a))

Veteran in need of aid and attendance with no dependents, $15,513 (38 U.S.C. 1521(d) as in effect on December 31, 1978)

Veteran or surviving spouse with one or more dependents, $20,128 (Pub. L. 95–588, section 306(a))

Veteran in need of aid and attendance with one or more dependents, $20,666 (38 U.S.C. 1521(d) as in effect on December 31, 1978)

Child (no entitled veteran or surviving spouse), $12,244 (Pub. L. 95–588, section 306(a))

Spouse income exclusion (38 CFR 3.262), $4,782 (Pub. L. 95–588, section 306(a)(2)(B))

Old-Law Pension Income Limitations

Veteran or surviving spouse without dependents or an entitled child, $13,112 (Pub. L. 95–588, section 306(b))

Veteran or surviving spouse with one or more dependents, $18,899 (Pub. L. 95–588, section 306(b))

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.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–27992 Filed 12–27–17; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

Cost-of-Living Adjustments Effective December 1, 2017

AGENCY: Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: As required by law, the Department of Veterans Affairs (VA) is hereby giving notice of cost-of-living adjustments (COLA) in certain benefit rates. These COLAs affect the dependency and indemnity compensation (DIC) program. The rate of the adjustment is tied to the increase in Social Security benefits, effective December 1, 2017, as announced by the Social Security Administration (SSA). SSA has announced an increase of 2.0 percent.

DATES: The COLAs are effective December 1, 2017.

FOR FURTHER INFORMATION CONTACT: Daniel McCargar, Pension Analyst, Pension and Fiduciary Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (612) 713–8911.

SUPPLEMENTARY INFORMATION: The provisions of Public Law 115–75, ''Veterans' Compensation Cost-of-Living Adjustment Act of 2017,'' require VA to increase the benefit rates of DIC programs by the same percentage, and effective the same date, as increases in the benefit amounts payable under title II of the Social Security Act, effective December 1, 2017. VA must also publish the increased rates in the **Federal Register**.

SSA has announced a 2.0 percent COLA increase in Social Security benefits, effective December 1, 2017. Therefore, applying the same percentage, the following increased rates and income limitations for the DIC program will be effective December 1, 2017:

Dependency and Indemnity Compensation Monthly Payment Rates

DIC Payable to a Surviving Spouse—Veteran Death on or After January 1, 1993

Basic Monthly Rate: $1,283.11.

If at the time of the Veteran's death, the Veteran was in receipt of or entitled to receive compensation for a service-connected disability rated totally disabling (including a rating based on individual unemployability) for a continuous period of at least 8 years immediately preceding death AND the surviving spouse was married to the Veteran for those same 8 years, add $272.46.

For each dependent child under the age of 18, add $317.87.

If the surviving spouse is entitled to aid and attendance benefits, add $317.87.

If the surviving spouse is entitled to housebound benefits, add $148.91.

If the surviving spouse has one or more children under the age of 18 on the award, add the 2-year transitional benefit of $270.00 (no change to this rate as a result of the round-down in 38 U.S.C. 1311(f)(4)).

DIC Payable to a Surviving Spouse—Veteran Death Prior to January 1, 1993

Veteran paygrade	Amount payable
E–1(f)	1,283.11
E–2(f)	1,283.11
E–3(a,f)	1,283.11
E–4(f)	1,283.11
E–5(f)	1,283.11
E–6(f)	1,283.11
E–7(g)	1,327.47
E–8(g)	1,401.40
E–9(g)	1,461.59
E–9(b)	1,577.76
W–1(g)	1,354.93
W–2(g)	1,408.78
W–3(g)	1,449.97
W–4(g)	1,534.46
O–1(g)	1,354.93
O–2(g)	1,401.40
O–3(g)	1,497.49
O–4	1,587.25
O–5	1,746.72
O–6	1,969.56
O–7	2,125.84
O–8	2,334.95
O–9	2,497.58
O–10	2,739.41
O–10(c)	2,940.07

(a) Surviving spouse of Aviation Cadet or other service not covered by this table is paid the DIC rate for enlisted E–3.

(b) Veteran who served as Sergeant Major of the Army or Marine Corps, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, or Commandant of the Marine Corps, or as Commandant of the Coast Guard.

(c) Veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army or Air Force, Chief of Naval Operations, Commandant of the Marine Corps, or as Commandant of the Coast Guard.

(d) If surviving spouse entitled to aid and attendance, add $317.87; if entitled to housebound, add $148.91.

(e) Add $317.87 for each child under 18.

(f) Add $272.46 if Veteran rated totally disabled for 8 continuous years prior to death, and surviving spouse was married to Veteran those same 8 years.

(g) Base rate is $1,555.57 if Veteran was rated totally disabled 8 continuous years prior to death, and surviving spouse was married to Veteran those same 8 years.

DIC Payable to Children

Surviving Spouse Entitled

For each child over the age of 18 who is attending an approved course of education, the rate is $269.30.

For each child over the age of 18 who is helpless, the rate is $541.76.

No Surviving Spouse Entitled

Number of children	Total payable	Each child's share
1	$541.76	$541.76
2	779.37	389.69
3	1,016.99	399.00

For each additional child, add $193.27 to the total payable.

For each additional helpless child over 18, add $317.87 to the total payable.

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.

Jeffrey Martin,

Office Program Manager, Office of Regulation Policy & Management, Office of the Secretary, Department of Veterans Affairs.

[FR Doc. 2017–27991 Filed 12–27–17; 8:45 am]

BILLING CODE 8320–01–P

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Vol. 82, No. 248

Thursday, December 28, 2017

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CFR Checklist. Effective January 1, 2009, the CFR Checklist no longer appears in the Federal Register. This information can be found online at **http://bookstore.gpo.gov/.**

FEDERAL REGISTER PAGES AND DATE, DECEMBER

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.

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 26, 2017

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