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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 11

[Docket No. RM16–19–000; Order No. 838]

Annual Charges for Use of Government Lands in Alaska

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Federal Power Act requires hydropower licensees to recompense the United States for the use, occupancy, and enjoyment of federal lands. The Federal Energy Regulatory Commission (Commission) assesses annual charges for the use of federal lands through its regulations concerning charges for the use of government lands. In this Final Rule, the Commission revises the per-acre land value component of its methodology for calculating these annual charges for hydropower projects located in Alaska. Pursuant to the Final Rule, the Commission will calculate a statewide per-acre land value for hydropower lands in Alaska. The Commission will use this statewide per-acre land value, rather than a regional per-acre land value, to calculate annual charges for use of federal lands for all hydropower projects in Alaska, except those located in the Aleutian Islands Area.

DATES: This rule will become effective February 1, 2018.

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Order No. 838

Final Rule

(Issued December 21, 2017)

1. The Federal Power Act (FPA) requires hydropower licensees that use federal lands to compensate the United States for the use, occupancy, and enjoyment of federal lands.[1] Currently, the Commission uses a fee schedule, based on the U.S. Bureau of Land Management's (BLM) methodology for calculating rental rates for linear rights of way, to calculate annual charges for use of federal lands. The Commission's fee schedule identifies a fee for each county or geographic area, which is the product of four components: A per-acre land value, an encumbrance factor, a rate of return, and an annual adjustment factor. The per-acre land value for a particular county or geographic area (*i.e.,* a regional per-acre land value) is determined using the average per-acre land value identified by the National Agricultural Statistics Service (NASS) Census. This Final Rule amends part 11 of the Commission's regulations and implements the use of a revised per-acre land value component for calculating these annual charges for hydropower projects located in Alaska. Under the Final Rule, the Commission will use a statewide per-acre land value, rather than a regional per-acre land value, to calculate annual charges for use of federal lands for all hydropower projects in Alaska, except those located in the Aleutian Islands Area.

I. Background

2. Section 10(e)(1) of the FPA requires Commission hydropower licensees using federal lands to pay reasonable annual charges, as determined by the Commission, to recompense the United States for the use and occupancy of its lands.[2] While the Commission may

[1] 16 U.S.C. 803(e)(1) (2012).

[2] 16 U.S.C. 803(e)(1) (2012). Section 10(e)(1) also requires licensees to reimburse the United States for the costs of administering Part I of the FPA. Those charges are calculated and billed separately from

Continued

periodically adjust these charges, it must seek to avoid increasing the price to power consumers by such charges.[3] In other words, licensees that use and occupy federal lands for project purposes must compensate the United States through payment of an annual fee, to be established by the Commission.[4]

3. The Commission has adopted various methods over the years to accomplish this statutory directive.[5] Currently, the Commission uses a fee schedule method, based on land values published in the NASS Census, to calculate annual charges for use of government lands. The Commission adopted this approach in a final rule issued on January 12, 2013.[6]

A. Order No. 774

4. In Order No. 774, the Commission adopted a fee schedule method for calculating annual charges for use of government lands, based on BLM's methodology for calculating rental rates for linear rights of way. Pursuant to § 11.2 of the Commission's regulations, the Commission publishes an annual fee schedule which lists per-acre rental fees by county or geographic area.[7] To calculate a licensee's annual charge for use of government lands, the Commission multiplies the applicable county or geographic area per-acre fee identified in the fee schedule by the number of federal acres used by the hydroelectric project, as reported by that licensee.

5. The per-acre rental fee for a particular county or geographic area is calculated by multiplying four components: (1) A per-acre land value; (2) an encumbrance factor; (3) a rate of return; and (4) an annual adjustment factor.

1. Per-Acre Land Value

6. The first component—the per-acre land value—is based on average per-acre land values published in the NASS Census. The per-acre value for a particular county or geographic area is identified using the corresponding NASS-published per-acre ''land and buildings'' value.[8] This per-acre value is then reduced by the sum of a state-specific modifier (to remove the value of irrigated lands) and seven percent (to remove the value of buildings or other improvements). The end result is the adjusted per-acre land value.

7. The NASS Census is conducted every five years, with an 18-month delay before the census data is published. The Commission incorporates another 18-month delay to account for revisions, consistent with BLM's implementation of its 2008 rule. Therefore, the Commission based its 2011–2015 fee schedules on data from the 2007 NASS Census. The Commission's 2016–2020 fee schedules will be based on data from the 2012 NASS Census; the 2021–2025 fee schedules will be based on data from the 2017 NASS Census; the 2026–2030 fee schedules will be based on data from the 2022 NASS Census; and so on. State-specific adjustments to the per-acre land values are performed in the first year that data from a new NASS Census are used, and will remain the same until the subsequent NASS Census data are used to calculate the forthcoming set of fee schedules.

2. Per-Acre Land Value for Alaska

8. With regard to Alaska, Order No. 774 explained that the final rule would adopt BLM's approach to per-acre land values by designating lands in Alaska as part of one of the five NASS Census geographic area identifiers: The Aleutian Islands Area, the Anchorage Area, the Fairbanks Area, the Juneau Area, or the Kenai Peninsula Area. Under BLM's 2008 rule, the Aleutian Islands Area includes all lands within the Aleutian Islands chain; the Fairbanks Area includes all lands within the BLM Fairbanks District boundaries; the Kenai Peninsula Area includes all lands within the BLM Anchorage District boundaries excluding the Aleutian Islands chain, the Anchorage Area, and, the Juneau Area; the Anchorage Area includes all lands within the Municipality of Anchorage; and the Juneau Area includes all lands within downtown Juneau (*i.e.,* voting precincts 1, 2, and 3).

9. Several commenters asserted that a per-acre statewide value, a category also reported by the NASS Census, should be used to establish assessments for federal land in Alaska.[9] Order No. 774 considered the arguments raised in support of a statewide per-acre value. In particular, several commenters asserted that it is inappropriate to use regional per-acre values for Alaska because Alaska does not use county designations; the number of farms surveyed for the NASS Census in the entire state of Alaska is less than the number of farms surveyed in most counties in the lower-48 states; and, certain per-acre land values near Anchorage and Juneau are very high, resulting in a substantial increase in annual charges for the use of government lands by hydropower licensees in these areas. However, the Commission ultimately concluded that the commenters had not advanced a sufficient explanation for why it was more appropriate to use a statewide per-acre value for Alaska, rather than the smallest NASS Census defined area for Alaska—the geographic area identifier.

10. Although the Commission rejected the use of a statewide per-acre land value for Alaska in Order No. 774, the Commission clarified that it would not use rates based on the Anchorage Area and the Juneau Area values to assess annual land use charges ''because these high, urban-based rates would not reasonably reflect the value of government lands on which hydropower projects are located.'' [10] Instead, for purposes of determining a per-acre land value, the Commission decided to apply the Kenai Peninsula Area per-acre value for projects located in the Anchorage Area or the Juneau Area. Therefore, Order No. 774 explained that projects in Alaska would be assessed the Aleutian Islands Area per-acre land value if located in the Aleutian Islands chain, the Fairbanks Area per-acre land value if located in the Fairbanks BLM District, or the Kenai Peninsula Area per-acre land value if located in the Anchorage BLM District excluding the Aleutian Islands chain.

B. Fiscal Year 2016 Fee Schedule

11. The Commission used the 2012 NASS Census data to calculate its fee schedule for the first time in Fiscal Year (FY) 2016. Due to per-acre land value

the federal land use charges, and are not the subject of this rulemaking.

[3] *Id.*

[4] Pursuant to FPA section 17(a), 16 U.S.C. 810(a) (2012), the fees collected for use of government lands are allocated as follows: 12.5 percent is paid into the Treasury of the United States, 50 percent is paid into the federal reclamation fund, and 37.5 percent is paid into the treasuries of the states in which particular projects are located. No part of the fees discussed in this rulemaking is used to fund the Commission's operations.

[5] *See Annual Charges for Use of Government Lands,* Order No. 774, FERC Stats. & Regs. ¶ 31,341, at PP 3–20 (2013) (cross-referenced at 142 FERC ¶ 61,045) (examining the myriad methods the Commission has used or considered since 1937 for assessing annual charges for the use of government lands).

[6] *See generally,* Order No. 774, FERC Stats. & Regs. ¶ 31,341.

[7] 18 CFR 11.2 (2017). The fee schedule is published annually as part of appendix A to part 11 of the Commission's regulations.

[8] The NASS Census ''land and buildings'' category is a combination of all land use categories in the NASS Census, including croplands (irrigated and non-irrigated), pastureland/rangeland, woodland, and ''other'' (roads, ponds, wasteland, and land encumbered by non-commercial/non-residential buildings).

[9] Order No. 774, FERC Stats. & Regs. ¶ 31,341 at P 44.

[10] *Id.* P 45.

increases in the 2012 NASS Census data, hydropower projects located in certain geographic areas in Alaska experienced a significant increase in federal land use charges when compared to the rates assessed in FY 2015.[11]

C. Petition for Rulemaking

12. On June 6, 2016, the Alaska Federal Land Fees Group, comprising six hydroelectric licensees with projects in Alaska (Alaska Group),[12] petitioned the Commission to conduct a rulemaking to revise its method of calculating federal land use charges for hydropower projects in Alaska. The Alaska Group's petition focused solely on the first component of the Commission's fee schedule—the per-acre land value—and requested that the Commission: (1) Calculate an adjusted statewide average per-acre land value for Alaska and (2) apply this adjusted statewide average per-acre fee to all projects in Alaska, except those located in the Aleutian Islands area.[13]

13. In support of this proposal, the Alaska Group stated that due to the small number of farms (and associated agricultural acreage) that contribute to the data compiled in the NASS Census, there is insufficient data in any individual Alaska area (with the exception of the Aleutian Islands) [14] to produce a fair estimate of land values within that area. Because there are so few farms outside of the Aleutian Islands Area, the Alaska Group indicated that the per-acre land values in the other four geographic areas of Alaska are extremely sensitive to any changes in the self-reported farm data compiled by the NASS Census.

14. For these reasons, the Alaska Group asserted that an adjusted statewide per-acre land value would better reflect the diverse topography of the state and insulate against land value fluctuations caused by individual changes in farm data. The Alaska Group stated that this method would produce a more accurate estimate of the fair market value of federal lands in Alaska.

D. Notice of Inquiry

15. On November 17, 2016, the Commission issued a Notice of Inquiry soliciting input on a narrow question related to its current method for calculating annual charges for the use of government lands—whether regional per-acre land values based on data published in the NASS Census ''land and buildings'' category result in reasonably accurate land valuations for projects that occupy federal lands in Alaska.[15] Specifically, the Commission asked whether it should: (1) Use a statewide per-acre land value rather than a regional per-acre land value to calculate the adjusted per-acre land value for projects that occupy federal lands in Alaska; (2) apply such a statewide per-acre land value to (i) all projects in Alaska, or (ii) all projects in Alaska except those located in the Aleutian Islands Area; and (3) use only certain geographic regions of Alaska to calculate such a statewide per-acre land value.

16. In addition, the Notice of Inquiry encouraged commenters to submit alternative proposals for determining reasonably accurate per-acre land values for projects in Alaska, provided that any proffered alternatives were grounded in the NASS Census data. The notice also invited federal land management agencies to comment on how they would view reductions in annual charges for the lands they administer.

17. In response to the Notice of Inquiry, seven entities filed comments, including several Alaska licensees, a U.S. senator, the U.S. Forest Service (Forest Service), and two individuals.

18. The Alaska Group's comments reiterated its position that the Commission should adopt a statewide per-acre land value for all hydropower projects in Alaska, and apply the statewide per-acre value to all projects in Alaska, except those located in the Aleutian Islands Area. Similarly, U.S. Senator Lisa Murkowski and Homer Electric, an electric distribution cooperative in the Kenai Peninsula, urged the Commission to adopt a statewide per-acre land value for Alaska. These commenters echoed concerns that the NASS Census data fails to provide an accurate accounting of land values in Alaska.

19. Kodiak Electric, a licensee of a hydropower project located in the Aleutian Islands Area, stated that the regional per-acre land values published in the NASS Census result in reasonably accurate land valuations for hydropower lands in the Aleutian Islands Area. Citing the large number of agricultural acreage reported by the NASS Census for the Aleutian Islands Area, Kodiak Electric recommended that any statewide per-acre land value for Alaska, if adopted, not be applied to projects located in the Aleutian Islands Area.

20. The Forest Service was the only commenter to provide alternative proposals for Commission consideration. Due to the small number of farms in Alaska, the Forest Service cautioned against the use of a fee schedule based on NASS Census data. Instead, the Forest Service recommended that the Commission consider calculating federal land charges for Alaska using BLM's ''Minimum Rent Schedule for BLM Land Use Authorizations in Alaska 2015'' or a fee based on power generated, similar to BLM's solar fee schedule.

21. Two individuals urged the Commission to decline the request to alter its current method for calculating federal land use charges for hydropower projects in Alaska. They expressed concern that the use of a statewide per-acre land value might result in the under-collection of reasonable annual charges, and questioned whether the Alaska Group sufficiently demonstrated that a statewide per-acre value would be more accurate than a regional per-acre land value.

E. Notice of Proposed Rulemaking

22. In an August 17, 2017 Notice of Proposed Rulemaking (NOPR), the Commission proposed to adopt the use of a statewide per-acre land value, rather than a regional per-acre land value, for the purposes of calculating annual charges for hydropower projects that occupy federal lands in Alaska.[16]

23. To calculate a statewide per-acre land value for Alaska, the NOPR proposed that the Commission would average the data published in the ''land and buildings'' category of the NASS Census for two geographic areas: The Kenai Peninsula Area and the Fairbanks

[11] In the 2012 NASS Census, changes in land values in other parts of the country varied widely: Some rose significantly, some rose by relatively small amounts, and some decreased.

[12] Alaska Electric Light and Power, Bradley Lake Project Management Committee (on behalf of licensee Alaska Energy Authority), Chugach Electric Association, the Ketchikan Public Utilities, Copper Valley Electric Association, and Southeast Alaska Power Agency.

[13] The Alaska Group requests that any project located in the Aleutian Islands Area continue to be assessed annual charges for use of government lands based on a regional per-acre land value.

[14] The Alaska Group contended that because the Aleutian Islands Area contains the greatest amount of farmland in the state (668,016 acres), the NASS Census data for the Aleutian Islands Area is ''robust, reliable, and an accurate estimate of fair market value.'' Alaska Group's June 6, 2016 Petition for Rulemaking at 18. Therefore, the Alaska Group requested that the proposed statewide per-acre land value be applied to all hydropower projects located in Alaska, except those projects located in the Aleutian Islands Area.

[15] *Annual Charges for Use of Government Lands in Alaska,* FERC Stats. & Regs. ¶ 31,579 (2016) (NOI). The NOI was published in the **Federal Register** on November 25, 2016. 81 FR 85173.

[16] *Annual Charges for Use of Government Lands in Alaska,* FERC Stats. & Regs. ¶ 32,722 (2017) (NOPR). The NOPR was published in the **Federal Register** on August 31, 2017. 82 FR 41359.

Area.[17] The proposed rule explained that, pursuant to the Commission's current methodology, the statewide per-acre value would be reduced by the sum of Alaska's state-specific reduction to remove the value of irrigated lands and a seven percent reduction to remove the value of buildings. The Commission would then apply the resulting adjusted statewide per-acre land value to all hydropower projects in Alaska except for projects located in the Aleutian Islands Area. The NOPR also stated that the Commission would continue to apply the regional per-acre land value for the Aleutian Islands Area.[18]

24. The proposed rule represented an effort to respond to the issues identified by the petitioners—the prevalence of federal lands in Alaska, the sparse amount of agricultural acreage reflected in the NASS Census, and the increase in annual charges that resulted when the Commission began using data from the 2012 NASS Census. Combining the value of the farmland acreage in the Kenai Peninsula and Fairbanks Areas to calculate a statewide per-acre land value, as proposed in the NOPR, would result in a larger, more robust data set that will be less prone to future fluctuation due to changes in the level of participation in NASS Census data reporting or specific anomalies in the data reported.

25. The NOPR did not propose to adopt the Alaska Group's suggestion of including Aleutian Islands Area values in calculating a statewide per-acre land value to be applied to hydropower projects located outside of the Aleutian Islands Area, because those values are lower than land values elsewhere in the state.[19]

26. The NOPR also evaluated two alternative proposals recommended by the Forest Service: (i) A method based on the 2015 Minimum Rent Schedule for BLM Land Use Authorizations in Alaska;[20] and (ii) a fee based on power generated, similar to BLM's solar fee schedule.[21] Because these alternative proposals would likely result in higher per-acre land fees for Alaska or would rely on practices the Commission has previously rejected, the Commission declined to consider these alternatives further.[22]

II. Discussion

27. In this Final Rule, the Commission revises the per-acre land value component of its methodology for calculating annual charges for the use of federal lands by hydropower licensees in Alaska, and amends part 11 of its regulations accordingly. As proposed in the NOPR, the Commission will calculate a statewide per-acre land value for hydropower lands in Alaska. The Commission will use this statewide per-acre land value, rather than a regional per-acre land value, to calculate annual charges for use of federal lands for all hydropower projects in Alaska, except those located in the Aleutian Islands Area.

A. Calculation of Statewide Per-Acre Value

28. The Alaska Group filed comments in support of the Commission's proposal to use a statewide per-acre land value to calculate federal land charges for hydropower projects in Alaska. The Alaska Group urges the Commission to adopt the proposal set forth in the NOPR, with three ''refinements.'' First, the Alaska Group requests that the Commission issue the Final Rule with an effective date of FY 2016 and issue refunds to any Alaska licensee that paid FY 2016 federal land use charges in excess of the amount due under the Final Rule's revised calculation method. Second, the Alaska Group asks the Commission to reconsider its decision to exclude the Aleutian Islands Area from its calculation of a statewide per-acre land value. Third, the Alaska Group reasserts its argument that the use of NASS Census data does not result in fair or accurate valuations of federal lands on which hydropower projects are located, contending that the NASS Census data significantly overvalues federal lands in most of Alaska. While expressing support for the NOPR, the Alaska Group seeks to reserve the right to petition for further adjustments to the Commission's method for calculating federal land use charges for hydropower projects located in Alaska.

29. Jon Griffiths, a public policy research assistant at the George Washington University, expresses support for the NOPR's proposal to adopt a statewide per-acre land value for Alaska, but recommends that the statewide value be based on an average of the NASS Census data for all five geographic areas in Alaska, rather than just the Fairbanks and Kenai Peninsula Areas. In particular, Mr. Griffiths recommends that the Commission include the Anchorage Area in its calculation of a statewide per-acre land value because it has the largest number of agricultural properties in Alaska. In addition, Mr. Griffiths observes that including all five geographic areas would result in a more robust and representative data set. Finally, Mr. Griffiths asserts that the NOPR's proposal amounts to a federal subsidy for hydropower projects because licensees are paying for land at a value less than its current worth.

30. Aurora Taylor, an Alaska resident, contends that the use of NASS Census data is an inaccurate land pricing method. She questions whether the use of a statewide per-acre land value—calculated by averaging NASS Census data from only two geographic areas (*i.e.,* Fairbanks and Kenai Peninsula Areas)—would result in a more accurate and stable land valuation method for Alaska.[23] Ms. Taylor also suggests that the Commission consider an alternative fee structure based on the amount of energy generated by the project. However, as noted in the NOPR, the Commission previously rejected as unreasonable proposals based on a project's power capacity, generation, or sales revenue because such fees would result in a royalty as if the occupied federal lands themselves were producing power.[24] The Commission has explained that this type of fee

[17] As we noted earlier, the Commission does not use the NASS Census data from the Anchorage Area or the Juneau Area for the purpose of determining per-acre land values because the predominantly high, urban-based rates do not reasonably reflect the value of government lands on which hydropower projects are located. *See supra* P 9.

[18] As explained in the NOPR, the Commission is satisfied that the use of the regional per-acre land value for the Aleutian Islands Area results in reasonably accurate land values due to the large amount of farmland acreage represented in the NASS Census data for this particular geographic area.

[19] NOPR, FERC Stats. & Regs. ¶ 32,722 at P 27.

[20] *See generally* BLM, *Rent for Remote Non-Linear Rights-of-Way, Permits and Leases, https://www.blm.gov/policy/im-ak-2015-010* (instruction memorandum describing the U.S. Department of the Interior—Office of Valuation Services' April 2015 Minimum Rent Analysis & Schedule, which provides guidance and a rental schedule for land use authorizations of up to 25 acres across each of BLM's district and field offices in Alaska).

[21] *See Competitive Processes, Terms, and Conditions for Leasing Public Lands for Solar and Wind Energy Development and Technical Changes and Corrections,* 81 FR 92122, 92217–18 (December 19, 2016) (to be codified at 43 CFR parts 2800 and 2880).

[22] *See* NOPR, FERC Stats. & Regs. ¶ 32,722 at PP 28–29.

[23] Ms. Taylor also expresses concern that the Commission's current method for calculating federal land use charges fails to account for the environmental costs of damming rivers. In response, the Commission explains that these charges represent a rental fee for the licensee's use of federal acreage. Therefore, it is reasonable for the Commission to seek to establish a fair market rate for the use of federal acreage, rather than a rate based on quantifying environmental costs. In any event, the Commission evaluates the environmental impacts of a proposed hydropower project during the licensing decision, and has noted that it is not possible to assign dollar values to environmental impacts. *See Great Northern Paper, Inc.,* 85 FERC ¶ 61,316, at 62,244–45 (1998), *aff'd, Conservation Law Foundation* v. *FERC,* 216 F.3d 41, 47–48 (D.C. Cir. 2000).

[24] *See* NOPR, FERC Stats. & Regs. ¶ 32,722 at P 29 n.20.

schedule would overlook the fact that power output is the result of several factors (*e.g.,* water rights, head, project structures), not just the acreage of the federal lands involved.[25]

31. The Final Rule adopts the same revised calculation method proposed in the NOPR. To calculate a statewide per-acre land value, the Commission will divide the total estimated market value by the total agricultural acreage (published in the ''land and buildings'' category of the NASS Census) for the Kenai Peninsula Area and the Fairbanks Area to arrive at an average per-acre land and building value. Pursuant to the Commission's current methodology, the Commission will adjust the resulting per-acre value by Alaska's state-specific reduction to remove the value of irrigated lands, as well as a seven percent reduction to remove the value of buildings (*i.e.,* the adjusted per-acre land value). The Commission will apply this adjusted statewide per-acre land value to all hydropower projects in Alaska except those located in the Aleutian Islands chain. Any project located in the Aleutian Islands chain will continue to be assessed the Aleutian Islands Area per-acre land value.

32. Two commenters recommended that the Commission calculate the statewide per-acre land value for Alaska using data from all five geographic areas identified in the NASS Census. One commented that the failure to incorporate data from all regions in Alaska, including the Anchorage and Juneau Areas, undervalues federal lands and amounts to a federal subsidy for hydropower projects. However, in accordance with the policy adopted in Order No. 774, the Commission has never used the NASS Census data from the Anchorage Area or the Juneau Area for the purposes of determining per-acre land values because the predominately high, urban-based rates do not reasonably reflect the value of government lands on which hydropower projects are located. No evidence has been provided during the course of this rulemaking that leads the Commission to reconsider this decision. Moreover, using these high, urban-based rates to calculate a statewide per-acre value would likely overvalue hydropower lands and artificially inflate federal land use charges.

33. Similarly, the Commission is not persuaded by the Alaska Group's call to include data from the Aleutian Islands Area to calculate a statewide per-acre land value. The Alaska Group asks the Commission to use Aleutian Islands Area data to calculate the statewide per-acre value, but not apply the resulting statewide value to projects in the Aleutian Islands Area, which would dramatically lower the resulting statewide value, while maintaining the use of the Aleutian Islands Area's extremely low regional per-acre value ($1.02 per acre, adjusted) for projects in the Aleutian Islands Area. This inconsistent approach would undervalue hydropower lands and artificially deflate federal land use charges across the state. Commission staff compared the FY 2017 per-acre rates for hydropower projects located in the Kenai Peninsula Area under the Commission's current methodology ($57.97), the NOPR's proposal ($36.53), and the Alaska Group's proposal ($6.75).[26] The drastic decrease between the NOPR's proposal and the Alaska Group's proposal directly corresponds to the inclusion of the Aleutian Islands Area data. We are not convinced that this lower rate would result in fair compensation to the United States and the taxpayers for the use of public lands.

34. We are satisfied that a statewide per-acre value, based on data from the Kenai Peninsula and Fairbanks Areas, is an appropriate response to the Alaska Group's Alaska-specific concerns. The revised calculation method uses a larger data set of agricultural acreage that will be better insulated from fluctuation between census years. It also excludes extreme land values that would artificially overvalue or undervalue hydropower lands and preserves the administrative efficiency benefits of using a publicly available index of land values to calculate rates. Therefore, on balance, the Commission finds that the Final Rule's revised calculation method results in a reasonable approximation of per-acre land values for hydropower lands in Alaska.[27]

B. Application of Statewide Per-Acre Value

35. Kodiak Electric filed comments on the NOPR, reiterating its assertion that the regional per-acre land value results in a reasonably accurate land valuation for hydropower lands in the Aleutian Islands Area. Kodiak Electric expresses support for the NOPR's proposal to continue to apply the regional per-acre land value, rather than the statewide per-acre land value, for projects located in the Aleutian Islands Area. Pursuant to the Final Rule, the Commission will apply the statewide per-acre land value to all hydropower projects located in Alaska, except those located in the Aleutian Islands Area. For projects located in the Aleutian Islands Area, the Commission will continue to apply the regional per-acre land value when calculating federal land use charges.

C. Effective Date of Statewide Per-Acre Value

36. The Alaska Group contends that the effective date of the Final Rule should be FY 2016, and urges the Commission to issue refunds to any Alaska licensee that paid FY 2016 federal land use charges in excess of the amount that would be due under the Final Rule's revised calculation method. We deny this request. The Commission previously considered and rejected various legal and policy arguments made by the Alaska Group on behalf of its member licensees seeking partial refunds of their FY 2016 federal land use charges because they claimed such charges were unreasonable.[28] The members of the Alaska Group elected not to seek judicial review of this decision, such that an attack on it now is untimely. Further, they have not asserted, let alone proved, that the past payments resulted in any hardship to the licensees in question. Accordingly, we will not revisit those arguments here. The Final Rule's revised calculation method, set forth in § 11.2(c)(1)(iv) of the Commission's regulations, will be used to calculate any federal land use bills for Alaska licensees that are issued on or after the effective date of this Final Rule (*i.e.,* FY 2017 bills, onward).

[25] *See Annual Charges for the Use of Government Lands,* FERC Stats. & Regs ¶ 32,684, at P 9 (2011) (citing *Revision of the Billing Procedures for Annual Charges for Administering Part I of the Federal Power Act and to the Methodology for Assessing Federal Land Use Charges,* Order No. 469, FERC Stats. & Regs. ¶ 30,741, at 30,589–90 (1987)).

[26] The NOPR's proposed calculation results in a $36.53 adjusted per-acre land value rate for FY 2017, which represents an approximate 9 percent increase from the FY 2015 rate for the Kenai Peninsula Area ($33.28). FY 2015 was the last year the Commission used data from the 2007 NASS Census to calculate federal land use charges.

[27] In its comments on the NOPR, the Alaska Group stated that it reserves the right to petition the Commission for future adjustments to the land valuation method for federal lands in Alaska. The Commission will consider, but may not act on, future petitions requesting it to revise its method for calculating federal land use charges for hydropower projects located in Alaska.

[28] *Alaska Elec. Light & Power,* 157 FERC ¶ 61,111 (2016) (finding the calculation of the Alaska Group's FY 2016 federal land use charges reasonable, and not a change in Commission procedure or policy). The Alaska Group did not appeal the Commission's order denying rehearing of this issue. Additionally, the decision to adopt a revised calculation method for projects in Alaska does not negate the Commission's determination that the FY 2016 federal land use charges were reasonable and calculated appropriately.

III. Regulatory Requirements

A. Information Collection Statement

37. The Paperwork Reduction Act [29] requires each federal agency to seek and obtain Office of Management and Budget (OMB) approval before undertaking a collection of information directed to ten or more persons or contained in a rule of general applicability. OMB regulations require approval of certain information collection requirements contained in final rules published in the **Federal Register**.[30] This rule does not impose or alter existing reporting or recordkeeping requirements on applicable entities as defined by the Paperwork Reduction Act.[31] As a result, this rule does not trigger the Paperwork Reduction Act.

B. Environmental Analysis

38. The Commission is required to prepare an Environmental Assessment or an Environmental Impact Statement for any action that may have a significant effect on the human environment.[32] Commission actions concerning annual charges are categorically exempt from this requirement.[33]

C. Regulatory Flexibility Act

39. The Regulatory Flexibility Act of 1980 (RFA) [34] generally requires a description and analysis of final rules that will have significant economic impact on a substantial number of small entities. The RFA mandates consideration of regulatory alternatives that accomplish the stated objectives of a rulemaking and minimize any significant economic impact on a substantial number of small entities.[35]

40. The Small Business Administration's (SBA) Office of Size Standards develops the numerical definition of a small business.[36] The SBA revised its size standard for electric utilities (effective January 22, 2014) from a standard based on megawatt hours to a standard based on the number of employees, including affiliates.[37] Under SBA's current size standards, a hydroelectric generator is small if, including its affiliates, it employs 500 or fewer people.[38]

41. Section 10(e)(1) of the FPA requires that the Commission fix a reasonable annual charge for the use, occupancy, and enjoyment of federal lands by hydropower licensees. To date, the Commission has issued 21 active licenses that occupy federal lands in Alaska to 15 discrete entities. Therefore, the Final Rule will apply to a total of 15 entities. Of these 15 entities, 13 entities would be impacted by the Final Rule because they hold licenses that occupy federal lands in the Kenai Peninsula, Fairbanks, Juneau, or Anchorage Areas.[39] The Final Rule adopts the use of a statewide per-acre land value, rather than a regional per-acre land value, for the purposes of calculating annual charges for the use of federal lands in Alaska. The Commission will apply the statewide per-acre land value to all hydropower projects in Alaska, except those located in the Aleutian Islands Area. The Commission will continue to apply the regional per-acre land value for projects located in the Aleutian Islands Area.

42. Based on a review of the 13 licensees that would be impacted by the Final Rule, we estimate that most, if not all, are small entities under the SBA definition. These 13 licensees include utilities, non-for-profit electric cooperatives, cities, and companies.

43. Any impact on these small entities would not be significant. Under the Final Rule, a statewide per-acre land value for hydropower lands in Alaska would be calculated based on a larger agricultural data set, resulting in land values that will be less prone to future fluctuation caused by changes in census data reporting. For Fiscal Year (FY) 2017, the statewide per-acre rate will be lower than the regional per-acre rates that were assessed in FY 2016 for the majority of active licenses in Alaska (other than those located in the Aleutian Islands Area). Accordingly, the 13 affected licensees' federal land use charges for FY 2017 will be lower than the total charges they should have paid in the previous fiscal year based on project geography.[40] The use of a statewide per-acre rate will also result in lower FY 2017 charges for each of the 13 affected licensees compared to the FY 2017 charges they would be assessed under the regional per-acre value method. Consequently, the Final Rule should not impose a significant economic impact on small entities.

44. Accordingly, pursuant to section 605(b) of the RFA, the Commission certifies that this Final Rule will not have a significant economic impact on a substantial number of small entities.

D. Document Availability

45. 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 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.

46. 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 excluding the last three digits of this document in the docket number field.

47. 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.*

E. Effective Date and Congressional Notification

48. This regulation is effective February 1, 2018. The Commission has determined, with the concurrence of the Administrator of the Office of Information and Regulatory Affairs of OMB, that this rule is not a ''major rule'' as defined in section 251 of the Small Business Regulatory Enforcement Fairness Act of 1996.[41] This rule is being submitted to the Senate, House, and Government Accountability Office.

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[29] 44 U.S.C. 3501–3521 (2012).

[30] *See* 5 CFR 1320.12 (2017).

[31] 44 U.S.C. 3502(2)–(3) (2012).

[32] *Regulations Implementing the National Environmental Policy Act of 1969,* Order No. 486, FERC Stats. & Regs. ¶ 30,783 (1987).

[33] 18 CFR 380.4(a)(11) (2017).

[34] 5 U.S.C. 601–612.

[35] 5 U.S.C. 603(c) (2012).

[36] 13 CFR 121.101 (2017).

[37] SBA Final Rule on ''Small Business Size Standards: Utilities,'' 78 FR 77343 (Dec. 23, 2013).

[38] 13 CFR 121.201, Sector 22, Utilities (2017).

[39] We note that six of the 13 affected licensees are members of the Alaska Group, which petitioned the Commission to revise its methodology for calculating annual charges for use of federal lands by establishing a statewide per-acre land value for Alaska.

[40] During this rulemaking proceeding, Commission staff identified two affected licensees (P–2230 and P–10773) that were assessed federal land use charges in FY 2013–2016 based on an incorrect per-acre rate—an ''All Areas'' rate, rather than the appropriate Kenai Peninsula Area rate—resulting in lower total charges during this four year period. Under the Final Rule, these two licensees will pay charges based on the statewide per-acre land value. Therefore, while their FY 2017 charges will increase compared to the FY 2016, these two licensees have been undercharged since FY 2013 and will have lower FY 2017 charges under the Final Rule than they would under the Commission's current methodology using the appropriate per-acre land value (*i.e.,* Kenai Peninsula Area rate).

[41] 5 U.S.C. 804(2) (2012).

List of Subjects in 18 CFR Part 11

Dams, Electric power, Indians—lands, Public lands, Reporting and recordkeeping requirements.

By the Commission.

Issued: December 21, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

In consideration of the foregoing, the Federal Energy Regulatory Commission amends part 11, chapter I, title 18, *Code of Federal Regulations,* as follows:

PART 11—ANNUAL CHARGES UNDER PART I OF THE FEDERAL POWER ACT

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

Authority: 16 U.S.C. 792–828c; 42 U.S.C. 7101–7352.

■ 2. In § 11.2, add paragraph (c)(1)(iv) to read as follows:

§ 11.2 Use of government lands.

* * * * *

(c) * * *

(1) * * *

(iv) For all geographic areas in Alaska except for the Aleutian Islands Area, the Commission will calculate a statewide per-acre value based on the average per-acre land and building values published in the NASS Census for the Kenai Peninsula Area and the Fairbanks Area. This statewide per-acre value will be reduced by the sum of the state-specific modifier and seven percent. The resulting adjusted statewide per-acre value will be applied to all projects located in Alaska, except for projects located in the Aleutian Island Area.

* * * * *

[FR Doc. 2017–28095 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

20 CFR Part 655

Office of Workers' Compensation Programs

20 CFR Parts 702, 725, 726

Office of the Secretary

29 CFR Part 5

41 CFR Part 50–201

Wage and Hour Division

29 CFR Parts 500, 501, 503, 530, 570, 578, 579, 801, 825

Occupational Safety and Health Administration

29 CFR Parts 1902, 1903

Employee Benefits Security Administration

29 CFR Part 2560, 2575, 2590

Mine Safety and Health Administration

30 CFR Part 100

RIN 1290–AA33

Department of Labor Federal Civil Penalties Inflation Adjustment Act Annual Adjustments for 2018

AGENCY: Employment and Training Administration, Office of Workers' Compensation Programs, Office of the Secretary, Wage and Hour Division, Occupational Safety and Health Administration, Employee Benefits Security Administration, and Mine Safety and Health Administration, Department of Labor.

ACTION: Final rule.

SUMMARY: The U.S. Department of Labor (Department) is publishing this final rule to adjust for inflation the civil monetary penalties assessed or enforced in its regulations, pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Inflation Adjustment Act). The Inflation Adjustment Act requires the Department to annually adjust its civil money penalty levels for inflation no later than January 15 of each year. The Inflation Adjustment Act provides that agencies shall adjust civil monetary penalties notwithstanding Section 553 of the Administrative Procedure Act (APA). Additionally, the Inflation Adjustment Act provides a cost-of-living formula for adjustment of the civil penalties. Accordingly, this final rule sets forth the Department's 2018 annual adjustments for inflation to its civil monetary penalties.

DATES: This final rule is effective on January 2, 2018. As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after January 2, 2018.

FOR FURTHER INFORMATION CONTACT: Erin FitzGerald, Senior Policy Advisor, U.S. Department of Labor, Room S–2312, 200 Constitution Avenue NW, Washington, DC 20210; telephone: (202) 693–5076 (this is not a toll-free number). Copies of this final rule may be obtained in alternative formats (large print, Braille, audio tape or disc), upon request, by calling (202) 693–5959 (this is not a toll-free number). TTY/TDD callers may dial toll-free 1–877–889–5627 to obtain information or request materials in alternative formats.

SUPPLEMENTARY INFORMATION:

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I. Background

On November 2, 2015, Congress enacted the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Public Law 114–74, sec. 701 (Inflation Adjustment Act), which further amended the Federal Civil

Penalties Inflation Adjustment Act of 1990 as previously amended by the 1996 Debt Collection Improvement Act (collectively, the ''Prior Inflation Adjustment Act''), to improve the effectiveness of civil monetary penalties and to maintain their deterrent effect. The Inflation Adjustment Act required agencies to: (1) Adjust the level of civil monetary penalties with an initial ''catch-up'' adjustment through an interim final rule (IFR); and (2) make subsequent annual adjustments for inflation, no later than January 15 of each year.

On July 1, 2016, the Department published an IFR that established the initial catch-up adjustment for most civil penalties that the Department administers and requested comments. *See* 81 FR 43430 (DOL IFR). On January 18, 2017, the Department published the final rule establishing the 2017 Annual Adjustment for those civil monetary penalties adjusted in the DOL IFR. *See* 82 FR 5373 (DOL 2017 Annual Adjustment). On July 1, 2016, the U.S. Department of Homeland Security (DHS) and the U.S. Department of Labor (DOL) (collectively, ''the Departments'') jointly published an IFR that established the initial catch-up adjustment for civil monetary penalties assessed or enforced in connection with the employment of temporary nonimmigrant workers under the H–2B program. *See* 81 FR 42983 (Joint IFR). On March 17, 2017, the Departments jointly published the final rule establishing the 2017 Annual Adjustment for the H–2B civil monetary penalties. *See* 82 FR 14147 (Joint 2017 Annual Adjustment). The Joint 2017 Annual Adjustment also explained that DOL would make future adjustments to the H–2B civil monetary penalties consistent with DOL's delegated authority under 8 U.S.C. 1184(c)(14), Immigration and Nationality Act section 214(c)(14), and the Inflation Adjustment Act. *See* 82 FR 14147–48.

This rule implements the 2018 annual inflation adjustments, as required by the Inflation Adjustment Act, for civil monetary penalties assessed or enforced by the Department, including H–2B civil monetary penalties. The Inflation Adjustment Act provides that the increased penalty levels apply to any penalties assessed after the effective date of the increase. Pursuant to the Inflation Adjustment Act, this final rule is published notwithstanding Section 553 of the APA.

II. Adjustment for 2018

The Department has undertaken a thorough review of civil penalties administered by its various components pursuant to the Inflation Adjustment Act and in accordance with guidance issued by the Office of Management and Budget.[1] The Department first identified the most recent penalty amount, which is the amount established by the 2017 annual adjustment as set forth in the DOL 2017 Annual Adjustment published on January 18, 2017, and the Joint 2017 Annual Adjustment published on March 17, 2017.

The Department is required to calculate the annual adjustment based on the Consumer Price Index for all Urban Consumers (CPI–U). Annual inflation adjustments are based on the percent change between the October CPI–U preceding the date of the adjustment, and the prior year's October CPI–U; in this case, the percent change between the October 2017 CPI–U and the October 2016 CPI–U. The cost-of-living adjustment multiplier for 2018, based on the Consumer Price Index (CPI–U) for the month of October 2017, not seasonally adjusted, is 1.02041.[2] In order to compute the 2018 annual adjustment, the Department multiplied the most recent penalty amount for each applicable penalty by the multiplier, 1.02041, and rounded to the nearest dollar.

As provided by the Inflation Adjustment Act, the increased penalty levels apply to any penalties assessed after the effective date of this rule.[3] Accordingly, for penalties assessed after January 2, 2018, whose associated violations occurred after November 2, 2015, the higher penalty amounts outlined in this rule will apply. The tables below demonstrate the penalty amounts that apply:

CIVIL MONETARY PENALTIES FOR THE H–2B TEMPORARY NON-AGRICULTURAL WORKER PROGRAM

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015	On or before August 1, 2016	Pre-August 1, 2016 levels.
On or before November 2, 2015	After August 1, 2016	Pre-August 1, 2016 levels.
After November 2, 2015	After August 1, 2016, but on or before March 17, 2017.	August 1, 2016 levels.
After November 2, 2015	After March 17, 2017 but on or before January 2, 2018.	March 17, 2017 levels.
After November 2, 2015	After January 2, 2018	January 2, 2018 levels.

CIVIL MONETARY PENALTIES FOR OTHER DOL PROGRAMS

Violations occurring	Penalty assessed	Which penalty level applies
On or before November 2, 2015	On or before August 1, 2016	Pre-August 1, 2016 levels.
On or before November 2, 2015	After August 1, 2016	Pre-August 1, 2016 levels.
After November 2, 2015	After August 1, 2016, but on or before January 13, 2017.	August 1, 2016 levels.
After November 2, 2015	After January 13, 2017 but on or before January 2, 2018.	January 13, 2017 levels.
After November 2, 2015	After January 2, 2018	January 2, 2018 levels.

[1] M–18–03, Implementation of Penalty Inflation Adjustments for 2018, Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (Dec. 15, 2017).

[2] OMB provided the year-over-year multiplier, rounded to 5 decimal points. *Id.* at 1.

[3] Appendix 1 consists of a table that provides ready access to key information about each penalty.

III. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) requires that the Department consider the impact of paperwork and other information collection burdens imposed on the public. The Department has determined that this final rule does not require any collection of information.

IV. Administrative Procedure Act

The Inflation Adjustment Act provides that agencies shall annually adjust civil monetary penalties for inflation notwithstanding Section 553 of the APA. Additionally, the Inflation Adjustment Act provides a nondiscretionary cost-of-living formula for annual adjustment of the civil monetary penalties. For these reasons, the requirements in sections 553(b), (c), and (d) of the APA, relating to notice and comment and requiring that a rule be effective 30 days after publication in the **Federal Register**, are inapplicable.

V. Executive Order 12866: Regulatory Planning and Review, Executive Order 13563: Improving Regulation and Regulatory Review, and Executive Order 13771: Reducing Regulation and Controlling Regulatory Costs

Executive Order 12866 requires that regulatory agencies assess both the costs and benefits of significant regulatory actions. Under the Executive Order, a ''significant regulatory action'' is one meeting any of a number of specified conditions, including the following: Having an annual effect on the economy of $100 million or more; creating a serious inconsistency or interfering with an action of another agency; materially altering the budgetary impact of entitlements or the rights of entitlement recipients, or raising novel legal or policy issues.

The Department has determined that this final rule is not a ''significant'' regulatory action and a cost-benefit and economic analysis is not required. This regulation merely adjusts civil monetary penalties in accordance with inflation as required by the Inflation Adjustment Act, and has no impact on disclosure or compliance costs. The benefit provided by the inflationary adjustment to the maximum civil monetary penalties is that of maintaining the incentive for the regulated community to comply with the laws enforced by the Department, and not allowing the incentive to be diminished by inflation. This rule is not an Executive Order 13771 regulatory action because this rule is not significant under Executive Order 12866.

Executive Order 13563 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, reducing costs, harmonizing rules, and promoting flexibility to minimize burden.

This final rule is exempt from the requirements of the APA because the Inflation Adjustment Act directed the Department to issue the annual adjustments without regard to Section 553 of the APA. In that context, Congress has already determined that any possible increase in costs is justified by the overall benefits of such adjustments. This final rule makes only the statutory changes outlined herein; thus there are no alternatives or further analysis required by Executive Order 13563.

VI. Regulatory Flexibility Act and Small Business Regulatory Enforcement Fairness Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.* (RFA), imposes certain requirements on Federal agency rules that are subject to the notice and comment requirements of the APA, 5 U.S.C. 553(b). This final rule is exempt from the requirements of the APA because the Inflation Adjustment Act directed the Department to issue the annual adjustments without regard to Section 553 of the APA. Therefore, the requirements of the RFA applicable to notices of proposed rulemaking, 5 U.S.C. 603, do not apply to this rule. Accordingly, the Department is not required to either certify that the final rule would not have a significant economic impact on a substantial number of small entities or conduct a regulatory flexibility analysis.

VII. Other Regulatory Considerations

A. The Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1531–1538, requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or Tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. This Final Rule will not result in such an expenditure. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

B. Executive Order 13132: Federalism

Section 18 of the OSH Act (29 U.S.C. 667) requires OSHA-approved State Plans to have standards and an enforcement program that are at least as effective as federal OSHA's standards and enforcement program. OSHA-approved State Plans must have maximum and minimum penalty levels that are at least as effective as federal OSHA's per section 18(c)(2) of the OSH Act; 29 CFR 1902.4(c)(2)(xi); 1902.37(b)(12). State Plans are required to increase their penalties in alignment with OSHA's penalty increases to maintain at least as effective penalty levels.

State Plans are not required to impose monetary penalties on state and local government employers. *See* § 1956.11(c)(2)(x). Five (5) states and one territory have State Plans that cover only state and local government employees: Connecticut, Illinois, New Jersey, New York, Maine, and the Virgin Islands. Therefore, the requirements to increase the penalty levels do not apply to these State Plans. Twenty-one (21) states and one U.S. territory have State Plans that cover both private sector employees and state and local government employees: Alaska, Arizona, California, Hawaii, Indiana, Iowa, Kentucky, Maryland, Michigan, Minnesota, Nevada, New Mexico, North Carolina, Oregon, Puerto Rico, South Carolina, Tennessee, Utah, Vermont, Virginia, Washington, and Wyoming. These states must increase their penalties for private-sector employers.

Other than as listed above, this final rule does not have federalism implications because it does not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Accordingly, Executive Order 13132, Federalism, requires no further agency action or analysis.

C. Executive Order 13175: Indian Tribal Governments

This final rule does not have ''tribal implications'' because it does not have substantial direct effects on one or more Indian tribes, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Accordingly, Executive Order 13175, Consultation and Coordination with

Indian Tribal Governments, requires no further agency action or analysis.

D. The Treasury and General Government Appropriations Act of 1999: Assessment of Federal Regulations and Policies on Families

This final rule will have no effect on family well-being or stability, marital commitment, parental rights or authority, or income or poverty of families and children. Accordingly, section 654 of the Treasury and General Government Appropriations Act of 1999 (5 U.S.C. 601 note) requires no further agency action, analysis, or assessment.

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

This final rule will have no adverse impact on children. Accordingly, Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks, as amended by Executive Orders 13229 and 13296, requires no further agency action or analysis.

F. Environmental Impact Assessment

A review of this final rule in accordance with the requirements of the National Environmental Policy Act of 1969 (NEPA), 42 U.S.C. 4321 *et seq.;* the regulations of the Council on Environmental Quality, 40 CFR 1500 *et seq.;* and the Departmental NEPA procedures, 29 CFR part 11, indicates that the final rule will not have a significant impact on the quality of the human environment. As a result, there is no corresponding environmental assessment or an environmental impact statement.

G. Executive Order 13211: Energy Supply

This final rule has been reviewed for its impact on the supply, distribution, and use of energy because it applies, in part, to the coal mining and uranium industries. MSHA has concluded that the adjustment of civil monetary penalties to keep pace with inflation and thus maintain the incentive for operators to maintain safe and healthful workplaces is not a significant energy action because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy.

This final rule has not been identified to have other impacts on energy supply. Accordingly, Executive Order 13211 requires no further Agency action or analysis.

H. Executive Order 12630: Constitutionally Protected Property Rights

This final rule will not implement a policy with takings implications. Accordingly, Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights, requires no further agency action or analysis.

I. Executive Order 12988: Civil Justice Reform Analysis

This final rule was drafted and reviewed in accordance with Executive Order 12988, Civil Justice Reform. This final rule was written to provide a clear legal standard for affected conduct and was carefully reviewed to eliminate drafting errors and ambiguities, so as to minimize litigation and undue burden on the Federal court system. The Department has determined that this final rule meets the applicable standards provided in section 3 of Executive Order 12988.

List of Subjects

20 CFR Part 655

Immigration, Penalties, Labor.

20 CFR Part 702

Administrative practice and procedure, Longshore and harbor workers, Penalties, Reporting and recordkeeping requirements, Workers' compensation.

20 CFR Part 725

Administrative practice and procedure, Black lung benefits, Coal miners, Penalties, Reporting and recordkeeping requirements.

20 CFR Part 726

Administrative practice and procedure, Black lung benefits, Coal miners, Mines, Penalties.

29 CFR Part 5

Administrative practice and procedure, Construction industry, Employee benefit plans, Government contracts, Law enforcement, Minimum wages, Penalties, Reporting and recordkeeping requirements.

29 CFR Part 500

Administrative practice and procedure, Aliens, Housing, Insurance, Intergovernmental relations, Investigations, Migrant labor, Motor vehicle safety, Occupational safety and health, Penalties, Reporting and recordkeeping requirements, Wages, Whistleblowing.

29 CFR Part 501

Administrative practice and procedure, Agriculture, Aliens, Employment, Housing, Housing standards, Immigration, Labor, Migrant labor, Penalties, Transportation, Wages.

29 CFR Part 503

Administrative practice and procedure, Aliens, Employment, Housing, Immigration, Labor, Penalties, Transportation, Wages.

29 CFR Part 530

Administrative practice and procedure, Clothing, Homeworkers, Indians—arts and crafts, Penalties, Reporting and recordkeeping requirements, Surety bonds, Watches and jewelry.

29 CFR Part 570

Child labor, Law enforcement, Penalties.

29 CFR Part 578

Penalties, Wages.

29 CFR Part 579

Child labor, Penalties.

29 CFR Part 801

Administrative practice and procedure, Employment, Lie detector tests, Penalties, Reporting and recordkeeping requirements.

29 CFR Part 825

Administrative practice and procedure, Airmen, Employee benefit plans, Health, Health insurance, Labor management relations, Maternal and child health, Penalties, Reporting and recordkeeping requirements, Teachers.

29 CFR Parts 1902 and 1903

Intergovernmental relations, Law enforcement, Occupational Safety and Health, Penalties.

29 CFR Part 2560

Employee benefit plans, Law enforcement, Penalties, Pensions, Reporting and recordkeeping requirements.

29 CFR Part 2575

Administrative practice and procedure, Employee benefit plans, Health care, Penalties, Pensions.

29 CFR Part 2590

Employee benefit plans, Health care, Health insurance, Penalties, Pensions, Reporting and recordkeeping requirements.

30 CFR Part 100

Mine safety and health, Penalties.

41 CFR Part 50–201

Child labor, Government procurement, Minimum wages, Occupational safety and health, Reporting and recordkeeping requirements.

For the reasons set out in the preamble, 20 CFR chapters V and VI, 29 CFR subtitle A and chapters V, XVII, and XXV, 30 CFR chapter I, and 41 CFR subtitle B are amended as follows:

Department of Labor

Employment and Training Administration

Title 20—Employees' Benefits

PART 655—TEMPORARY EMPLOYMENT OF FOREIGN WORKERS IN THE UNITED STATES

■ 1. The authority citation for part 655 continues to read as follows:

Authority: Section 655.0 issued under 8 U.S.C. 1101(a)(15)(E)(iii), 1101(a)(15)(H)(i) and (ii), 8 U.S.C. 1103(a)(6), 1182(m), (n) and (t), 1184(c), (g), and (j), 1188, and 1288(c) and (d); sec. 3(c)(1), Pub. L. 101–238, 103 Stat. 2099, 2102 (8 U.S.C. 1182 note); sec. 221(a), Pub. L. 101–649, 104 Stat. 4978, 5027 (8 U.S.C. 1184 note); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; sec. 412(e), Pub. L. 105–277, 112 Stat. 2681 (8 U.S.C. 1182 note); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); 29 U.S.C. 49k; Pub. L. 107–296, 116 Stat. 2135, as amended; Pub. L. 109–423, 120 Stat. 2900; 8 CFR 214.2(h)(4)(i); and 8 CFR 214.2(h)(6)(iii).

Subpart A issued under 8 CFR 214.2(h).

Subpart B issued under 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; and 8 CFR 214.2(h).

Subparts F and G issued under 8 U.S.C. 1288(c) and (d); sec. 323(c), Pub. L. 103–206, 107 Stat. 2428; and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts H and I issued under 8 U.S.C. 1101(a)(15)(H)(i)(b) and (b)(1), 1182(n) and (t), and 1184(g) and (j); sec. 303(a)(8), Pub. L. 102–232, 105 Stat. 1733, 1748 (8 U.S.C. 1101 note); sec. 412(e), Pub. L. 105–277, 112 Stat. 2681; 8 CFR 214.2(h); and 28 U.S.C. 2461 note, Pub. L. 114–74 at section 701.

Subparts L and M issued under 8 U.S.C. 1101(a)(15)(H)(i)(c) and 1182(m); sec. 2(d), Pub. L. 106–95, 113 Stat. 1312, 1316 (8 U.S.C. 1182 note); Pub. L. 109–423, 120 Stat. 2900; and 8 CFR 214.2(h).

§§ 655.620, 655.801, and 655.810 [Amended]

■ 2. In the table below, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 655.620(a)	$9,054	$9,239
§ 655.801(b)	7,370	7,520
§ 655.810(b)(1) introductory text	1,811	1,848
§ 655.810(b)(2) introductory text	7,370	7,520
§ 655.810(b)(3) introductory text	51,588	52,641

Department of Labor

Office of Workers' Compensation Programs

PART 702—ADMINISTRATION AND PROCEDURE

■ 3. The authority citation for part 702 continues to read as follows:

Authority: 5 U.S.C. 301, and 8171 *et seq.;* 33 U.S.C. 901 *et seq.;* 42 U.S.C. 1651 *et seq.;* 43 U.S.C. 1333; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174, 64 Stat. 1263; Secretary's Order 10–2009, 74 FR 58834.

§§ 702.204, 702.236, and 702.271 [Amended]

■ 4. In the table below, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount or date indicated in the right column.

Paragraph	Remove	Add
§ 702.204	$22,957	$23,426.
§ 702.204	January 13, 2017	January 2, 2018.
§ 702.236	$279	$285.
§ 702.236	January 13, 2017	January 2, 2018.
§ 702.271(a)(2)	January 13, 2017	January 2, 2018.
§ 702.271(a)(2)	$2,296	$2,343.
§ 702.271(a)(2)	$11,478	$11,712.

PART 725—CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE FEDERAL MINE SAFETY AND HEALTH ACT, AS AMENDED

■ 5. The authority citation for part 725 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174; 30 U.S.C. 901 *et seq.,* 902(f), 921, 932, 936; 33 U.S.C. 901 *et seq.;* 42 U.S.C. 405; Secretary's Order 10–2009, 74 FR 58834.

§ 725.621 [Amended]

■ 6. In § 725.621, amend paragraph (d) by removing ''January 13, 2017'' and adding in its place ''January 2, 2018'' and by removing ''$1,397'' and adding in its place ''$1,426''.

PART 726—BLACK LUNG BENEFITS; REQUIREMENTS FOR COAL MINE OPERATOR'S INSURANCE

■ 7. The authority citation for part 726 is revised to read as follows:

Authority: 5 U.S.C. 301; 30 U.S.C. 901 *et seq.,* 902(f), 925, 932, 933, 934, 936; 33 U.S.C. 901 *et seq.;* 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701; Reorganization Plan No. 6 of 1950, 15 FR 3174; Secretary's Order 10–2009, 74 FR 58834.

§ 726.302 [Amended]

■ 8. In the table below, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount or date indicated in the right column.

Paragraph	Remove	Add
§ 726.302(c)(2)(i)	January 13, 2017	January 2, 2018.
§ 726.302(c)(2)(i)	$136	$139.
§ 726.302(c)(2)(i)	$272	$278.
§ 726.302(c)(2)(i)	$409	$417.
§ 726.302(c)(2)(i)	$544	$555.
§ 726.302(c)(4)	January 13, 2017	January 2, 2018.
§ 726.302(c)(4)	$136	$139.
§ 726.302(c)(5)	January 13, 2017	January 2, 2018.
§ 726.302(c)(5)	$409	$417.
§ 726.302(c)(6)	January 13, 2017	January 2, 2018.
§ 726.302(c)(6)	$2,795	$2,852.

Department of Labor

Wage and Hour Division

Title 29—Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

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

Authority: 5 U.S.C. 301; R.S. 161, 64 Stat. 1267; Reorganization Plan No. 14 of 1950, 5 U.S.C. appendix; 40 U.S.C. 3141 *et seq.;* 40 U.S.C. 3145; 40 U.S.C. 3148; 40 U.S.C. 3701 *et seq.;* and the laws listed in 5.1(a) of this part; Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

§ 5.5 [Amended]

■ 10. In § 5.5, amend paragraph (b)(2) by removing ''$25'' and adding in its place ''$26''.

§ 5.8 [Amended]

■ 11. In § 5.8, amend paragraph (a) by removing ''$25'' and adding in its place ''$26''.

PART 500—MIGRANT AND SEASONAL AGRICULTURAL WORKER PROTECTION

■ 12. The authority citation for part 500 continues to read as follows:

Authority: Pub. L. 97–470, 96 Stat. 2583 (29 U.S.C. 1801–1872); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74, 129 Stat 584.

§ 500.1 [Amended]

■ 13. In § 500.1, amend paragraph (e) by removing ''$2,394'' and adding in its place ''$2,443''.

PART 501—ENFORCEMENT OF CONTRACTUAL OBLIGATIONS FOR TEMPORARY ALIEN AGRICULTURAL WORKERS ADMITTED UNDER SECTION 218 OF THE IMMIGRATION AND NATIONALITY ACT

■ 14. The authority citation for part 501 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(a), 1184(c), and 1188; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at § 701.

§ 501.19 [Amended]

■ 15. In the table below, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 501.19(c) introductory text	$1,658	$1,692
§ 501.19(c)(1)	5,581	5,695
§ 501.19(c)(2)	55,263	56,391
§ 501.19(c)(4)	110,524	112,780
§ 501.19(d)	5,581	5,695
§ 501.19(e)	16,579	16,917
§ 501.19(f)	16,579	16,917

PART 503—ENFORCEMENT OF OBLIGATIONS FOR TEMPORARY NONIMMIGRANT NON-AGRICULTURAL WORKERS DESCRIBED IN THE IMMIGRATION AND NATIONALITY ACT

■ 16. The authority citation for part 503 continues to read as follows:

Authority: 8 U.S.C. 1101(a)(15)(H)(ii)(b); 8 U.S.C. 1184; 8 CFR 214.2(h); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

§ 503.23 [Amended]

■ 17. In the table below, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph, and add in its place the dollar amount indicated in the right column:

Paragraph	Remove	Add
§ 503.23(b)	$12,135	$12,383
§ 503.23(c)	12,135	12,383
§ 503.23(d)	12,135	12,383

PART 530—EMPLOYMENT OF HOMEWORKERS IN CERTAIN INDUSTRIES

■ 18. The authority citation for part 530 continues to read as follows:

Authority: Sec. 11, 52 Stat. 1066 (29 U.S.C. 211) as amended by sec. 9, 63 Stat. 910 (29 U.S.C. 211(d)); Secretary's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701, 129 Stat 584.

§ 530.302 [Amended]

■ 19. In § 530.302, amend paragraph (a) by removing ''$1,005'' and adding in its place ''$1,026'' and revise paragraph (b) to read as follows:

§ 530.302 Amounts of civil penalties.

* * * * *

(b) The amount of civil money penalties shall be determined per affected homeworker within the limits set forth in the following schedule, except that no penalty shall be assessed in the case of violations which are deemed to be *de minimis* in nature:

Nature of violation	Penalty per affected homeworker		
	Minor	Substantial	Repeated, intentional or knowing
Recordkeeping	$20–205	$205–410	$410–1,026
Monetary violations	20–205	205–410	.....
Employment of homeworkers without a certificate	.....	205–410	410–1,026
Other violations of statutes, regulations or employer assurances	20–205	205–410	410–1,026

PART 570—CHILD LABOR REGULATIONS, ORDERS AND STATEMENTS OF INTERPRETATION

Subpart G [Amended]

■ 20. The authority citation for subpart G of part 570 continues to read as follows:

Authority: 52 Stat. 1060–1069, as amended; 29 U.S.C. 201–219; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701.

§ 570.140 [Amended]

■ 21. In § 570.140, amend paragraph (b)(1) by removing ''$12,278'' and adding in its place ''$12,529'' and paragraph (b)(2) by removing ''$55,808'' and adding in its place ''$56,947''.

PART 578—MINIMUM WAGE AND OVERTIME VIOLATIONS—CIVIL MONEY PENALTIES

■ 22. The authority citation for part 578 continues to read as follows:

Authority: Sec. 9, Pub. L. 101–157, 103 Stat. 938, sec. 3103, Pub. L. 101–508, 104 Stat. 1388–29 (29 U.S.C. 216(e)), Pub. L. 101–410, 104 Stat. 890 (28 U.S.C. 2461 note), as amended by Pub. L. 104–134, section 31001(s), 110 Stat. 1321–358, 1321–373, and Pub. L. 114–74, 129 Stat 584.

§ 578.3 [Amended]

■ 23. In § 578.3, amend paragraph (a) by removing ''$1,925'' and adding in its place ''$1,964''.

PART 579—CHILD LABOR VIOLATIONS—CIVIL MONEY PENALTIES

■ 24. The authority citation for part 579 continues to read as follows:

Authority: 29 U.S.C. 203(l), 211, 212, 213(c), 216; Reorg. Plan No. 6 of 1950, 64 Stat. 1263, 5 U.S.C. App; secs. 25, 29, 88 Stat. 72, 76; Secretary of Labor's Order No. 01–2014 (Dec. 19, 2014), 79 FR 77527 (Dec. 24, 2014); 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–7, 129 Stat 584.

§ 579.1 [Amended]

■ 25. In the table below, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 579.1(a)(1)(i)(A)	$12,278	$12,529
§ 579.1(a)(1)(i)(B)	55,808	56,947
§ 579.1(a)(2)	1,925	1,964

PART 801—APPLICATION OF THE EMPLOYEE POLYGRAPH PROTECTION ACT OF 1988

■ 26. The authority citation for part 801 continues to read as follows:

Authority: Pub. L. 100–347, 102 Stat. 646, 29 U.S.C. 2001–2009; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701, 129 Stat 584.

§ 801.42 [Amended]

■ 27. In § 801.42 amend paragraph (a) introductory text by removing ''$20,111'' and adding in its place ''$20,521''.

PART 825—THE FAMILY AND MEDICAL LEAVE ACT OF 1993

■ 28. The authority citation for part 825 continues to read as follows:

Authority: 29 U.S.C. 2654; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); and Pub. L. 114–74 at sec. 701.

§ 825.300 [Amended]

■ 29. In § 825.300 amend paragraph (a)(1) by removing ''$166'' and adding in its place ''$169''.

Department of Labor

Occupational Safety and Health Administration

Title 29—Labor

PART 1903—INSPECTIONS, CITATIONS, AND PROPOSED PENALTIES

■ 30. The authority citation for part 1903 continues to read as follows:

Authority: Secs. 8 and 9 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 657, 658); 5 U.S.C. 553; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990), as amended by Section 701, Pub. L. 114–74; Secretary of Labor's Order No. 1–2012 (77 FR 3912, Jan. 25, 2012).

§ 1903.15 [Amended]

■ 31. In the table below, for each paragraph indicated in the left column, remove the dollar amount or date indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount or date indicated in the right column.

Paragraph	Remove	Add
§ 1903.15(d) introductory text	January 13, 2017	January 2, 2018.
§ 1903.15(d)(1)	$9,054	$9,239.
§ 1903.15(d)(1)	126,749	129,336.
§ 1903.15(d)(2)	126,749	129,336.
§ 1903.15(d)(3)	12,675	12,934.
§ 1903.15(d)(4)	12,675	12,934.
§ 1903.15(d)(5)	12,675	12,934.
§ 1903.15(d)(6)	12,675	12,934.

Department of Labor

Mine Safety and Health Administration

Title 30—Mineral Resources

PART 100—CRITERIA AND PROCEDURES FOR PROPOSED ASSESSMENT OF CIVIL PENALTIES

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

Authority: 5 U.S.C. 301; 30 U.S.C. 815, 820, 957; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at sec. 701;

■ 33. In § 100.3, amend paragraph (a)(1) introductory text by removing ''$69,417'' and adding in its place ''$70,834'' and in paragraph (g) by revising Table XIV-Penalty Conversion Table to read as follows:

§ 100.3 Determination of penalty amount; regular assessment.

* * * * *

(g) * * *

TABLE XIV—PENALTY CONVERSION TABLE

Points	Penalty ($)
60 or fewer	$132
61	143
62	154
63	168
64	182
65	197
66	213
67	232
68	250
69	271
70	294
71	318
72	346
73	374
74	404
75	439
76	477
77	514
78	558
79	605
80	655
81	709
82	768
83	833
84	902
85	978
86	1,059
87	1,146
88	1,243
89	1,346
90	1,458
91	1,579
92	1,710
93	1,852
94	2,007
95	2,174
96	2,355
97	2,551
98	2,764
99	2,994
100	3,244
101	3,513
102	3,806
103	4,123
104	4,466
105	4,839
106	5,242
107	5,679
108	6,152
109	6,664
110	7,219
111	7,819
112	8,472
113	9,178
114	9,942
115	10,769
116	11,666
117	12,638
118	13,691
119	14,832
120	16,066
121	17,405
122	18,854
123	20,425
124	22,127
125	23,967
126	25,964
127	28,128
128	30,470
129	33,008
130	35,757
131	38,735
132	41,961
133	45,455
134	49,081
135	52,706
136	56,333
137	59,957
138	63,583
139	67,208
140 or more	70,834

* * * * *

§§ 100.4 and 100.5 [Amended]

■ 34. In the table below, for each paragraph indicated in the left column, remove the dollar amount indicated in the middle column from wherever it appears in the paragraph and add in its place the dollar amount indicated in the right column.

Paragraph	Remove	Add
§ 100.4(a)	$2,314	$2,361
§ 100.4(b)	4,627	4,721
§ 100.4(c) introductory text	5,785	5,903
§ 100.4(c) introductory text	69,417	70,834
§ 100.5(c)	7,520	7,673
§ 100.5(d)	318	324
§ 100.5(e)	254,530	259,725

Title 41—PUBLIC CONTRACTS AND PROPERTY MANAGEMENT

PART 50–201—GENERAL REGULATIONS

■ 35. The authority citation for part 50–201 continues to read as follows:

Authority: Sec. 4, 49 Stat. 2038; 41 U.S.C. 38. Interpret or apply sec. 6, 49 Stat. 2038, as amended; 41 U.S.C. 40; 108 Stat. 7201; 28 U.S.C. 2461 note (Federal Civil Penalties Inflation Adjustment Act of 1990); Pub. L. 114–74 at § 701, 129 Stat 584.

§ 50–201.3 [Amended]

■ 36. In § 50–201.3, amend paragraph (e) by removing ''$25'' and adding in its place ''$26''.

Note: The following Appendix will not appear in the Code of Federal Regulations.

Agency	Law	Name/description	CFR Citation	2017		2018	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
MSHA	Federal Mine Safety & Health Act of 1977.	Regular Assessment	30 CFR 100.3(a)		$69,417		$70,834.
MSHA	Federal Mine Safety & Health Act of 1977.	Penalty Conversion Table.	30 CFR 100.3(g)	$129	69,417	$132	70,834.
MSHA	Federal Mine Safety & Health Act of 1977.	Minimum Penalty for any order issued under 104(d)(1) of the Mine Act.	30 CFR 100.4(a)	2,314		2,361	
MSHA	Federal Mine Safety & Health Act of 1977.	Minimum penalty for any order issued under 104(d)(2) of the Mine Act.	30 CFR 100.4(b)	4,627		4,721	
MSHA	Federal Mine Safety & Health Act of 1977.	Penalty for failure to provide timely notification under 103(j) of the Mine Act.	39 CFR 100.4(c)	5,785	69,417	5,903	70,834.
MSHA	Federal Mine Safety & Health Act of 1977.	Any operator who fails to correct a violation for which a citation or order was issued under 104(a) of the Mine Act-.	30 CFR 100.5(c)		7,520		7,673.
MSHA	Federal Mine Safety & Health Act of 1977.	Violation of mandatory safety standards related to smoking standards.	30 CFR 100.5(d)		318		324.
MSHA	Federal Mine Safety & Health Act of 1977.	Flagrant violations under 110(b)(2) of the Mine Act.	30 CFR 100.5(e)		254,530		259,725.
EBSA	Employee Retirement Income Security Act.	Section 209(b): Failure to furnish reports (e.g., pension benefit statements) to certain former participants and beneficiaries or maintain records.	29 CFR 2575.2(a)		28		29.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(2)—Per day for failure/refusal to properly file plan annual report.	29 CFR 2575.2(b)		2,097		2,140.

Agency	Law	Name/description	CFR Citation	2017		2018	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
EBSA	Employee Retirement Income Security Act.	Section 502(c)(4)—Per day for failure to disclose certain documents upon request under ERISA 101(k) and (l); failure to furnish notices under 101(j) and 514(e)(3)—each statutory recipient a separate violation.	29 CFR 2575.2(c)		1,659		1,693.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(5)—Per day for each failure to file annual report for Multiple Employer Welfare Arrangements (MEWAs).	29 CFR 2575.2(d)		1,527		1,558.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(6)—Per day for each failure to provide Secretary of Labor requested documentation not to exceed a per-request maximum.	29 CFR 2575.2(e)		$149 per day, not to exceed $1,496 per request.		$152 per day, not to exceed $1,527 per request.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(7)—Per day for each failure to provide notices of blackout periods and of right to divest employer securities—each statutory recipient a separate violation.	29 CFR 2575.2(f)		133		136.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(8)—Per each failure by an endangered status multiemployer plan to adopt a funding improvement plan or meet benchmarks; failure of a critical status multiemployer plan to adopt a rehabilitation plan.	29 CFR 2575.2(g)		1,317		1,344.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(9)(A)—Per day for each failure by an employer to inform employees of CHIP coverage opportunities under Section 701(f)(3)(B)(i)(I)—each employee a separate violation.	29 CFR 2575.2(h)		112		114.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(9)(B)—Per day for each failure by a plan to timely provide to any State information required to be disclosed under Section 701(f)(3)(B)(ii), as added by CHIP regarding coverage coordination—each participant/beneficiary a separate violation.	29 CFR 2575.2(i)		112		114.

Agency	Law	Name/description	CFR Citation	2017		2018	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—Failure by any plan sponsor of group health plan, or any health insurance issuer offering health insurance coverage in connection with the plan, to meet the requirements of Sections 702(a)(1)(F), (b)(3), (c) or (d); or Section 701; or Section 702(b)(1) with respect to genetic information—daily per participant and beneficiary non-compliance period.	29 CFR 2575.2(j)(1)		112		114.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—uncorrected de minimis violation.	29 CFR 2575.2(j)(2)	2,790		2,847	
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—uncorrected violations that are not de minimis.	29 CFR 2575.2(j)(3)	16,742		17,084	
EBSA	Employee Retirement Income Security Act.	Section 502(c)(10)—unintentional failure maximum cap.	29 CFR 2575.2(j)(4)		558,078		569,468.
EBSA	Employee Retirement Income Security Act.	Section 502(c)(12)—Per day for each failure of a CSEC plan in restoration status to adopt a restoration plan.	29 CFR 2575.2(k)		102		104.
EBSA	Employee Retirement Income Security Act.	Section 502(m)—Failure of fiduciary to make a proper distribution from a defined benefit plan under section 206(e) of ERISA.	29 CFR 2575.2(l)		16,169		16,499.
EBSA	Employee Retirement Income Security Act.	Failure to provide Summary of Benefits Coverage under PHS Act section 2715(f), as incorporated in ERISA section 715 and 29 CFR 2590.715–2715(e).	29 CFR 2575.2(m)		1,105		1,128.
OSHA	Occupational Safety and Health Act.	Serious Violation	29 CFR 1903.15(d)(3).		12,675		12,934.
OSHA	Occupational Safety and Health Act.	Other-Than-Serious	29 CFR 1903.15(d)(4).		12,675		12,934.
OSHA	Occupational Safety and Health Act.	Willful	29 CFR 1903.15(d)(1).	9,054	126,749	9,239	129,336.
OSHA	Occupational Safety and Health Act.	Repeated	29 CFR 1903.15(d)(2).		126,749		129,336.
OSHA	Occupational Safety and Health Act.	Posting Requirement	29 CFR 1903.15(d)(6).		12,675		12,934.
OSHA	Occupational Safety and Health Act.	Failure to Abate	29 CFR 1903.15(d)(5).		12,675		12,934.
WHD	Family and Medical Leave Act.	FMLA	29 CFR 825.300(a)(1).		166		169.
WHD	Fair Labor Standards Act.	FLSA	29 CFR 578.3(a)		1,925		1,964.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 579.1(a)(2)		1,925		1,964.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 570.140(b)(1).		12,278		12,529.
WHD	Fair Labor Standards Act.	Child Labor	29 CFR 579.1(a)(1)(i)(A).		12,278		12,529.
WHD	Fair Labor Standards Act.	Child Labor that causes serious injury or death.	29 CFR 570.140(b)(2).		55,808		56,947.

Agency	Law	Name/description	CFR Citation	2017		2018	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
WHD	Fair Labor Standards Act.	Child Labor that causes serious injury or death.	29 CFR 579.1(a)(1)(i)(B).		55,808		56,947.
WHD	Fair Labor Standards Act.	Child Labor willful or repeated that causes serious injury or death.	29 CFR 570.140(b)(2); 29 CFR 579.1(a)(1)(i)(B).		111,616		113,894.
WHD	Migrant and Seasonal Agricultural Worker Protection Act.	MSPA	29 CFR 500.1(e)		2,394		2,443.
WHD	Immigration & Nationality Act.	H1B	20 CFR 655.810(b)(1).		1,811		1,848.
WHD	Immigration & Nationality Act.	H1B retaliation	20 CFR 655.801(b)		7,370		7,520.
WHD	Immigration & Nationality Act.	H1B willful or discrimination.	20 CFR 655.810(b)(2).		7,370		7,520.
WHD	Immigration & Nationality Act.	H1B willful that resulted in displacement of a US worker.	20 CFR 655.810(b)(3).		51,588		52,641.
WHD	Immigration & Nationality Act.	D–1	20 CFR 655.620(a)		9,054		9,239.
WHD	Contract Work Hours and Safety Standards Act.	CWHSSA	29 CFR 5.5(b)(2)		25		26.
WHD	Contract Work Hours and Safety Standards Act.	CWHSSA	29 CFR 5.8(a)		25		26.
WHD	Walsh-Healey Public Contracts Act.	Walsh-Healey	41 CFR 50–201.3(e)		25		26.
WHD	Employee Polygraph Protection Act.	EPPA	29 CFR 801.42(a)		20,111		20,521.
WHD	Immigration & Nationality Act.	H2A	29 CFR 501.19(c)		1,658		1,692.
WHD	Immigration & Nationality Act.	H2A willful or discrimination.	29 CFR 501.19(c)(1)		5,581		5,695.
WHD	Immigration & Nationality Act.	H2A Safety or health resulting in serious injury or death.	29 CFR 501.19(c)(2)		55,263		56,391.
WHD	Immigration & Nationality Act.	H2A willful or repeated safety or health resulting in serious injury or death.	29 CFR 501.19(c)(4)		110,524		112,780.
WHD	Immigration & Nationality Act.	H2A failing to cooperate in an investigation.	29 CFR 501.19(d)		5,581		5,695.
WHD	Immigration & Nationality Act.	H2A displacing a US worker.	29 CFR 501.19(e)		16,579		16,917.
WHD	Immigration & Nationality Act.	H2A improperly rejecting a US worker.	29 CFR 501.19(f)		16,579		16,917.
WHD	Immigration & Nationality Act.	H–2B	29 CFR 503.23(b)–(d).		12,135		12,383.
WHD	Fair Labor Standards Act.	Home Worker	29 CFR 530.302(a)		1,005		1,026.
WHD	Fair Labor Standards Act.	Home Worker	29 CFR 530.302(b)	20	1,005	20	1,026.
OWCP	Longshore and Harbor Workers' Compensation Act.	Failure to file first report of injury or filing a false statement or misrepresentation in first report.	20 CFR 702.204		22,957		23,426.
OWCP	Longshore and Harbor Workers' Compensation Act.	Failure to report termination of payments.	20 CFR 702.236		279		285.
OWCP	Longshore and Harbor Workers' Compensation Act.	Discrimination against employees who claim compensation or testify in a LHWCA proceeding.	20 CFR 702.271(a)(2).	2,296	11,478	2,343	11,712.
OWCP	Black Lung Benefits Act.	Failure to report termination of payments.	20 CFR 725.621(d)		1,397		1,426.
OWCP	Black Lung Benefits Act.	Failure to file required reports.	20 CFR 725.621(d)		1,397		1,426

Agency	Law	Name/description	CFR Citation	2017		2018	
				Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)	Min penalty (rounded to nearest dollar)	Max penalty (rounded to nearest dollar)
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with fewer than 25 employees.	20 CFR 726.302(c)(2)(i).	136		139	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with 25–50 employees.	20 CFR 726.302(c)(2)(i).	272		278	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with 51–100 employees.	20 CFR 726.302(c)(2)(i).	409		417	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits for mines with more than 100 employees.	20 CFR 726.302(c)(2)(i).	544		555	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits after 10th day of notice.	20 CFR 726.302(c)(4).	136		139	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits for repeat offenders.	20 CFR 726.302(c)(5).	409		417	
OWCP	Black Lung Benefits Act.	Failure to secure payment of benefits.	20 CFR 726.302(c)(5).		2,795		2,852.

Signed at Washington, DC, this 22nd day of December, 2017.

R. Alexander Acosta,

Secretary, U.S. Department of Labor.

[FR Doc. 2017–28224 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–HL–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 573

[Docket No. FDA–2017–F–2130]

Food Additives Permitted in Feed and Drinking Water of Animals; Formic Acid as a Feed Acidifying Agent in Complete Poultry Feeds

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA, we, the Agency) is amending the regulations for food additives permitted in feed and drinking water of animals to provide for the safe use of formic acid as a feed acidifying agent in complete poultry feeds. This action is in response to a food additive petition filed by BASF Corp.

DATES: This rule is effective January 2, 2018. Submit either written or electronic objections and requests for a hearing by February 1, 2018. See section V of this document for information on the filing of objections.

ADDRESSES: You may submit objections and requests for a hearing as follows:

Electronic Submissions

Submit electronic objections in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Objections submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your objection will be made public, you are solely responsible for ensuring that your objection 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 objection, that information will be posted on *https://www.regulations.gov.*
- If you want to submit an objection with confidential information that you do not wish to be made available to the public, submit the objection 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 objections submitted to the Dockets Management Staff, FDA will post your objection, 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–F–2130 for ''Food Additives Permitted in Feed and Drinking Water of Animals; Formic Acid as a Feed Acidifying Agent in Complete Poultry Feeds.'' Received objections 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 an objection with confidential information that you do not wish to be made publicly available, submit your objections only as a written/paper submission. You should submit two copies in 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 objections. 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 objections 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.fda.gov/regulatoryinformation/dockets/default.htm.*

Docket: For access to the docket to read background documents or the electronic and written/paper objections 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: Chelsea Trull, Center for Veterinary Medicine, Food and Drug Administration, 7519 Standish Pl., Rockville, MD 20855, 240–402–6729, *chelsea.trull@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In a document published in the **Federal Register** of May 30, 2017 (82 FR 24611), FDA announced that we had filed a food additive petition (animal use) (FAP 2301) submitted by BASF Corp., 100 Park Ave., Florham Park, NJ 07932. The petition proposed that the regulations for food additives permitted in feed and drinking water of animals be amended to provide for the safe use of formic acid as a feed acidifying agent in complete poultry feeds.

II. Conclusion

FDA concludes that the data establish the safety and utility of formic acid as an acidifying agent in complete poultry feeds and that the food additive regulations should be amended as set forth in this document. This is not a significant regulatory action subject to Executive Order 12866.

III. Public Disclosure

In accordance with § 571.1(h) (21 CFR 571.1(h)), the petition and documents we considered and relied upon in reaching our decision to approve the petition will be made available for public disclosure (see **FOR FURTHER INFORMATION CONTACT**). As provided in § 571.1(h), we will delete from the documents any materials that are not available for public disclosure.

IV. Environmental Impact

The Agency has determined under 21 CFR 25.32(r) 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.

V. Objections and Hearing Requests

Any person who will be adversely affected by this regulation may file with the Dockets Management Staff (see **ADDRESSES**) either electronic or written objections. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provision of the regulation to which objection is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection.

Any objections received in response to the regulation may be seen in the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday, and will be posted to the docket at *https://www.regulations.gov.*

List of Subjects in 21 CFR Part 573

Animal feeds, Food additives.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 573 is amended as follows:

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

■ 1. The authority citation for part 573 continues to read as follows:

Authority: 21 U.S.C. 321, 342, 348.

■ 2. In § 573.480, revise paragraph (b) introductory text and paragraph (b)(5)(iii)(B) to read as follows:

§ 573.480 Formic acid.

* * * * *

(b) The additive is used or intended for use as a feed acidifying agent, to lower the pH, in complete swine and poultry feeds at levels not to exceed 1.2 percent of the complete feed.

* * * * *

(5) * * *

(iii) * * *

(B) Contact address and telephone number for reporting adverse reactions or to request a copy of the Safety Data Sheet (SDS).

* * * * *

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28251 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 864

[Docket No. FDA–2017–N–6780]

Medical Devices; Hematology and Pathology Devices; Classification of the Whole Slide Imaging System

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

SUMMARY: The Food and Drug Administration (FDA or we) is classifying the whole slide imaging system 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 whole slide imaging system'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 January 2, 2018. The classification was applicable on April 12, 2017.

FOR FURTHER INFORMATION CONTACT: Steven Tjoe, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 4550, Silver Spring, MD 20993–0002, 301–796–5866, *steven.tjoe@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

Upon request, FDA has classified the whole slide imaging system 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 (see 21 U.S.C. 360c(i)) to a predicate device that does not require premarket approval. We determine whether a new device is substantially equivalent to a predicate by means of the procedures for premarket notification under section 510(k) of the FD&C Act (21 U.S.C. 360(k) and part 807 (21 CFR part 807).

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

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

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

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

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

II. De Novo Classification

On December 1, 2016, Philips Medical Systems Nederland B.V. submitted a request for De Novo classification of the Philips IntelliSite Pathology Solution (PIPS). FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act. We classify devices into class II if general controls by themselves are insufficient to provide reasonable assurance of safety and effectiveness, but there is sufficient information to establish special controls that, in combination with the general controls, provide reasonable assurance of the safety and effectiveness of the device for its intended use (see 21 U.S.C. 360c(a)(1)(B)). After review of the information submitted in the request, we determined that the device can be classified into class II with the establishment of special controls. FDA has determined that these special controls, in addition to the general controls, will provide reasonable assurance of the safety and effectiveness of the device.

Therefore, on April 12, 2017, FDA issued an order to the requester classifying the device into class II. FDA is codifying the classification of the device by adding 21 CFR 864.3700. We have named the generic type of device the whole slide imaging system, and it is identified as an automated digital slide creation, viewing, and management system intended as an aid to the pathologist to review and interpret digital images of surgical pathology slides. The system generates digital images that would otherwise be appropriate for manual visualization by conventional light microscopy.

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—WHOLE SLIDE IMAGING SYSTEM RISKS AND MITIGATION MEASURES

Identified risk	Mitigation measures/21 CFR Section
Inaccurate or missing results leading to, for example, incorrect diagnosis.	General controls; Special control (1) (21 CFR 864.3700(b)(1)); and, Special control (2) (21 CFR 864.3700(b)(2)).
Delayed results	General controls; Special control (1) (21 CFR 864.3700(b)(1)); and, Special control (2) (21 CFR 864.3700(b)(2)).

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information in part 21 CFR 807, subpart E, regarding premarket notification submissions, have been approved under OMB control number 0910–0120; and the collections of information in 21 CFR parts 801 and 809, regarding labeling, have been approved under OMB control number 0910–0485.

List of Subjects in 21 CFR Part 864

Blood, Medical devices, Packaging and containers.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, 21 CFR part 864 is amended as follows:

PART 864—HEMATOLOGY AND PATHOLOGY DEVICES

■ 1. The authority citation for part 864 is revised to read as follows:

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

■ 2. Add § 864.3700 to subpart D to read as follows:

§ 864.3700 Whole slide imaging system.

(a) *Identification.* The whole slide imaging system is an automated digital slide creation, viewing, and management system intended as an aid to the pathologist to review and interpret digital images of surgical pathology slides. The system generates digital images that would otherwise be appropriate for manual visualization by conventional light microscopy.

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

(1) Premarket notification submissions must include the following information:

(i) The indications for use must specify the tissue specimen that is intended to be used with the whole slide imaging system and the components of the system.

(ii) A detailed description of the device and bench testing results at the component level, including for the following, as appropriate:

(A) Slide feeder;

(B) Light source;

(C) Imaging optics;

(D) Mechanical scanner movement;

(E) Digital imaging sensor;

(F) Image processing software;

(G) Image composition techniques;

(H) Image file formats;

(I) Image review manipulation software;

(J) Computer environment; and

(K) Display system.

(iii) Detailed bench testing and results at the system level, including for the following, as appropriate:

(A) Color reproducibility;

(B) Spatial resolution;

(C) Focusing test;

(D) Whole slide tissue coverage;

(E) Stitching error; and

(F) Turnaround time.

(iv) Detailed information demonstrating the performance characteristics of the device, including, as appropriate:

(A) Precision to evaluate intra-system and inter-system precision using a comprehensive set of clinical specimens with defined, clinically relevant histologic features from various organ systems and diseases. Multiple whole slide imaging systems, multiple sites, and multiple readers must be included.

(B) Reproducibility data to evaluate inter-site variability using a comprehensive set of clinical specimens with defined, clinically relevant histologic features from various organ systems and diseases. Multiple whole slide imaging systems, multiple sites, and multiple readers must be included.

(C) Data from a clinical study to demonstrate that viewing, reviewing, and diagnosing digital images of surgical pathology slides prepared from tissue slides using the whole slide imaging system is non-inferior to using an optical microscope. The study should evaluate the difference in major discordance rates between manual digital (MD) and manual optical (MO) modalities when compared to the reference (*e.g.,* main sign-out diagnosis).

(D) A detailed human factor engineering process must be used to evaluate the whole slide imaging system user interface(s).

(2) Labeling compliant with 21 CFR 809.10(b) must include the following:

(i) The intended use statement must include the information described in paragraph (b)(1)(i) of this section, as applicable, and a statement that reads, ''It is the responsibility of a qualified pathologist to employ appropriate procedures and safeguards to assure the validity of the interpretation of images obtained using this device.''

(ii) A description of the technical studies and the summary of results, including those that relate to paragraphs (b)(1)(ii) and (iii) of this section, as appropriate.

(iii) A description of the performance studies and the summary of results, including those that relate to paragraph (b)(1)(iv) of this section, as appropriate.

(iv) A limiting statement that specifies that pathologists should exercise professional judgment in each clinical situation and examine the glass slides by conventional microscopy if there is doubt about the ability to accurately render an interpretation using this device alone.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28262 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 878

[Docket No. FDA–2017–N–6596]

Medical Devices; General and Plastic Surgery Devices; Classification of the Irrigating Wound Retractor Device

AGENCY: Food and Drug Administration, HHS.

ACTION: Final order.

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

DATES: This order is effective January 2, 2018. The classification was applicable on December 16, 2016.

FOR FURTHER INFORMATION CONTACT: Terrell Cunningham, Center for Devices and Radiological Health, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 66, Rm. 2502, Silver Spring, MD 20993–0002, 301–796–6299, *terrell.cunningham@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

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

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

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

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

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

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

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

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

II. De Novo Classification

On August 13, 2015, Prescient Surgical submitted a request for De Novo classification of the CleanCision™ Wound Retraction and Protection System. FDA reviewed the request in order to classify the device under the criteria for classification set forth in section 513(a)(1) of the FD&C Act.

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

Therefore, on December 16, 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 878.4371. We have named the generic type of device irrigating wound retractor device, and it is identified as a prescription device intended to be used by a surgeon to retract the surgical incision, to provide access to the surgical wound, to protect and irrigate the surgical wound, and to serve as a conduit for removal of fluid from the surgical wound.

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—IRRIGATING WOUND RETRACTOR DEVICE RISKS AND MITIGATION MEASURES

Identified risks	Mitigation measures
Adverse tissue reaction	Biocompatibility evaluation.
Tissue or wound damage	Non-clinical performance testing, Shelf life testing, and Labeling.

TABLE 1—IRRIGATING WOUND RETRACTOR DEVICE RISKS AND MITIGATION MEASURES—Continued

Identified risks	Mitigation measures
Infection	Sterilization validation, Non-clinical performance testing, Shelf life testing, and Labeling.

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

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

III. Analysis of Environmental Impact

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

IV. Paperwork Reduction Act of 1995

This final order establishes special controls that refer to previously approved collections of information found in other FDA regulations. These collections of information are subject to review by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520). The collections of information in the guidance document ''De Novo Classification Process (Evaluation of Automatic Class III Designation)'' have been approved under OMB control number 0910–0844; the collections of information in 21 CFR part 814, subparts A through E, regarding premarket approval, have been approved under OMB control number 0910–0231; the collections of information 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 878

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 878 is amended as follows:

PART 878—GENERAL AND PLASTIC SURGERY DEVICES

■ 1. The authority citation for part 878 continues to read as follows:

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

■ 2. Add § 878.4371 to subpart E to read as follows:

§ 878.4371 Irrigating wound retractor device.

(a) *Identification.* An irrigating wound retractor device is a prescription device intended to be used by a surgeon to retract the surgical incision, to provide access to the surgical wound, to protect and irrigate the surgical wound, and to serve as a conduit for removal of fluid from the surgical wound.

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

(1) The patient-contacting components of the device must be demonstrated to be biocompatible and evaluated for particulate matter.

(2) Performance data must demonstrate the sterility and pyrogenicity of the patient-contacting components of the device.

(3) Performance data must support shelf life by demonstrating continued functionality and sterility of the device over the identified shelf life.

(4) Non-clinical performance testing must demonstrate that the device performs as intended under anticipated conditions of use. Performance testing must:

(i) Characterize the tear resistance, tensile strength, and elongation properties of the barrier material;

(ii) Demonstrate that the liquid barrier material is resistant to penetration by blood, and is non-flammable;

(iii) Characterize the forces required to deploy the device;

(iv) Characterize the device's ranges of operation, including flow rates and maximum suction pressures;

(v) Demonstrate the ability of the device irrigation apparatus to maintain a user defined or preset flow rate to the surgical wound; and

(vi) Demonstrate the ability of the device to maintain user defined or preset removal rates of fluid from the surgical wound.

(5) The labeling must include or state the following information:

(i) Device size or incision length range;

(ii) Method of sterilization;

(iii) Flammability classification;

(iv) Non-pyrogenic;

(v) Shelf life; and

(vi) Maximum flow rate and suction pressure.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28255 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9829]

RIN 1545–BN77

Election Out of the Centralized Partnership Audit Regime

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulation.

SUMMARY: This document contains final regulations regarding the implementation of certain portions of section 1101 of the Bipartisan Budget Act of 2015 (BBA), which was enacted into law on November 2, 2015. Section 1101 of the BBA repeals the current rules governing partnership audits and replaces them with a new centralized partnership audit regime that, in general, assesses and collects tax at the partnership level. This document provides final regulations for electing out of the centralized partnership audit regime. The final regulations affect partnerships for taxable years beginning after December 31, 2017.

DATES:

Effective date: These regulations are effective on January 2, 2018.

Applicability Date: For dates of applicability, see § 301.6221(b)–1(f).

FOR FURTHER INFORMATION CONTACT: Concerning the regulations under section 6221(b), Jennifer Black of the Office of Associate Chief Counsel (Procedure and Administration), (202) 317–6834 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

This document contains final regulations to amend the Procedure and Administration Regulations (26 CFR part 301) under Subpart—Tax Treatment of Partnership Items to implement the rules for electing out of the centralized partnership audit regime enacted by section 1101 of the BBA, Public Law 114–74. Section 301.6221(b)–1 provides the rules regarding the ability of a partnership to elect out of the centralized partnership audit regime, including prescribing the time, form, and manner for making the election.

On June 14, 2017, the Treasury Department and the IRS published in the **Federal Register** (82 FR 27334) a notice of proposed rulemaking (REG–136118–15) proposing amendments to part 301 of title 26 of the Code of Federal Regulations (June 14 NPRM). The June 14 NPRM proposed rules under a number of provisions of the centralized partnership audit regime, including section 6221(b), regarding the election out of the regime. A public hearing regarding the proposed regulations was held on September 18, 2017. The IRS also received written public comments in response to the proposed regulations. After careful consideration of all written public comments and statements made during the public hearing, the portions of the proposed regulations relating to section 6221(b) are adopted as amended by this Treasury decision. The amendments to the proposed regulations are discussed in the next section.

Summary of Comments and Explanation of Revisions

In response to the June 14 NPRM, the IRS received 32 written comments, and five statements were provided at the public hearing. Of the 32 written comments, 16 addressed the proposed regulations under section 6221(b). All comments (both written and provided orally at the public hearing) were considered and written comments are available for public inspection at *www.regulations.gov* or upon request. This preamble addresses only the comments that addressed the proposed regulations under section 6221(b), which are the proposed regulations from the June 14 NPRM being finalized in this Treasury Decision. Comments, or any portion of a comment, which relate to other aspects of the proposed regulations in the June 14 NPRM will be addressed when final regulations regarding those provisions are published.

1. Election Out of the Centralized Partnership Audit Regime

The comments received with respect to proposed § 301.6221(b)–1 (regarding the election out of the centralized partnership audit regime) cover three general areas: (1) Determining the number of partners of the partnership for purposes of determining whether the partnership has 100 or fewer partners under section 6221(b); (2) determining what partners constitute eligible partners for purposes of determining whether the partnership is an eligible partnership under section 6221(b); and (3) the mechanics of making the election under section 6221(b).

A. Determining Whether the Partnership is Eligible To Elect Out of the Centralized Partnership Audit Regime

Proposed § 301.6221(b)–1(b)(1) provides that a partnership is eligible to elect out of the centralized partnership audit regime if the partnership has 100 or fewer partners for the taxable year, and all of the partners are eligible partners. Proposed § 301.6221(b)–1(b)(1)(i) provides that a partnership has 100 or fewer partners for the taxable year if it is required to furnish 100 or fewer statements under section 6031(b).

i. Determining the Number of Statements Required To Be Furnished

Several comments suggested that statements furnished to certain types of partners should not be taken into account for purposes of determining whether the partnership is required to furnish 100 or fewer statements under section 6031(b) (the 100-or-fewer threshold). For example, one comment recommended that statements furnished to pass-through entities and disregarded entities should not count toward the 100-or-fewer threshold, and another comment recommended that spouses should count as a single partner for this purpose.

Section 6031(b) generally requires a partnership to furnish a statement to each person that is a partner in the partnership during the partnership taxable year regarding that partner's interest in the partnership for such year. If a pass-through entity or disregarded entity is a partner in the partnership, the partnership is required to furnish a statement under section 6031(b) to that pass-through entity or disregarded entity. *See* § 1.6031(b)–1T(a)(1) (statements required to be furnished to every person who was a partner (within the meaning of section 7701(a)(2)) at any time during the taxable year). Additionally, if two individuals are partners in a partnership, the partnership is required to furnish a statement under section 6031(b) to each of those individuals, regardless of whether they are married to one another. *Id.* Even though a pass-through entity or a disregarded entity is not an eligible partner (and a partnership with such partners would not be eligible to make an election under section 6221(b) regardless of the number of its partners), because the statute expressly provides that the 100-or-fewer threshold turns on the number of statements required to be furnished under section 6031(b), and section 6031(b) requires that the partnership furnish statements to all partners in the partnership during such taxable year regardless of whether the partner is a pass-through entity, a disregarded entity, or an individual who is married to another partner, these comments suggesting to the contrary were not adopted.

One comment suggested that the IRS should establish procedures to quickly address uncertainties regarding whether a statement was required to be issued under section 6031(b) for purposes of making an election under section 6221(b). The comment suggested that this could be accomplished through the private letter ruling process. Eligible partnerships can file an election out of the centralized partnership audit regime for taxable years beginning on or after January 1, 2018. Until the first partnership returns for taxable years subject to the new regime are filed and any elections out of the new regime are reviewed, it is difficult to determine whether a pre-filing procedure for providing legal determinations regarding section 6031(b) for purposes of making the election under section 6221(b) would be helpful or appropriate. Additionally, there is long-standing guidance regarding whether a partnership is required to furnish a statement under section 6031(b) to a particular person. *Id.* Therefore, because there is sufficient existing guidance regarding whether statements are required to be furnished under section 6031(b) and because the centralized partnership audit regime does not alter that existing guidance, the Treasury

Department and the IRS have chosen not to adopt the suggestion to establish a pre-filing procedure specific to section 6221(b) in the final regulations. The IRS may reconsider whether a pre-filing procedure would be helpful after gaining experience with the election out procedures under section 6221(b). If it becomes apparent that a pre-filing procedure might prove useful in the context of section 6221(b), the Treasury Department and the IRS will consider at that time whether to establish such a procedure in other guidance, forms, or instructions. Additionally, nothing in these regulations prohibits a partnership from utilizing existing procedures for requesting private letter rulings or other guidance from the IRS concerning section 6031(b).

Two comments were received with respect to Example 2 under proposed § 301.6221(b)–1(b)(2)(iii). One comment suggested removing certain assumptions set forth in the example because those assumptions were not relevant to the conclusion reached in the example. Specifically, the comment suggested removing the following assumed facts—(1) that Spouse 1 and Spouse 2 have lived in a community property state at all times since they were married; and (2) that Spouse 1 acquired the partnership interest while married to Spouse 2. The comment suggested replacing those assumed facts with a statement that Spouse 2 only has a community property interest in the partnership. A second comment recommended that the regulations expressly state that one spouse's community property interest is not taken into account for purposes of determining the number of statements the partnership is required to furnish under section 6031(b).

The intent of Example 2 under proposed § 301.6221(b)–1(b)(2)(iii) was to illustrate that whether a partnership is required to furnish a statement for purposes of section 6221(b) is determined by looking only to section 6031(b). The example was not intended to illustrate any principles of the various states' community property laws. For these reasons, the two facts identified by the first comment were removed and replaced with a statement that, as a matter of state law, Spouse 2 has a community property interest in Spouse 1's partnership interest.

The second comment suggested that the regulations under section 6221(b) specifically address community property interests. The determination of whether a partnership is required to furnish a statement is governed by section 6031(b) and the regulations thereunder. Creating a specific rule potentially at odds with the existing rules under section 6031(b) in these regulations could result in confusion regarding the proper operation of existing section 6031(b) rules and is not necessary for implementation of section 6221(b). Accordingly, the second comment suggesting the regulations expressly state that one spouse's community property interest is not taken into account for purposes of determining the number of statements the partnership is required to furnish under section 6031(b) was not adopted.

ii. Constructive or de Facto Partnerships

Several comments were received regarding the statement in the preamble of the June 14 NPRM that noted the IRS' intention to carefully scrutinize whether two or more partnerships that have elected out under section 6221(b) should be recast under existing judicial doctrines and general federal tax principles as having formed one or more constructive or de facto partnerships for federal income tax purposes. The preamble also listed several factors the IRS would consider when examining such arrangements and noted that, if two or more partnerships were recast under those doctrines and principles, the constructive or de facto partnership would be subject to the centralized partnership audit regime because it would not have made a timely election under section 6221(b). Several comments suggested rules to address those statements in the preamble, including suggesting that the final regulations should provide: (1) Clear standards and safe harbors for when the IRS will determine if a constructive or de facto partnership exists and the effects of determining that two or more partnerships are constructively a single partnership; (2) a rule that any constructive or de facto partnership should be able to appeal that determination, including to the United States Tax Court; and (3) a reasonable amount of time for a constructive or de facto partnership to make an election under section 6221(b).

The statements in the preamble of the June 14 NPRM referencing the IRS's intention to carefully examine whether two or more partnerships should be recast or be treated as having formed one or more constructive or de facto partnerships for federal income tax purposes reference existing judicial doctrines and general federal tax principles existing outside the centralized partnership audit regime. These existing judicial doctrines and bodies of law under the Internal Revenue Code (Code) govern whether a partnership is in existence, which is not an issue specific to (or altered by) the centralized partnership audit regime. However, if the IRS were to invoke these existing judicial doctrines and bodies of law and recast two partnerships as one or determine a partnership existed where no return was filed, there would likely be consequences under the centralized partnership audit regime as outlined in the preamble to the June 14 NPRM. For that reason, the statements in the preamble to the June 14 NPRM were meant to alert taxpayers to these existing judicial doctrines and bodies of law and to the fact that they might be applicable. Nothing in the June 14 NPRM or in this Treasury Decision alters these existing judicial doctrines and bodies of law governing whether a partnership is in existence. Accordingly, the final regulations do not adopt the comments requesting rules under the existing judicial doctrines and bodies of law governing whether a partnership is in existence.

Any application by the IRS of those existing judicial doctrines and bodies of law to two or more partnerships would require the IRS to follow all applicable due process requirements, including those under the centralized partnership audit regime. A taxpayer would have any applicable administrative review in accordance with IRS procedures and judicial review as provided by existing provisions of law.

With regard to the comment requesting a reasonable amount of time for a constructive or de facto partnership to make an election under section 6221(b), the time to make an election under section 6221(b) is specifically prescribed by statute. Section 6221(b)(1)(D)(i) expressly provides that an election under section 6221(b) is made on a timely filed return for the taxable year.

Finally, the United States Tax Court is a court of limited jurisdiction. *See* section 7442. The Treasury Department and the IRS do not have authority to confer jurisdiction on the United States Tax Court. As the IRS gains experience with the centralized partnership audit regime, the IRS may consider issuing sub-regulatory guidance covering elections under section 6221(b) in the context of constructive and de facto partnerships. The comments regarding constructive and de facto partnerships, however, were not adopted in these final regulations.

B. Eligible Partners

Under section 6221(b)(1)(C), one of the criteria for a partnership to make an election under section 6221(b) is that each of the partners of the partnership is an individual, C corporation, foreign

entity that would be treated as a C corporation if it were a domestic entity, S corporation, or estate of a deceased partner. Proposed § 301.6221(b)–1(b)(3) describes these partners as ''eligible partners''. Proposed § 301.6221(b)–1(b)(3)(ii) provides that some partners are not eligible partners, such as partnerships, trusts, disregarded entities, nominees or other similar persons that hold an interest on behalf of another person, and estates other than the estate of a deceased partner. In the case of an eligible partner that is an S corporation (S corporation partner), the statements required to be furnished by the S corporation partner under section 6037(b) for its taxable year ending with or within the partnership's taxable year are treated as statements furnished by the partnership for purposes of determining whether the partnership is required to furnish 100 or fewer statements. Section 6221(b)(2)(A)(ii). The statement furnished to the S corporation partner by the partnership also counts towards the 100-or-fewer threshold. In addition, the partnership must disclose the names and taxpayer identification numbers (TIN) for each person with respect to whom the S corporation partner was required to furnish a statement under section 6037(b). Under section 6221(b)(2)(C), the Secretary is authorized by regulation or other guidance to prescribe rules similar to the rules for S corporation partners with respect to other types of persons not specifically described as eligible partners under section 6221(b)(1)(C).

The preamble to the June 14 NPRM explains that the Treasury Department and the IRS considered but did not adopt comments in response to Notice 2016–23, 2016–13 I.R.B. 490 (March 28, 2016) that suggested that the Treasury Department and the IRS exercise authority under section 6221(b)(2)(C) to expand the types of persons that are eligible partners for purposes of the election out rules under section 6221(b). The June 14 NPRM explains that broadening the scope of the election out provisions to include additional types of partners or partnership structures would increase the administrative burden on the IRS because those structures and partners would need to be audited under the deficiency procedures. The preamble to the June 14 NPRM requested comments on any potential expansion of the election out rules, noting that comments are particularly helpful if they address the additional burdens that expansion of the rules would impose on the IRS, in addition to the decreased burden on taxpayers resulting from such an expansion.

In response to the June 14 NPRM, the Treasury Department and the IRS received many comments similar to the comments received in response to Notice 2016–23 requesting that the Treasury Department and the IRS exercise the discretionary authority provided in section 6221(b)(2)(C) to expand the definition of eligible partner. Comments suggested that partnerships, disregarded entities, trusts (including tax-exempt trusts, revocable trusts, charitable remainder trusts, grantor trusts, and nongrantor trusts), individual retirement accounts, nominees, qualified pension plans, profit-sharing plans, and stock bonus plans should be considered eligible partners for purposes of making an election under section 6221(b). Comments specifically suggested that because certain types of entities, such as trusts, are similarly situated to certain eligible partners, such as S corporations because those entities are audited and report items to their owners similarly, they should be included within the definition of eligible partner, and that excluding them could lead to treating similarly situated taxpayers differently. For example, one comment noted that a tax-exempt organization organized as a C corporation is an eligible partner while a tax-exempt organization organized as a trust is not an eligible partner, even though both organizations are taxed the same way.

One comment suggested that all tiered partnerships should be eligible to make an election under section 6221(b) under rules similar to the rules that apply to S corporation partners, which would require counting the number of statements required to be furnished by each pass-through partner toward the 100-or-fewer threshold under proposed § 301.6221(b)–1(b)(2). Another comment recommended that the IRS develop an administrable election out for tiered partnerships. The comments suggested that such rules could allow for tiered partnerships to be collapsed down to their ultimate beneficial owners and permit that collapsed structure to make an election out, provided there was a ''manageable'' number of ultimate beneficial owners and the beneficial owners were all eligible partners.

In addition, multiple comments suggested that the authority granted in section 6221(b)(2)(C) signified a congressional expectation that the Treasury Department and the IRS would expand the list of eligible partners under section 6221(b)(1)(C). Multiple comments also suggested that the General Explanations of Tax Legislation Enacted in 2015 prepared by the Joint Committee on Taxation supported an expansion of the section 6221(b)(1)(C) list. *See* Joint Comm. on Taxation, JCS–1–16, *General Explanation of Tax Legislation Enacted in 2015,* 59–60 (2016). Other comments observed that the differences between the election out rules under section 6221(b) and the small partnership exception under the Tax Equity and Fiscal Responsibility Act of 1982, Public Law 97–248 (TEFRA)—the increase from 10 to 100 partners and the inclusion of S corporation partners—reflected an awareness that the IRS would face additional administrative burdens as a result of the election out rules.

Comments suggested that in some situations there would be minimal or no additional burdens imposed on the IRS resulting from an expansion of the definition of eligible partner. For example, comments suggested that, because there is only one additional layer of ownership beyond an entity that is disregarded as an entity separate from its owner for Federal tax purposes, adding those types of entities to the definition of eligible partner would not increase audit complexity or administrative burden for the IRS.

Some comments suggested that maintaining the current definition of eligible partner in proposed § 301.6221(b)–1(b)(3) would actually lead to more administrative burden for the IRS. For example, one comment suggested that because some tiered partnerships are ultimately owned by members of the same affiliated group, it would be more burdensome to conduct separate examinations (one for the partnership under the centralized partnership audit regime and one for the consolidated group under the deficiency procedures), rather than examining all entities as part of the same proceeding. Another comment observed that in some cases, certain partnership structures that are relatively complex and therefore difficult to audit would be able to elect out, while other more simple structures, which are potentially less burdensome to audit, could not elect out. One comment suggested that by not expanding the types of entities that are eligible partners more partnerships will be subject to the centralized partnership audit regime, and the IRS and taxpayers will face additional burdens because they have to apply the new audit rules, rather than applying longstanding rules familiar to both the IRS and to taxpayers.

Other comments noted the consequences to partnerships and partnership interests of not expanding the definition of eligible partner to

include disregarded entities or trusts. For example, one comment suggested that not expanding the types of entities that are eligible partners would result in taxpayers transferring partnership interests from disregarded entities to eligible partners, leading to unnecessary filings and paperwork with limited effect on the ultimate taxpayers' liabilities. Another comment suggested that not expanding the types of entities that are eligible partners would cause a reduction in value of limited partnership interests because of the increased risks and burdens associated with an audit under the centralized partnership audit regime. Another comment noted that the centralized partnership audit regime shifts certain administrative functions from the IRS to taxpayers, functions that were typically performed by the IRS under TEFRA.

The Treasury Department and the IRS have carefully considered all of the comments suggesting an expansion of the definition of eligible partner, but have decided not to adopt these comments at this time. In making this determination, the Treasury Department and the IRS considered the burdens of the centralized partnership audit regime on taxpayers and have concluded that the interests of efficient tax administration outweigh those potential burdens. Accordingly, the final regulations do not expand the definition of eligible partner to include entities other than those entities expressly provided in section 6221(b)(1)(C). After gaining experience with the centralized partnership audit regime, the Treasury Department and the IRS will be in a better position to reconsider any expansion of partnerships eligible to elect out of the regime.

Expanding the current definition of eligible partner would result in more partnerships electing out of the centralized partnership audit regime. In turn, this would result in more audits under the deficiency procedures for taxpayers owning interests in partnerships. When a partnership makes a valid election out of the centralized partnership audit regime under section 6221(b), the IRS must follow the deficiency procedures to audit, assess, and collect tax from the ultimate owners of that partnership. Under the partnership audit procedures enacted as part of TEFRA, the IRS conducted a unified examination of the partnership's items at the partnership level, but was still required to separately assess and collect tax from the ultimate owners of the partnership (sometimes through deficiency procedures).

The centralized partnership audit regime is designed to improve upon both the TEFRA rules and the deficiency procedures by providing for a centralized audit proceeding with respect to the partnership and mandating centralized assessment and collection of tax, penalties, and interest from the partnership. It follows then that rules designed to limit the number of partnerships that can elect out of the new regime is consistent with this objective.

Further, for each additional type of partner that is added to the list of eligible partners, the IRS will be required to follow deficiency procedures with respect to the indirect partners of that partner to assess and collect tax resulting from a partnership audit that could otherwise be assessed and collected against a single partnership under the centralized partnership audit regime. As noted in the preamble to the June 14 NPRM, the number of partnerships has grown substantially in recent years and is likely to continue to grow, compounding the audit and collection inefficiencies extant outside of the new regime for the IRS with each expansion of the eligible partner list. It would undermine the benefits of the new regime to expand the group of partnerships that are eligible to elect out of the new regime. Moreover, it would be unwise to do so at a time before the first returns for taxable years subject to the new regime have been filed.

There may be some situations where expanding eligible partners would not add significantly more complexity to an examination, even under the deficiency procedures. However, while this may occur in some instances, the rules under section 6221(b) are designed to be of general applicability to all partnerships, regardless of size and composition of partners. Section 6221(b)(1) sets the parameters for making an election out of the centralized partnership audit regime, and partnerships that meet these requirements are eligible to make an election under section 6221(b) regardless of how complex or simple their partnership structure is. While certain types of partnerships that elect out may present less audit burden than others, as the total number of partners increases, so too does the number and the complexity of deficiency proceedings. Therefore, any potential simplification of an audit for one particular partnership that might result from the expansion of the election out rules must be appropriately balanced against the increasing audit burden on the IRS if the total number of partnerships that can elect out is increased.

The Treasury Department and the IRS acknowledge that the new rules are a significant change in the way partnerships have been traditionally audited, particularly in the imposition of an imputed underpayment at the partnership level. Comments have raised concerns that the imputed underpayment may not accurately reflect the tax liability that would have been owed had the partnership and the partners reported correctly in the reviewed year taking the partners' specific facts and circumstances into account. However, partnerships and partners have the means to mitigate those concerns by utilizing the modification procedures under section 6225 or making the election under section 6226 (the alternative to payment of the imputed underpayment).

As the Treasury Department and the IRS gain experience with the centralized partnership audit regime, the definition of eligible partner may be revisited. Section 6221(b)(2)(C) allows the Treasury Department and the IRS to expand the types of eligible partners through ''other guidance,'' which includes sub-regulatory guidance that can be more easily tailored and adapted as the Treasury Department and the IRS gain experience with the new regime. Until that time, however, the list of eligible partners will remain the list specifically set forth by Congress in section 6221(b)(1)(C).

In addition to the comments about expanding the definition of eligible partner, one comment recommended clarifying the meaning and application of the phrase ''a nominee or other similar person that holds an interest on behalf of another person'' under proposed § 301.6221(b)–1(b)(3)(ii)(E). The comment stated that the meaning of the quoted language was unclear. The intent of this provision was not to create a new concept that does not currently exist in the Code and regulations. Instead, the intent of the provision was to include in the list of ineligible partners situations where the partner holds an interest on behalf of another person. To remove the ambiguity, the quoted language was clarified to remove the word ''nominee'' as a separate clause and provides instead that a partner is not an eligible partner if that partner holds an interest in the partnership on behalf of another person.

C. Making the Election Under Section 6221(b)

Proposed § 301.6221(b)–1(c) provides that an election out of the centralized partnership audit regime must be made on an eligible partnership's timely filed return, including extensions, for the

taxable year to which the election applies, and, once made cannot be revoked without the consent of the IRS. Additionally, under proposed § 301.6221(b)–1(c)(2), the election must include each partner's name, correct U.S. TIN, and Federal tax classification. If the election is being made by a partnership that has an S corporation as a partner, proposed § 301.6221(b)–1(c)(2) provides that the election must also include each S corporation shareholder's name, correct U.S. TIN, and Federal tax classification. Proposed § 301.6221(b)–1(c)(2) also provides that the election must include an affirmative statement that the partner is an eligible partner and any other information required by the IRS in forms, instructions, or other guidance. Under proposed § 301.6221(b)–1(c)(3), if a partnership makes an election under section 6221(b), the partnership must notify its partners of the election within 30 days of making the election. Under proposed § 301.6221(b)–1(e)(2), if the IRS determines that a purported election by a partnership is invalid, the IRS will notify the partnership in writing, and the provisions of the centralized partnership audit regime will apply to the partnership.

One comment suggested that the regulations clarify whether a ''timely filed return'' under proposed § 301.6221(b)–1(c)(1) is limited to the partnership's original return or whether it also includes any amended returns filed before the due date of the original return. The definition of whether a return is a timely filed return is covered by other provisions of the Code, and the proposed regulations do not modify the longstanding interpretation of those provisions. Under that longstanding interpretation, a return is timely filed if it is filed prior to the due date of the return (taking into account any applicable extensions), regardless of whether it is the original return filed by the partnership or a return filed subsequent to the original return but before the extended due date of the return. *See Haggar Co.* v. *Helvering,* 308 U.S. 389 (1940). Therefore, the comment requesting that the regulations clarify the phrase ''timely filed return'' in proposed § 301.6221(b)–1(c)(1) was not adopted.

Two comments were received regarding the rule under proposed § 301.6221(b)–1(c)(1) that requires consent of the IRS to revoke an election previously made by the partnership. One comment suggested that partnerships should have the ability to revoke the election under section 6221(b) without the consent of the IRS and suggested that such a rule could result in more partnerships revoking elections and therefore becoming subject to the centralized partnership audit regime. Section 6221(b) is silent as to whether a partnership may revoke its election.

The June 14 NPRM allows a partnership to request revocation of its election under section 6221(b) with consent of the IRS. IRS consent is necessary for this type of election revocation because of the potential for detrimental effects on tax administration. By making an election under section 6221(b), the partnership is representing to the IRS that the partnership seeks to elect out of the centralized partnership audit regime. If a partnership is able to unilaterally revoke the election, the partnership is changing that representation without the IRS's knowledge which, under certain circumstances, could be detrimental to tax administration. For example, a partnership could make an election under section 6221(b) and subsequently revoke the election at a time when the period of limitations on making partnership adjustments under section 6235 is close to expiring, or would have already expired, even though the individual partners' periods of limitations on assessment might still be open. If unilateral revocations were permissible, the IRS would have to obtain protective statute extensions creating unnecessary burden on both partners and the IRS. Because the partnership's unilateral revocation of an election under section 6221(b) could be detrimental to tax administration, it is necessary to require IRS consent prior to any revocation. While allowing revocation without consent could potentially result in more partnerships subject to the centralized partnership audit regime, there is no reason to believe that requiring consent significantly alters the number of potential revocations, except in situations where the revocation was clearly detrimental to tax administration. Accordingly, the comment suggesting that the partnership can revoke the election without the consent of the IRS was not adopted.

Another comment recommended that the IRS provide rules on how a partnership requests the consent of the IRS to revoke an election and the standards the IRS will use to grant or deny such requests. The Treasury Department and the IRS have determined that these procedures are more appropriately addressed in non-regulatory guidance. This will enable the IRS to more quickly adjust the process, respond to feedback, and fix any potential problems as it gains more experience with elections under section 6221(b). Accordingly, these final regulations do not adopt this comment.

Section 6221(b)(2)(B) provides that the IRS may provide an alternative form of identification for foreign partners. The June 14 NPRM does not provide for a form of alternative identification for foreign partners, but instead requires that all partners of an eligible partnership have a U.S. TIN. The preamble to the June 14 NPRM explains that partners in a U.S partnership, including foreign partners, are required to have a U.S TIN, so an alternative form of identification may be unnecessary. However, the June 14 NPRM requested comments regarding situations in which a foreign partner subject to the centralized partnership audit regime may not otherwise be required to have a U.S. TIN, other than for the election under section 6221(b), and requested recommendations for alternative identification procedures that could be used in such cases.

Two comments made suggestions regarding a possible alternative method for identifying foreign partners when the partnership discloses partner information to the IRS as part of an election under section 6221(b). One comment recommended that ''in the case of foreign partners who are individuals, the final Regulations provide that the partnership can submit a completed Form W–8 in lieu of the foreign partner's TIN.'' Another comment suggested that all foreign partners should be required to have TINs for a partnership to be eligible to make an election under section 6221(b).

Consistent with the second comment, the final regulations retain the approach of the proposed regulations and require a partnership to provide a correct U.S. TIN for all partners (foreign and domestic) as part of a valid election under section 6221(b). Requiring a U.S. TIN for all partners of a partnership treats all partners the same, regardless of whether they are foreign or domestic, and ensures that the partners of the partnership can be easily identified. However, the Treasury Department and the IRS intend to continue to study this issue and may, in the future, provide for alternative identification for foreign partners in forms, instructions, and other guidance. To account for any future forms of alternative identification for foreign partners, § 301.6221(b)–1(c)(2) provides that a partnership must disclose the name and U.S. TIN, or alternative form of identification required by forms, instructions, or other guidance, for each partner of the

partnership or each shareholder of an S corporation partner.

Another comment stated that the language in proposed § 301.6221(b)–1(c)(2), which requires a partnership to provide information regarding ''each shareholder of the S corporation'', was not clear because it did not specify whether the partnership was required to provide information regarding S corporation shareholders as of a specific date or whether information was required of any person who was a shareholder at any point during the S corporation's taxable year. The IRS and Treasury Department agree that the language in proposed § 301.6221(b)–1(c)(2) should be clarified. Section 6221(b)(2)(A)(i) provides that the S corporation shareholders the partnership must identify are those shareholders with respect to whom the S corporation partner is required to furnish statements under section 6037(b) for the taxable year of the S corporation ending with or within the partnership taxable year for which the election is being made. Accordingly, the final regulations in § 301.6221(b)–1(c)(2) provide that, as part of a valid election, a partnership must disclose the required information about each person who was a shareholder in the S corporation partner at any time during the taxable year of the S corporation ending with or within the partnership's taxable year.

Regarding the requirement that a partnership making an election under section 6221(b) include an affirmative statement that each partner is an eligible partner, a comment was received recommending that the affirmative statement should appear on the bottom of the form for making the election or be a return attachment that could be signed by anyone eligible to sign the partnership return. This comment and recommendation concerns forms and instructions that will be prescribed by the IRS, and therefore the comment is outside the scope of these regulations. However, the IRS will consider this comment when creating the forms and instructions necessary to implement the election out of the centralized partnership audit regime.

Two comments addressed the requirement that the partnership notify its partners of any election made under section 6221(b) within 30 days of making the election. Proposed § 301.6221(b)–1(c)(3) requires a partnership that makes an election under section 6221(b) to notify its partners within 30 days of making the election. One comment requested that the final regulations clarify whether the partnership has to notify shareholders of an S corporation partner that the partnership has made the election. Under TEFRA, the term ''partner'' was defined to include both direct and indirect partners. *See* section 6231(a)(2) (prior to amendment by the BBA). Section 1101(a) of the BBA repealed the partnership audit procedures under TEFRA, including the definition of partner. As a result, the only operative definition of the term ''partner'' in the Code is located in section 7701(a)(2). Under that definition, shareholders of an S corporation partner are not partners in the partnership making the election under section 6221(b) because they are not members of the partnership. Therefore, the partnership does not have to provide notice to the shareholders of an S corporation partner because those shareholders are not ''its partners'' within the meaning of § 301.6221(b)–1(c)(3). Accordingly, because the regulation is clear that the partnership only has to provide notice to its partners, this comment recommending that the regulation be clarified on this point was not adopted. Further, it would be burdensome for the partnership making the election to have to notify both the S corporation and the S corporation shareholders. It should be sufficient that the partnership notify its partner, the S corporation. Whether and how the S corporation wishes to notify its shareholders is something that is left to the S corporation and its shareholders to determine.

Two comments suggested that the IRS should add a checkbox to the statements required to be furnished by the partnership under section 6031(b) indicating that the partnership has made an election under section 6221(b). The checkbox would serve as the notification of the election as required by § 301.6221(b)–1(c)(3). This comment was not adopted because the regulations intentionally do not prescribe the method a partnership must use to notify its partners of the election. Under the regulations, the partnership has the flexibility to notify its partners in the manner that is in the best interests of the partnership and its partners. At this point, the Treasury Department and the IRS have considered the method the partnership notifies its partners to be a business decision of the partnership. Section 6221(b) requires only that the partnership notify its partners in the manner prescribed by the Treasury Department and the IRS. Accordingly, the Treasury Department and the IRS have refrained from regulating more specifically on this issue, and therefore this comment was not adopted. However, the proposed regulations are amended in the final regulations to make clear that the manner of notification is left to the partnership to determine.

One comment recommended that the final regulations include a mechanism for allowing the partnership to make corrections to the election to cure any compliance errors. The Treasury Department and the IRS determined that these procedures, if needed, are more appropriately addressed in sub-regulatory guidance, which is more routinely updated and can be improved based upon experience. Under § 301.6221(b)–1(e) and as explained more fully in the preamble to the June 14 NPRM, an election under section 6221(b) may be relied upon unless challenged by the IRS. That includes situations where the election is not fully compliant with all applicable rules. As provided under § 301.6221(b)–1(e)(2), the IRS will notify the partnership if the IRS determines the partnership's election is invalid. Nothing in these regulations prohibits the partnership from working with the IRS if an election is deficient to correct any minor errors. By not providing a correction procedure in the regulations, the IRS and the partnership have more flexibility to address any errors in an election that may not be afforded if the regulations provided for rules for some situations but not others. Accordingly, the comment to include a correction procedure in the regulations was not adopted.

Finally, one comment recommended that the final regulations place a reasonable restriction on the time the IRS has to determine whether an election under section 6221(b) is invalid. The comment suggested that a period of 180 days from the filing of the return would be a reasonable time. This comment was not adopted because this would effectively impose a significant shortening of the period of limitations on when the IRS would be able to examine a partnership's return and make adjustments. Limiting the time within which the IRS may review the validity of an election would effectively force the IRS to decide within that specified time period whether it intended to review the election, even if the IRS had no intention at that time of ultimately examining the partnership's return.

Section 6221(b) did not provide a specific period of limitations for a determination that an election under section 6221(b) is invalid. Nevertheless, the period for determining an election purportedly made under section 6221(b) is invalid is not unlimited. The period of limitations on making adjustments under section 6235 limits the time

within which the IRS may make a partnership adjustment, which will also serve as a practical limitation on when the IRS must decide whether to determine an election under section 6221(b) is invalid. If a purported election is determined to be invalid by the IRS, the partnership would be subject to the centralized partnership audit regime, and no partnership adjustment could be made by the IRS after the period prescribed in section 6235. For the reasons state above, the comment to establish a separate period for evaluating elections was not adopted.

In addition to addressing the comments received in response to the June 14 NPRM, this Treasury Decision also makes editorial, non-substantive changes to the proposed regulations under section 6221(b).

Special Analyses

Certain IRS regulations, including this one, are exempt from the requirements of Executive Order 12866, as supplemented by Executive Order 13563. Therefore, a regulatory impact assessment is not required.

It is hereby certified that these rules will not have a significant economic impact on a substantial number of small entities. Although these rules may affect a substantial number of small entities, the economic impact is not substantial because these rules merely provides guidance on the statutory requirements for making an election out of the centralized partnership audit regime. These rules reduce the existing burden on partnerships to comply with the statutory requirements by providing clear rules and guidance regarding the statutory requirements for partnerships desiring to make an election out of the centralized partnership audit regime under section 6221(b). For the reasons stated, the final rules will not have a significant economic impact on a substantial number of small entities. Accordingly, a regulatory flexibility analysis under the Regulatory Flexibility Act (5 U.S.C. Chapter 6) is not required.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding these regulations was submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

Statement of Availability of IRS Documents

IRS Revenue Procedures, Revenue Rulings, Notices and other guidance cited in this preamble are published in the Internal Revenue Bulletin (or Cumulative Bulletin) and are available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at *www.irs.gov.*

Drafting Information

The principal author of these final regulations is Jennifer M. Black of the Office of the Associate Chief Counsel (Procedure and Administration). However, other personnel from the Treasury Department and the IRS participated in their development.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, 26 CFR part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ Paragraph 1. The authority citation for part 301 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

■ Par. 2. Section 301.6221(b)–1 is added to read as follows:

§ 301.6221(b)–1 Election out for certain partnerships with 100 or fewer partners.

(a) *In general.* The provisions of subchapter C of chapter 63 of the Internal Revenue Code (subchapter C of chapter 63) do not apply for any partnership taxable year for which an eligible partnership under paragraph (b) of this section makes a valid election in accordance with paragraph (c) of this section. For rules regarding deficiency procedures, see subchapter B of chapter 63 of the Internal Revenue Code and §§ 301.6211–1 through 301.6215–1.

(b) *Eligible partnership*—(1) *In general.* Only an eligible partnership may make an election under this section. A partnership is an eligible partnership for purposes of this section if—

(i) The partnership has 100 or fewer partners as determined in accordance with paragraph (b)(2) of this section, and

(ii) Each statement the partnership is required to furnish under section 6031(b) for the partnership taxable year is furnished to a partner that was an eligible partner (as defined in paragraph (b)(3) of this section) for the partnership's entire taxable year.

(2) *100 or fewer partners*—(i) *In general.* Except as provided in paragraph (b)(2)(ii) of this section, a partnership has 100 or fewer partners if the partnership is required to furnish 100 or fewer statements under section 6031(b) for the taxable year.

(ii) *Special rule for S corporations.* For purposes of this paragraph (b)(2), a partnership with a partner that is an S corporation (as defined in section 1361(a)(1)) must take into account each statement required to be furnished by the S corporation to its shareholders under section 6037(b) for the taxable year of the S corporation ending with or within the partnership's taxable year.

(iii) *Examples.* The following examples illustrate the provisions of this paragraph (b)(2). For purposes of these examples, each partnership is required to file a return under section 6031(a):

Example 1. During its 2020 partnership taxable year, Partnership has four partners each owning an interest in Partnership. Two of the partners are Spouse 1 and Spouse 2 who are married to each other during all of 2020. Spouse 1 and Spouse 2 each own a separate interest in Partnership. The two other partners are unmarried individuals. Under section 6031(b), Partnership is required to furnish a separate statement (that is, Schedule K–1 (Form 1065), *Partner's Share of Income, Deductions, Credits, etc.*) to each individual partner, including separate statements to Spouse 1 and Spouse 2. Therefore, for purposes of this paragraph (b)(2), Partnership has four partners during its 2020 taxable year.

Example 2. The facts are the same as in *Example 1* of this paragraph (b)(2)(iii), except Spouse 2 does not separately own an interest in Partnership during 2020 and Spouse 1 and Spouse 2 live in a community property state, State A. Spouse 1 acquired the partnership interest in such a manner that by operation of State A law, Spouse 2 has a community property interest in Spouse 1's partnership interest. Because Spouse 2's community property interest in Spouse 1's partnership interest is not taken into account for purposes of determining the number of statements Partnership is required to furnish under section 6031(b), Partnership is required to furnish a statement to Spouse 1, but not to Spouse 2. Therefore, for purposes of this paragraph (b)(2), Partnership has three partners during its 2020 taxable year.

Example 3. At the beginning of 2020, Partnership, which has a taxable year ending December 31, 2020, has three partners—individuals A, B, and C. Each individual owns an interest in Partnership. On June 30, 2020, Individual A dies, and A's interest in Partnership becomes an asset of A's estate. A's estate owns the interest for the remainder of 2020. On September 1, 2020, B sells his interest in Partnership to Individual D, who holds the interest for the remainder of the year. Under section 6031(b), Partnership is required to furnish five statements for its

2020 taxable year—one each to Individual A, the estate of Individual A, Individual B, Individual C, and Individual D. Therefore, for purposes of this paragraph (b)(2), Partnership has five partners during its 2020 taxable year.

Example 4. During its 2020 taxable year, Partnership has 51 partners—50 partners who are individuals and S, an S corporation. S and Partnership are both calendar year taxpayers. S has 50 shareholders during the 2020 taxable year. Under section 6031(b), Partnership is required to furnish 51 statements for the 2020 taxable year—one to S and one to each of Partnership's 50 partners who are individuals. Under section 6037(b), S is required to furnish a statement (that is, Schedule K–1 (Form 1120–S), *Shareholder's Share of Income, Deductions, Credits, etc.*) to each of its 50 shareholders. Under paragraph (b)(2)(ii) of this section, the number of statements required to be furnished by S under section 6037(b), which is 50, is taken into account to determine whether partnership has 100 or fewer partners. Accordingly, for purposes of this paragraph (b)(2), Partnership has a total of 101 partners (51 statements furnished by Partnership to its partners plus 50 statements furnished by S to its shareholders) and is therefore not an eligible partnership under paragraph (b)(1) of this section. Because Partnership is not an eligible partnership, it cannot make the election under paragraph (a) of this section.

Example 5. During its 2020 taxable year, Partnership has two partners, A, an individual, and E, an estate of a deceased partner. E has 10 beneficiaries. Under section 6031(b), Partnership is required to furnish two statements, one to A and one to E. Any statements that E may be required to furnish to its beneficiaries are not taken into account for purposes of this paragraph (b)(2). Therefore, for purposes of this paragraph (b)(2), Partnership has two partners.

(3) *Eligible Partners*—(i) *In general.* For purposes of paragraph (b)(1)(ii) of this section, the term *eligible partner* means a partner that is an individual, a C corporation (as defined by section 1361(a)(2)), an eligible foreign entity described in paragraph (b)(3)(iii) of this section, an S corporation, or an estate of a deceased partner. An S corporation is an eligible partner regardless of whether one or more shareholders of the S corporation are not an eligible partner.

(ii) *Partners that are not eligible partners.* A partner is not an eligible partner under paragraph (b)(3)(i) of this section if the partner is—

(A) A partnership,

(B) A trust,

(C) A foreign entity that is not an eligible foreign entity described in paragraph (b)(3)(iii) of this section,

(D) A disregarded entity described in § 301.7701–2(c)(2)(i),

(E) An estate of an individual other than a deceased partner, or

(F) Any person that holds an interest in the partnership on behalf of another person.

(iii) *Eligible foreign entity.* For purposes of this paragraph (b)(3), a foreign entity is an eligible partner if the foreign entity would be treated as a C corporation if it were a domestic entity. For purposes of the preceding sentence, a foreign entity would be treated as a C corporation if it were a domestic entity if the entity is classified as a per se corporation under § 301.7701–2(b)(1), (3), (4), (5), (6), (7), or (8), is classified by default as an association taxable as a corporation under § 301.7701–3(b)(2)(i)(B), or is classified as an association taxable as a corporation in accordance with an election under § 301.7701–3(c).

(iv) *Examples.* The following examples illustrate the rules of this paragraph (b)(3). For purposes of these examples, each partnership is required to file a return under section 6031(a):

Example 1. During the 2020 taxable year, Partnership has four equal partners. Two partners are individuals. One partner is a C corporation. The fourth partner, D, is a partnership. Because D is a partnership, D is not an eligible partner under paragraph (b)(3)(i) of this section. Accordingly, Partnership is not an eligible partnership under paragraph (b)(1) of this section and, therefore, cannot make the election under paragraph (a) of this section for its 2020 taxable year.

Example 2. During its 2020 taxable year, Partnership has four equal partners. Two partners are individuals. One partner is a C corporation. The fourth partner, S, is an S corporation. S has ten shareholders. One of S's shareholders is a disregarded entity, and one is a qualified small business trust. S is an eligible partner under paragraph (b)(3)(i) of this section even though S's shareholders would not be considered eligible partners if those shareholders held direct interests in Partnership. See paragraph (b)(3)(i) of this section. Accordingly, Partnership meets the requirements under this paragraph (b)(3) for its 2020 taxable year.

Example 3. During its 2020 taxable year, Partnership has two equal partners, A, an individual, and C, a disregarded entity, wholly owned by B, an individual. C is not an eligible partner under paragraph (b)(3)(i) of this section. Accordingly, Partnership is not an eligible partnership under paragraph (b)(1) of this section and, therefore, is ineligible to make the election under paragraph (a) of this section for its 2020 taxable year.

(c) *Election*—(1) *In general.* An election under this section must be made on the eligible partnership's timely filed return, including extensions, for the taxable year to which the election applies and include all information required by the Internal Revenue Service (IRS) in forms, instructions, or other guidance. An election is not valid unless the partnership discloses to the IRS all of the information required under paragraph (c)(2) of this section and, in the case of a partner that is an S corporation, the shareholders of such S corporation. An election once made may not be revoked without the consent of the IRS.

(2) *Disclosure of partner information to the IRS.* A partnership making an election under this section must disclose to the IRS information about each person that was a partner at any time during the taxable year of the partnership to which the election applies, including each partner's name and correct U.S. taxpayer identification number (TIN) (or alternative form of identification required by forms, instructions, or other guidance), each partner's Federal tax classification, an affirmative statement that the partner is an eligible partner under paragraph (b)(3)(i) of this section, and any other information required by the IRS in forms, instructions, or other guidance. If a partner is an S corporation, the partnership must also disclose to the IRS information about each shareholder of the S corporation that was a shareholder at any time during the taxable year of the S corporation ending with or within the partnership's taxable year, including each shareholder's name and correct TIN (or alternative form of identification as prescribed by forms, instructions, or other guidance), each shareholder's Federal tax classification, and any other information required by the IRS in forms, instructions, or other guidance.

(3) *Partner notification.* A partnership that makes an election under this section must notify each of its partners of the election within 30 days of making the election in the form and manner determined by the partnership.

(d) *Election made by a partnership that is a partner*–(1) *In general.* The fact that a partnership has made an election under this section does not affect whether the provisions of subchapter C of chapter 63 apply to any other partnership, including a partnership in which the partnership making the election is a partner. Accordingly, the provisions of subchapter C of chapter 63 that apply to partners in a partnership that has not made an election under this section apply, to the extent provided in the regulations under subchapter C of chapter 63, to partners (that are themselves partnerships that have made an election under this section) in their capacity as partners in the other partnership.

(2) *Examples.* The following examples illustrate the rules of paragraph (d)(1) of this section. For purposes of these

examples, each partnership is required to file a return under section 6031(a):

Example 1. During its 2020 taxable year, Partnership, a calendar year taxpayer, has two partners. One partner, A, is also a calendar year partnership. A files a valid election under this section with its timely filed partnership return for its 2020 taxable year. Partnership does not file an election under this section. Notwithstanding A's valid election under this section, with respect to A's interest in Partnership, A is subject to the rules applicable to partners in a partnership subject to the rules under subchapter C of chapter 63, including the consistency requirements of section 6222 and the regulations thereunder.

Example 2. The facts are the same as *Example 1* of this paragraph (d)(2). The IRS mails to Partnership a notice of final partnership adjustment under section 6231 with respect to Partnership's 2020 taxable year. Partnership timely elects the alternative to payment of imputed underpayment under section 6226 and the regulations thereunder. Partnership must provide A with a statement under section 6226 reflecting A's share of the adjustments for Partnership's 2020 taxable year. A is subject to the rules applicable to partners in a partnership subject to the rules under subchapter C of chapter 63 with respect to A's interest in Partnership.

(e) *Effect of an election*—(1) *In general.* An election made under this section is an action taken under subchapter C of chapter 63 by the partnership for purposes of section 6223. Accordingly, the partnership and all partners are bound by an election of the partnership under this section unless the IRS determines that the election is invalid. See § 301.6223–2 for the binding nature of actions taken by a partnership under subchapter C of chapter 63.

(2) *IRS determination that election is invalid.* If the IRS determines that an election under this section for a partnership taxable year is invalid, the IRS will notify the partnership in writing and the provisions of subchapter C of chapter 63 will apply to that partnership taxable year.

(f) *Applicability date.* These regulations are applicable to partnership taxable years beginning after December 31, 2017.

Kirsten Wielobob,

Deputy Commissioner for Services and Enforcement.

Approved: December 22, 2017.

David J. Kautter,

Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 2017–28398 Filed 12–29–17; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R02–OAR–2017–0013; FRL 9971–28–Region 2]

Approval and Revision of Air Quality Implementation Plans; State of New York; Regional Haze State and Federal Implementation Plans

Correction

In rule document 2017–25945 beginning on page 57126 in the issue of Monday December 4, 2017, make the following correction:

§ 52.1670 [Corrected]

■ In § 52.1670, on page 57130, in the table, beneath the column titled ''EPA approval date'', ''11/4/17'' should read ''12/4/17''.

[FR Doc. C1–2017–25945 Filed 12–29–17; 8:45 am]

BILLING CODE 1301–00–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[EPA–HQ–OPP–2015–0717; FRL–9970–03]

Phenylethyl acetate; Exemption From the Requirement of a Tolerance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes an exemption from the requirement of a tolerance for residues of phenylethyl acetate (CAS Reg. No. 103–45–7) when used as an inert ingredient (solvent) at a maximum of 0.015% in pesticide formulations applied to growing crops and raw agricultural commodities after harvest. Technology Science Group Inc., on behalf of Janeil Biosurfactant Company, submitted a petition to EPA under the Federal Food, Drug, and Cosmetic Act (FFDCA), requesting establishment of an exemption from the requirement of a tolerance.

DATES: This regulation is effective January 2, 2018. Objections and requests for hearings must be received on or before March 5, 2018, and must be filed in accordance with the instructions provided in 40 CFR part 178 (see also Unit I.C. of the **SUPPLEMENTARY INFORMATION**).

ADDRESSES: The docket for this action, identified by docket identification (ID) number EPA–HQ–OPP–2015–0717, is available at *http://www.regulations.gov* or at the Office of Pesticide Programs Regulatory Public Docket (OPP Docket) in the Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 3334, 1301 Constitution Ave. NW, Washington, DC 20460–0001. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPP Docket is (703) 305–5805. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

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

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

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

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

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

You may access a frequently updated electronic version of 40 CFR part 180 through the Government Printing Office's e-CFR site at *http://www.ecfr.gov/cgi-bin/text-idx?&c=ecfr&tpl=/ecfrbrowse/Title40/40tab_02.tpl.* To access the OCSPP test guidelines referenced in this document electronically, please go to *http://www.epa.gov/ocspp* and select ''Test Methods and Guidelines.''

C. How can I file an objection or hearing request?

Under FFDCA section 408(g), 21 U.S.C. 346a, any person may file an objection to any aspect of this regulation and may also request a hearing on those objections. You must file your objection or request a hearing on this regulation

in accordance with the instructions provided in 40 CFR part 178. To ensure proper receipt by EPA, you must identify docket ID number EPA–HQ–OPP–2015–0717 in the subject line on the first page of your submission. All objections and requests for a hearing must be in writing, and must be received by the Hearing Clerk on or before March 5, 2018. Addresses for mail and hand delivery of objections and hearing requests are provided in 40 CFR 178.25(b).

In addition to filing an objection or hearing request with the Hearing Clerk as described in 40 CFR part 178, please submit a copy of the filing (excluding any Confidential Business Information (CBI)) for inclusion in the public docket. Information not marked confidential pursuant to 40 CFR part 2 may be disclosed publicly by EPA without prior notice. Submit the non-CBI copy of your objection or hearing request, identified by docket ID number EPA–HQ–OPP–2015–0717, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be CBI or other information whose disclosure is restricted by statute.
- *Mail:* OPP Docket, Environmental Protection Agency Docket Center (EPA/DC), (28221T), 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

II. Petition for Exemption

In the **Federal Register** of November 23, 2015 (80 FR 72941) (FRL–9936–73), EPA issued a document pursuant to FFDCA section 408, 21 U.S.C. 346a, announcing the filing of a pesticide petition (PP IN–10888) by Technology Sciences Group Inc., on behalf of Jeneil Biosurfactant Company, 400 N. Dekora Woods Blvd., Saukville, WI 53080. The petition requested that 40 CFR 180.910 be amended by establishing an exemption from the requirement of a tolerance for residues of phenylethyl acetate (CAS Reg. No. 103–45–7) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest at a maximum concentration not to exceed 0.015% by weight of the pesticide formulation. That document referenced a summary of the petition prepared by Technology Sciences Group Inc., the petitioner, which is available in the docket, *http://www.regulations.gov.* There were no comments received in response to the notice of filing.

III. Inert Ingredient Definition

Inert ingredients are all ingredients that are not active ingredients as defined in 40 CFR 153.125 and include, but are not limited to, the following types of ingredients (except when they have a pesticidal efficacy of their own): Solvents such as alcohols and hydrocarbons; surfactants such as polyoxyethylene polymers and fatty acids; carriers such as clay and diatomaceous earth; thickeners such as carrageenan and modified cellulose; wetting, spreading, and dispersing agents; propellants in aerosol dispensers; microencapsulating agents; and emulsifiers. The term ''inert'' is not intended to imply nontoxicity; the ingredient may or may not be chemically active. Generally, EPA has exempted inert ingredients from the requirement of a tolerance based on the low toxicity of the individual inert ingredients.

IV. Aggregate Risk Assessment and Determination of Safety

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

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

Consistent with FFDCA section 408(c)(2)(A), and the factors specified in FFDCA section 408(c)(2)(B), EPA has reviewed the available scientific data and other relevant information in support of this action. EPA has sufficient data to assess the hazards of and to make a determination on aggregate exposure for phenylethyl acetate including exposure resulting from the exemption established by this action. EPA's assessment of exposures and risks associated with phenylethyl acetate follows.

A. Toxicological Profile

EPA has evaluated the available toxicity data and considered their validity, completeness, and reliability as well as the relationship of the results of the studies to human risk. EPA has also considered available information concerning the variability of the sensitivities of major identifiable subgroups of consumers, including infants and children. Specific information on the studies received and the nature of the adverse effects caused by phenylethyl acetate as well as the no-observed-adverse-effect-level (NOAEL) and the lowest-observed-adverse-effect-level (LOAEL) from the toxicity studies are discussed in this unit.

Phenylethyl acetate exhibits relatively low acute toxicity via the oral and dermal routes of exposure. Phenylethyl acetate has been reported to be moderately to severely irritating to the eyes of rabbits, but only mildly irritating to their skin and not dermally sensitizing to guinea pigs.

The toxicity database for phenylethyl acetate includes only one repeat dose toxicity study. In that study, a subchronic oral toxicity study via gavage, male rats received 73 mg/kg/day of phenylethyl acetate. There were no adverse effects seen at that dose, which was the only dose tested.

Studies of metabolism following oral ingestion suggests, phenylethyl acetate is rapidly absorbed, metabolized and

excreted in the urine. Phenylethyl alcohol, phenylacetic acid and acetic acid are the primary metabolites. Phenylethyl alcohol is successively oxidized to phenylacetaldehyde and phenylacetic acid *in vivo.* Phenylacetaldehyde is oxidized by inducible aldehyde dehydrogenases and cytosolic isoenzymes to phenylacetic acid. Phenylacetic acid undergoes species-specific conjugation with a variety of amino acids, amines, or glucuronic acid followed by excretion almost exclusively in the urine. All of these metabolites are all naturally occurring compounds and are normal constituents of the human body. No toxicological endpoint of concern has been identified for any of these phenylethyl acetate metabolites.

The Research Institute for Fragrance Materials, Inc. (RIFM) reported results of three Ames assays performed on phenylethyl acetate. Results of all three showed no significant increase in reverse mutations in *Salmonella typhimurium* strains TA98, TA100, TA1535, or TA1537 in the presence or absence of metabolic activation at concentrations up to 5000 µg/plate phenylethyl acetate.

No carcinogenicity studies were available in the database for phenylethyl acetate; however, a DEREK model showed no structural alerts for carcinogenicity, and the genotoxicity studies were negative.

No immunotoxicity studies were available in the database for phenylethyl acetate. However, phenylethyl acetate is readily metabolized to phenylethyl alcohol, phenylacetic acid and acetic acid which are all naturally occurring compounds and are normal constituents of the human body. No toxicological endpoint of concern has been identified for any of these phenylethyl acetate metabolites.

No neurotoxicity studies were available in the database for phenylethyl acetate. However, cholinesterase activity was not affected nor was there systemic toxicity in a study in rats treated via gavage with 73 mg/kg/day phenylethyl acetate for 140 days. Additionally, the chronic reference dose (cRfD) is based on this study and any potential neurotoxic effects will be protected.

B. Toxicological Points of Departure/ Levels of Concern

Phenylethyl acetate is readily metabolized to phenylethyl alcohol, phenylacetic acid and acetic acid which are all naturally occurring compounds and are normal constituents of the human body. No toxicological endpoint of concern has been identified for any of these phenylethyl acetate metabolites. For purposes of conducting a risk assessment in support of this action, a highly conservative toxicological point of departure of 73 mg/kg/day for all nonacute exposure durations and routes of exposure was selected for phenylethyl acetate based on the NOAEL from the subchronic rat oral toxicity study. A chronic population adjusted dose (cPAD) of 0.73 mg/kg/day was derived based on the use of the POD and 10X inter- and intraspecies uncertainty factors and an FQPA Safety Factor of 1X.

C. Exposure Assessment

1. *Dietary exposure from food and feed uses.* In evaluating dietary exposure to phenylethyl acetate, EPA considered exposure under the proposed exemption from the requirement of a tolerance. EPA assessed dietary exposures from phenylethyl acetate in food as follows:

i. *Acute Exposure.* Quantitative acute dietary exposure and risk assessments are performed for a food-use pesticide chemical, if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1-day or single exposure. No such effects were identified in the toxicological studies for phenylethyl acetate; therefore, a quantitative acute dietary exposure assessment is unnecessary.

ii. *Chronic exposure.* The chronic dietary exposure assessment for this inert ingredient utilizes the Dietary Exposure Evaluation Model Food Commodity Intake Database (DEEM–FCID), Version 3.16, EPA, which includes food consumption information from the U.S. Department of Agriculture's National Health and Nutrition Examination Survey, ''What We Eat In America'', (NHANES/ WWEIA). This dietary survey was conducted from 2003 to 2008. In the absence of actual residue data, the inert ingredient evaluation is based on a highly conservative model which assumes that the residue level of the inert ingredient would be no higher than the highest established tolerance for an active ingredient on a given commodity. Implicit in this assumption is that there would be similar rates of degradation between the active and inert ingredient (if any) and that the concentration of inert ingredient in the scenarios leading to these highest of tolerances would be no higher than the concentration of the active ingredient. The model assumes 100 percent crop treated (PCT) for all crops and that every food eaten by a person each day has tolerance-level residues. A complete description of the general approach taken to assess inert ingredient risks in the absence of residue data is contained in the memorandum entitled ''Alkyl Amines Polyalkoxylates (Cluster 4): Acute and Chronic Aggregate (Food and Drinking Water) Dietary Exposure and Risk Assessments for the Inerts.'' (D361707, S. Piper, 2/25/09) and can be found at *http://www.regulations.gov* in docket ID number EPA–HQ–OPP–2008–0738. In the case of phenylethyl acetate, an adjustment to the dietary exposure analysis was made to account for the use at a maximum concentration of 0.015% in pesticide formulations. As part of the aggregate exposure assessment, dietary exposures to phenylethyl acetate resulting from its use as a food flavoring agent are also included in the assessment.

2. *Dietary exposure from drinking water.* For the purpose of the screening level dietary risk assessment to support this request for an exemption from the requirement of a tolerance for phenylethyl acetate, a conservative drinking water concentration value of 100 ppb based on screening level modeling was used to assess the contribution to drinking water for the chronic dietary risk assessments for parent compound. These values were directly entered into the dietary exposure model.

3. *From non-dietary exposure.* The term ''residential exposure'' is used in this document to refer to non-occupational, non-dietary exposure (*e.g.,* textiles (clothing and diapers), carpets, swimming pools, and hard surface disinfection on walls, floors, tables).

Phenylethyl acetate may be used as inert ingredient in pesticide products that are registered for specific uses that may result in indoor or outdoor residential exposures. A screening-level residential exposure and risk assessment was completed utilizing conservative residential exposure assumptions. The Agency assessed short- and intermediate-term dermal and inhalation exposures for residential handlers that would result from low pressure handwand, hose end sprayer and trigger sprayer for outdoor scenarios of each pesticide type (herbicide, insecticide and fungicide) and mopping, wiping and aerosol sprays for indoor scenarios. The Agency assessed post-application short-term dermal exposure for children and adults as well as short-term hand-to-mouth exposure for children from contact with treated lawns.

Residential exposures to phenylethyl acetate may also occur as a result of its use as a fragrance component. Estimates of these exposures are included in the

aggregate exposure assessment of phenylethyl acetate.

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

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

D. Safety Factor for Infants and Children

Section 408(b)(2)(C) of FFDCA provides that EPA shall apply an additional tenfold (10X) margin of safety for infants and children in the case of threshold effects to account for prenatal and postnatal toxicity and the completeness of the database on toxicity and exposure unless EPA determines based on reliable data that a different margin of safety will be safe for infants and children. This additional margin of safety is commonly referred to as the FQPA Safety Factor (SF). In applying this provision, EPA either retains the default value of 10X, or uses a different additional safety factor when reliable data available to EPA support the choice of a different factor.

As part of its assessment, EPA evaluated the available toxicity, metabolism and exposure data on phenylethyl acetate and considered its validity, completeness, and reliability, as well as the relationship of this information to human risk. No hazard was identified based on the available studies. EPA has identified no residual uncertainty with regard to prenatal and postnatal toxicity or exposure to phenylethyl acetate; therefore, EPA concludes that no additional margin of exposure (safety) is necessary for the protection of infants and children.

E. Aggregate Risks and Determination of Safety

Taking into consideration all available information on phenylethyl acetate, EPA has determined that there is a reasonable certainty that no harm to any population subgroup will result from aggregate exposure to phenylethyl acetate under reasonable foreseeable circumstances. Therefore, the establishment of an exemption from tolerance under 40 CFR 180. 910 for residues of phenylethyl acetate when used as an inert ingredient in pesticide formulations applied on growing crops and raw agricultural commodities after harvest at a maximum of 0.015% in the pesticide formulation, is safe under FFDCA section 408.

1. *Acute risk.* An acute aggregate risk assessment takes into account acute exposure estimates from dietary consumption of food and drinking water. No adverse effect resulting from a single oral exposure was identified and no acute dietary endpoint was selected. Therefore, phenylethyl acetate is not expected to pose an acute risk.

2. *Chronic risk.* Using the exposure assumptions described in this unit for chronic exposure, EPA has concluded that chronic exposure to phenylethyl acetate from food and water will utilize <0.01% of the cPAD for children 1–2 years old, the population group receiving the greatest exposure.

3. *Short-, intermediate- and long-term risk.* Short-, intermediate- and long-term aggregate exposure takes into account short-, intermediate- and long-term residential exposure plus chronic exposure to food and water (considered to be a background exposure level).

Phenylethyl acetate is currently used as an inert ingredient in pesticide products that are registered for uses that could result in short- and intermediate-term residential exposure, and there are other, non-pesticidal residential uses of phenylethyl acetate that could result in long-term residential exposures; the Agency has determined that it is appropriate to aggregate chronic exposure through food and water with short-, intermediate- and long-term term residential exposures to phenylethyl acetate.

Using the exposure assumptions described in this unit for short-term exposures, EPA has concluded the combined respective short-, intermediate- and long-term term food, water, and residential exposures result in aggregate margin of exposures (MOE) of 560 for adults and 19,000 for children. Because EPA's level of concern for phenylethyl acetate is a MOE of 100 or below, these MOEs are not of concern.

4. *Aggregate cancer risk for U.S. population.* Based on the discussion in Unit IV.A., phenylethyl acetate is not expected to pose a cancer risk.

5. *Determination of safety.* Based on these risk assessments, EPA concludes that there is a reasonable certainty that no harm will result to the general population, or to infants and children from aggregate exposure to phenylethyl acetate residues.

V. Analytical Enforcement Methodology

Although EPA is establishing a limitation on the amount of phenylethyl acetate that may be used in pesticide formulations, an analytical enforcement methodology is not necessary for this exemption. The limitation will be enforced through the pesticide registration process under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. 136 *et seq.* EPA will not register any pesticide for sale or distribution for use on growing crops with concentrations of phenylethyl acetate exceeding 0.015% by weight of the formulation.

VI. Conclusions

Therefore, an exemption from the requirement of a tolerance is established under 40 CFR 180.910 for phenylethyl acetate (CAS Reg. No. 103–45–7) when used as an inert ingredient (solvent) in pesticide formulations applied to growing crops and raw agricultural commodities after harvest at a maximum of 0.015% in the pesticide formulation.

VII. Statutory and Executive Order Reviews

This action establishes an exemption from the requirement of a tolerance under FFDCA section 408(d) in response to a petition submitted to the Agency. The Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled ''Regulatory Planning and Review'' (58 FR 51735, October 4, 1993). Because this action has been exempted from review under Executive Order 12866, this action is not subject to Executive Order 13211, entitled ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) or Executive Order 13045, entitled ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997). This action does not contain any information collections subject to OMB approval under the Paperwork Reduction Act (PRA) (44

U.S.C. 3501 *et seq.*), nor does it require any special considerations under Executive Order 12898, entitled ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations'' (59 FR 7629, February 16, 1994).

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

This action directly regulates growers, food processors, food handlers, and food retailers, not States or tribes, nor does this action alter the relationships or distribution of power and responsibilities established by Congress in the preemption provisions of FFDCA section 408(n)(4). As such, the Agency has determined that this action will not have a substantial direct effect on States or tribal governments, on the relationship between the national government and the States or tribal governments, or on the distribution of power and responsibilities among the various levels of government or between the Federal Government and Indian tribes. Thus, the Agency has determined that Executive Order 13132, entitled ''Federalism'' (64 FR 43255, August 10, 1999) and Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000) do not apply to this action. In addition, this action does not impose any enforceable duty or contain any unfunded mandate as described under Title II of the Unfunded Mandates Reform Act (UMRA) (2 U.S.C. 1501 *et seq.*).

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

VIII. Congressional Review Act

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

List of Subjects in 40 CFR Part 180

Environmental protection, Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: December 12, 2017.

Michael Goodis,

Director, Registration Division, Office of Pesticide Programs.

Therefore, 40 CFR chapter I is amended as follows:

PART 180—[AMENDED]

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

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

■ 2. In § 180.910, add alphabetically the inert ingredient to the table to read as follows:

§ 180.910 Inert ingredients used pre- and post-harvest; exemption from the requirement of a tolerance.

* * * * *

Inert ingredients	Limits	Uses
* * *	* * *	*
Phenylethyl acetate (CAS Reg. No. 103–45–7)	Not to exceed 0.015% in pesticide formulation.	Solvent.
* * *	* * *	*

[FR Doc. 2017–28317 Filed 12–29–17; 8:45 am]
BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 1, 2, 15, 25, 30, and 101

[GN Docket No. 14–177, IB Docket Nos. 15–256 and 97–95, WT Docket No. 10–112; FCC 17–152]

Use of Spectrum Bands Above 24 GHz for Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) adopts rules for specific millimeter wave bands above 24 GHz. A Proposed Rule document for the *Second Further Notice of Proposed Rulemaking* (*Second FNPRM*) related to this *Second Report and Order* is published in this issue of the **Federal Register**.

DATES: Effective February 1, 2018, except for § 25.136, which contain information collection requirements that are not effective until approved by the Office of Management and Budget. The Commission will publish a document in the **Federal Register** announcing the effective date for the section. Changes to the secondary market threshold for millimeter wave spectrum, detailed in **SUPPLEMENTARY INFORMATION**, apply as of January 2, 2018.

FOR FURTHER INFORMATION CONTACT: John Schauble of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418–0797 or *John.Schauble@fcc.gov,* Michael Ha of the Office of Engineering and Technology, Policy and Rules Division, at 202–418–2099 or *Michael.Ha@fcc.gov,* or Jose Albuquerque of the International Bureau, Satellite Division, at 202–418–2288 or *Jose.Albuquerque@fcc.gov.* For information regarding the PRA information collection requirements contained in this PRA, contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Second Report and Order (*Second R&O*), Order on Reconsideration, and Memorandum Opinion and Order, GN Docket No. 14–177, FCC 17–152, adopted on November 16, 2017 and released on November 22, 2017. The complete text of this document is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is available on the Commission's website at *http://wireless.fcc.gov,* or by using the search function on the ECFS web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs

Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Supplemental Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (*NPRM)* released in October 2015 in this proceeding. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Report and Order and Further Notice of Proposed Rulemaking (R&O/FNPRM)* released in July 2016 in this proceeding. The Commission sought written public comment on the proposals in *NPRM,* including comments on the IRFA. No comments were filed addressing the IRFA. This present Supplemental Final Regulatory Flexibility Analysis (Supplemental FRFA) supplements the FRFA in the *R&O/FNPRM* and conforms to the RFA.

Congressional Review Act

The Commission will send a copy of this Report and Order in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act (CRA), see 5 U.S.C. 801(a)(1)(A).

Synopsis

I. Second Report and Order

1. The Commission will take further actions in this proceeding to make available millimeter wave (mmW) spectrum, at or above 24 GHz, for fifth-generation (5G) wireless, Internet of Things (IoT), and other advanced spectrum-based services. In doing so, the Commission helps ensure continued American leadership in wireless broadband, which represents a critical component of economic growth, job creation, public safety, and global competitiveness.

2. In particular, the Commission makes available an additional 1700 megahertz of mmW spectrum for flexible wireless use, in the 24.25–24.45 and 24.75–25.25 GHz band (24 GHz band) and the 47.2–48.2 GHz band. When added to the mmW spectrum already made available for flexible wireless use in the 27.5–28.35 GHz (28 GHz), 37–38.6 GHz (37 GHz), 38.6–40 GHz (39 GHz band), and 64–71 GHz bands, the Commission has now made available approximately 13 gigahertz of mmW spectrum in this proceeding, and it will continue to evaluate additional mmW bands in this proceeding and in a separate proceeding on bands above 95 GHz.

3. At the same time, the Commission adopts rules that will allow the mmW bands to be shared with a variety of other uses, including satellite, fixed, and Federal government uses. Specifically, the Commission targets the 40–42 GHz and 48.2–50.2 GHz bands for expansion of Fixed Satellite Service (FSS), and it adjusts previously adopted earth station requirements in the 28 GHz and 39 GHz bands to permit greater satellite flexibility, particularly in rural areas. The Commission also preserves the 70 and 80 GHz bands for traditional and innovative fixed wireless uses, which it will continue to explore in a separate proceeding. In addition, the Commission allows for expanded unlicensed use of the 57–71 GHz band on-board aircraft.

4. In addition, the Commission reconsiders several mmW band service rules previously adopted in this proceeding to ensure that it maximize flexibility and encourage innovation in the mmW bands. For example, the Commission proposes to eliminate the *ex ante* auction limit on spectrum holdings in the 28, 37, and 39 GHz bands, consistent with its decision not to adopt an *ex ante* auction limit for the 24 GHz and 47.2–48.2 GHz bands. Further, the Commission concludes that it would serve the public interest to rescind the previously adopted cybersecurity reporting requirements, and instead to seek input through the Communications Security, Reliability, and Interoperability Council (CSRIC) process.

5. The Commission also affirms a number of the decisions previously made in this proceeding to provide certainty so that licensees can continue to invest in networks that provide high speed and low latency services available to consumers and businesses. The Commission notes that major carriers and smaller operators are beginning to develop the mmW frequencies' potential for low-cost wireless equivalents of fiber to homes and small businesses.

6. The Commission believes that it is important to move forward as quickly as possible to auction the non-Federal, exclusive use mmW spectrum made available by this proceeding, to bring the benefits of new broadband services to American consumers. The Commission notes that the Communications Act requires upfront auction payments to be deposited in an interest-bearing account, but no financial institution is willing to accommodate the holding of upfront payments for a large spectrum auction currently. Accordingly, the Commission is unable to hold a large spectrum auction until this is resolved, and it cannot commit to a timeframe for a future auction of the mmW frequencies at this time.

7. The Commission's efforts in this proceeding to make mmW spectrum for wireless broadband available are part of the its broader initiative to make available additional spectrum for wireless broadband across a range of frequencies. For example, 65 megahertz of AWS–3 spectrum was won at auction in 2015, while 70 megahertz of 600 MHz spectrum was won in the recently concluded broadcast television incentive auction. Earlier this year, the Commission sought input on potential opportunities in spectrum bands between 3.7 GHz and 24 GHz. The Commission will continue these efforts to facilitate access to low-band, mid-band, and high-band spectrum for the benefit of American consumers.

II. Background

8. Recent technological advances have unlocked the potential of mmW frequencies to support fixed and mobile wireless services that need flexible access to spectrum. While mmW bands feature short transmission paths and high propagation losses, those features can be useful in developing high-capacity networks because cells can be placed close to each other without causing interference to each other. In addition, where longer paths are desired, the extremely short wavelengths of mmW signals make it feasible for very small antennas to concentrate signals into highly focused beams with enough gain to overcome propagation losses. The short wavelengths of mmW signals also make it possible to build multi-element, dynamic beam-forming antennas that will be small enough to fit into handsets—a feat that might not be possible at the lower, longer, wavelength frequencies below 6 GHz where cell phones operate.

9. On July 14, 2016, the Commission adopted and released the *Report and Order (R&O) and Further Notice of Proposed Rulemaking (FNPRM)* in this proceeding. *See* 81 FR 58270. The *R&O* made mmW spectrum available through both licensed and unlicensed mechanisms. The Commission created a new Upper Microwave Flexible Use Service (UMFUS), which authorized both fixed and mobile operations in the 28 GHz and 39 GHz bands using geographic area licensing. In the 28 GHz band, the Commission adopted county-sized geographic area licenses. In the 39 GHz band, it adopted Partial Economic Area (PEA) licenses. The Commission also adopted geographic area licensing using PEAs for the 37.6–38.6 GHz band.

In the 37–37.6 GHz band, it established coordinated co-primary shared access between Federal and non-Federal users. The Commission also protected a limited number of Federal military sites across the full 37 GHz band and maintained the existing Federal fixed and mobile allocations throughout the band. In the 64–71 GHz band, the Commission authorized unlicensed operations under part 15 based on the rules for the adjacent 57–64 GHz band. This action provided more spectrum for unlicensed uses such as Wi-Fi-like ''WiGig'' operations and short-range devices for interactive motion sensing.

10. In the *R&O,* the Commission also established licensing and operating rules for the UMFUS. It granted mobile operating rights to existing Local Multipoint Distribution Service (LMDS) and 39 GHz band licensees, while subdividing their existing licenses to either the county or PEA level. The Commission revised the 39 GHz band plan to provide licensees with wider blocks of contiguous spectrum, and established a mechanism for existing licensees to transition to the new band plan. It adopted service and technical rules designed to facilitate full and complete use of the bands, including an operability requirement for equipment. It adopted spectrum holdings policies for the 28 GHz, 37 GHz, and 39 GHz bands that apply to licenses acquired through auctions and the secondary market. The Commission also adopted performance requirements for mobile, point-to-multipoint, and fixed uses. The Commission adopted a requirement that UMFUS licensees submit a statement describing their security plans and related information prior to commencing operations. Finally, it deleted the broadcasting and broadcasting-satellite service allocations from the 42–42.5 GHz band (42 GHz band) and declined to allocate the band to the FSS (space-to-Earth).

11. The *FNPRM* sought comment on authorizing fixed and mobile use of the following bands: 24.25–24.45 GHz together with 24.75–25.25 GHz (24 GHz band), 31.8–33 GHz (32 GHz band), 42–42.5 GHz (42 GHz band), the 47.2–50.2 GHz (47 GHz band), 50.4–52.6 GHz (50 GHz band), and the 71–76 GHz band together with the 81–86 GHz bands (70/80 GHz bands). The Commission also sought comment on use of bands above 95 GHz. The Commission notes that it is seeking further comment on bands above 95 GHz in a separate Further Notice. It sought comment on the details of the sharing framework adopted for the 37–37.6 GHz band, both among non-Federal operators and with the Federal government. It also sought comment on circumstances under which Federal government users could gain coordinated access to spectrum in the 37.6–38.6 GHz band (in addition to the protected sites) in the future.

12. The *FNPRM* also sought comment on possible changes to the licensing and technical rules. The Commission sought comment on establishing performance requirements for innovative uses associated with the IoT such as machine-to-machine communications, healthcare devices, autonomous driving cars, and home and office automation. It also sought comment on adding a use-or-share obligation to its performance requirements. It asked questions about supplementing the spectrum holdings policies adopted in the *R&O,* and on applying spectrum holdings policies as new ''frontier'' spectrum bands become available. The Commission also sought comment on whether it would be possible for satellites in the 37.5–40 GHz band to radiate a higher power flux density (PFD) without harming terrestrial operations and to allow user terminals to receive transmissions in the band. The *FNPRM* also included questions about the feasibility and desirability of a digital station identification requirement for UMFUS licensees. Comment was also sought on various refinements to the UMFUS technical rules, including (1) whether antenna height limits are necessary, (2) how to apply power limits to bandwidths less than 100 megahertz, (3) whether to modify the coordination criteria for fixed point-to-point operations at market borders, and (4) the state of development of mmW band propagation models. Finally, the Commission asked whether it was possible to allow part 15 operation on-board aircraft in the 57–71 GHz band.

13. Petitions for reconsideration of the *R&O* were due on December 14, 2016. The Commission received thirteen petitions for reconsideration.

14. Comments on the *FNPRM* were due September 30, 2016, and reply comments were due October 31, 2016. The Commission received 57 comments and 38 reply comments. The Commission received many comments expressing concerns about radiofrequency (RF) electromagnetic field exposure and health in GN Docket No. 14–177. The Commission declines to consider the merits of these comments here for three reasons. First, the Commission already decided in the *Report and Order* that consideration of alternative exposure limits is beyond the scope of this proceeding, and no party sought reconsideration of that determination. *See* 81 FR 79894. Second, the comments do not otherwise address the other technical issues that are properly the subject of this decision (*e.g.,* those raised in the *FNPRM*). Third, the Commission has an ongoing review of the Commission basic exposure limits and RF and health issues in ET Docket No. 13–84. *See Reassessment of Federal Communications Commission Radiofrequency Exposure Limits and Policies,* Notice of Inquiry, ET Docket No. 13–84, 28 FCC Rcd 3498, 3570 (2013). The Commission has therefore added those comments to ET Docket No. 13–84, and those comments will be considered part of the record in that proceeding.

A. Additional Bands

15. The Commission will not act on the 32 GHz, 42 GHz, or 50 GHz bands at this time. The Commission also will not act on petitions for reconsideration or issues raised in the FNPRM relating specifically to the 37–38.6 GHz band (37 GHz band) or the operability requirement adopted by the Commission. The record on these bands and issues remains open, and the Commission will act on those bands and issues in a future phase of this proceeding.

1. 24 GHz Bands (24.25–24.45 GHz and 24.75–25.25 GHz)

16. In view of the extensive support in the record, and the Commission's analysis, the Commission finds 24 GHz suitable for mobile and flexible use, and therefore add the proposed mobile and fixed allocations. As explained in further detail below, the Commission finds that issuing flexible use licenses that authorize both fixed and mobile use will address its prior concerns about compatibility between fixed and mobile use. The Commission also concludes, as discussed below, that mobile and Broadcasting Satellite Service (BSS) feeder links can coexist. The Commission also notes that these frequencies are part of the bands being studied internationally for mobile use. After these changes, 24.25–24.45 GHz will be allocated for non-Federal Fixed and Mobile services on a co-primary basis, and 24.75–25.25 GHz will be allocated for non-Federal Fixed, Mobile, and FSS on a co-primary basis, subject to the existing footnote. CORF and Echodyne do not generally oppose mobile use in the specific frequencies the Commission acts on. Nevertheless, acknowledging specific CORF concerns, the Commission notes that ongoing international studies include analyses to determine IMT–2020 out-of-band (OOB) emission limits necessary to protect passive sensors onboard weather satellites in the 23.6–24.0 GHz band.

The Commission recognizes the need to protect these passive satellite operations that provide important data necessary for weather predictions and warnings. Once the international studies have been completed, interested parties may propose revisions to the Commission's rules as necessary for protection of weather satellites operating in the 23.6–24.0 GHz band. The Commission also rejects CCA's suggestion that it holds back new bands until further mmW development has occurred. The Commission's priority is making spectrum available quickly so that it can be utilized by potential users, technology developers, and innovators. Given the present demand for both mobile and mmW spectrum, the Commission sees no reason to artificially delay this process.

a. Licensing the 24 GHz Band—Use of Geographic Area Licensing

17. The Commission adopts the proposal in the *FNPRM* to implement geographic area licensing throughout the 24 GHz band, by adding both the upper and lower segments to UMFUS. Geographic area licensing will provide licensees with the flexibility to provide a variety of services, will expedite deployment, and will be consistent with the existing licensing scheme in previously-adopted mmW bands. In addition, adding the 24 GHz band to UMFUS will speed development and deployment by harmonizing the Commission's requirements with the nearby 28 GHz band. As part of UMFUS, the 24 GHz band will be subject to the rules established for UMFUS both here and in the *R&O* regarding construction requirements, geographic partitioning and spectrum disaggregation, discontinuance of service, and license term.

18. The Commission will adopt PEAs as the license area size for UMFUS licenses in the 24 GHz band. The Commission's goal is to harmonize the regulatory environment of the various mmW bands as much as possible, in order to encourage and streamline development of equipment and deployment of services in these bands. Using PEAs as the license area is consistent with the Commission's existing rules for the 39 GHz band. In contrast, in the 28 GHz band, there were special circumstances involving incumbent licenses that supported the use of counties. In addition, PEAs provide a balance between the larger areas that might encourage more investment, and the smaller areas that more efficiently accommodate mmW propagation characteristics. To the extent licensees are interested in smaller areas, partitioning is an available option.

19. The Commission declines to adopt a part 96-style or SAS-based framework for the band. Unlike the 3.5 GHz band, with its complex incumbent coordination considerations, this band does not require the functionality of a SAS to enable or enhance meaningful spectrum use. There is also a benefit to harmonizing the regulatory environment of nearby bands as much as possible. Adopting the same licensing scheme in 24 GHz as the Commission previously implemented in 28 GHz would facilitate deployment by making it easier to incorporate spectrum from both bands into the same network. In short, implementing a SAS-based system in the 24 GHz band presents clear challenges and is of questionable benefit, and the Commission therefore declines to do so.

20. Similarly, the Commission declines to adopt the proposals of Microsoft to authorize unlicensed use in 24 GHz. The 24 GHz band is near other licensed bands, and the band is being studied internationally for mobile use. Changing to unlicensed use could delay development and deployment significantly. In addition, the Commission has already made a further seven gigahertz of spectrum available for use by unlicensed devices in the 64–71 GHz band, and it is not convinced that additional unlicensed spectrum is needed in the mmW bands at this time.

b. Band Plan

21. The Commission will license the 24 GHz band as 100 megahertz channels. The lower segment (24.25–24.45 GHz) will be licensed as two 100 megahertz channels, and the upper segment (24.75–25.25) will be licensed as five 100 megahertz channels. The Commission notes in response to Cambridge Broadband that this arrangement will not foreclose FDD use of this band.

22. This band plan allows for standardized channels across the band, at a size consistent with developing industry standards. This arrangement will maximize efficiency of spectrum use, especially in the upper segment. It also offers an alternative to the 200 megahertz and 425 megahertz channel widths offered elsewhere in the UMFUS bands. This variety of channel sizes will help to facilitate a variety of uses in the UMFUS bands, consistent with the Commission's intent to support various innovative services. The Commission notes that the 100-megahertz channel size will still allow licensees to aggregate to larger channels if they prefer 200 megahertz blocks.

c. Satellite Sharing in the Upper Segment of the 24 GHz Band

23. The Commission declines to make any changes to the current rules for earth station siting at this time. The record on these points is not sufficiently developed or cohesive to indicate the best approach. Instead, the Commission seeks further comment on this issue in the *FNPRM,* published elsewhere in this issue of the **Federal Register**, in connection with a proposal to allow wider FSS use of the band for earth stations.

24. In the interim, satellite operators may continue to apply for and deploy any earth station facilities consistent with the Commission's current rules. This means that new BSS feeder link earth stations may be authorized across the entire upper segment (24.75–25.25 GHz), while non-BSS FSS earth stations may be authorized in the 24.75–25.05 GHz portion. All earth stations either authorized or for which applications have been filed as of the release date of this *Second R&O* will be grandfathered into the eventual sharing regime on a co-primary basis. Earth stations whose applications are filed after release of this *Order* may be processed subject to compliance with any rules the Commission adopts as a result of the proposals in the *Second FNPRM.* It is the Commission's intention to finalize sharing rules prior to any auction of terrestrial licenses in this band.

d. Mobile Rights for Incumbents

25. The Commission will convert existing licenses in the 24 GHz band to UMFUS. This is consistent with the Commission's treatment of incumbents in the 28 GHz and 39 GHz bands, and will allow already-licensed spectrum to be developed for mobile or flexible use as soon as possible.

26. Converting existing licenses to UMFUS will also subject incumbent licensees to the performance requirements applicable to part 30. Consistent with the treatment of 28 GHz and 39 GHz licensees, the Commission will apply the part 30 buildout requirements at the next license renewal, but allow incumbents with renewals in the near future additional time to meet those standards. Specifically, licensees whose license terms end between the date of publication of this order in the **Federal Register**, and June 1, 2024, will have until that later date to demonstrate fulfillment of the part 30 buildout requirements. This approach will allow current licensees to focus on growing and transitioning their networks in line with new and developing industry

standards, which will support earlier and more robust deployment of next-generation services in these bands.

2. 47.2–48.2 GHz Band

27. In the *FNPRM,* the Commission proposed to authorize fixed and mobile operations in the entire 47 GHz band under the part 30 UMFUS rules. The 47 GHz band potentially offers 3 gigahertz of spectrum and is being studied internationally for possible mobile use. As discussed below, the Commission is not establishing terrestrial service rules in the 48.2–50.2 GHz band, and that band will be discussed below in the *MO&O.*

a. Suitability for Mobile Service

28. The Commission will establish UMFUS service rules in the 47.2–48.2 GHz band, as discussed below, and the Commission will issue UMFUS licenses in that band with both fixed and mobile rights. The Commission will address the 48.2–50.2 GHz band below in the *MO&O.* The 47.2–48.2 GHz band has existing fixed and mobile allocations, and there are no Federal allocations in this band. The Commission also believes that the significant amount of bandwidth available in this band will help to accommodate the expected continued increase in demand for mobile data. Commenters, including incumbent terrestrial licensees and the Satellite Broadband Operators in their joint *ex parte,* support mobile operations in the 47.2–48.2 GHz band. The Commission acknowledges Microsoft's concern about sharing between mobile operations and HAPS stations, but since there is no HAPS designation for this band in the domestic Table of Allocations, the Commission sees no reason to delay issuing UMFUS rules for this band. The Commission will continue to monitor ITU developments concerning HAPS.

b. Licensing the 47.2–48.2 GHz Band

29. The Commission will license the 47.2–48.2 GHz band using geographic area licensing using PEAs, because it finds that use of this license mechanism will facilitate access to spectrum and rapid deployment of service in the band. Given that this band does not involve sharing among multiple classes of primary users, the Commission concludes that it is not necessary to develop the functionality of an SAS for this band.'' Given the record, now is the appropriate time to move forward with making an additional one gigahertz of spectrum available, allowing CCA members and others to accommodate a wide variety of innovative use cases for the 47.2–48.2 GHz band. As Samsung suggests, licensing the 47.2–48.2 GHz spectrum using geographic area licensing with PEAs is consistent with license areas for the 39 GHz band and the upper segment in the 37 GHz band. Licensing the 47.2–48.2 GHz band on a PEA basis strikes an appropriate balance between facilitating access to spectrum by both large and small providers and simplifying frequency coordination, while incentivizing investment in, and rapid deployment of, new technologies. The Commission believes PEAs are more appropriate than larger geographic areas because of the limited propagation range of this band. Geographic area licensing will provide users with flexible, exclusive use licenses.

c. Non-Federal Satellite Terrestrial Sharing—Licensing of Gateway Earth Stations

30. The record demonstrates that individually licensed earth stations in the 47.2–48.2 GHz band can share the band with minimal impact on terrestrial operations. The Commission notes that there are similarities between the 28 GHz band and the 47.2–48.2 GHz band, both of which will be used for Earth-to-space transmissions. Therefore, the Commission finds that it is in the public interest to add the 47.2–48.2 GHz band to § 25.136(d) of the Commission's rules, which allows for sharing between terrestrial operations and FSS earth stations in uplink bands. Under that rule a limited number (three in each county, up to a maximum of 15 in each PEA) of FSS earth stations will be permitted to deploy under similar conditions as in the 28 GHz band without having to protect UMFUS stations. The Commission is also adopting a U.S. Table of Allocations footnote specifying the relative interference protection obligations of FSS and UMFUS stations in this band.

31. The Commission declines to provide any mechanism for satellite user equipment in this band. Boeing has not provided any engineering studies to support its claim that it needs access to the full 47 GHz band for user equipment. In contrast, most other satellite operators believe that use of 47.2–48.2 GHz by individually licensed earth stations would be sufficient. As noted below, the Commission is not adopting UMFUS rules for 48.2–50.2 GHz, so satellite user devices will have 2 by 2 gigahertz of spectrum available for satellite end user devices.

32. In addition, the Commission recognizes that concerns regarding aggregate interference to satellite receivers from UMFUS operations in the 28 GHz band also could apply in the context of the 47 GHz band, which similarly is an uplink band for satellites. Consistent with the long-term designation of the 47 GHz band for terrestrial use, the Commission intends that this band will remain predominantly a terrestrial band. UMFUS licensees will be permitted to operate in conformance with the technical rules contained in 47 CFR part 30, and FSS licensees should expect to have to coexist with these operations. Unlike the 28 GHz band, where there are currently operational satellites, satellites receiving in the 47 GHz band are either currently being designed or still to be designed. As in the context of the 28 GHz band, the Commission encourages both industries to continue working cooperatively on coexistence in this band. Parties should submit any relevant data demonstrating changes in the amount of aggregate interference as UMFUS services are deployed in the docket the International Bureau, the Office of Engineering and Technology, and the Wireless Telecommunications Bureau have jointly established regarding aggregate interference in the 28 GHz band.

d. Band Plan

33. The Commission will license the 47.2–48.2 GHz band as five 200 megahertz blocks. The Commission believes that 200 megahertz channels will be sufficient for a licensee to provide the type of high rate data services and other innovative uses and applications contemplated for this spectrum. Several carriers support dividing the band into multiple blocks. Since the Commission is making one gigahertz available at this time, establishing five 200 megahertz channels represents a reasonable balance of channel size and number of channels. To the extent that licensees are interested in having a contiguous block of one gigahertz of spectrum, they are free to acquire all five licenses, subject to compliance with the Commission's spectrum aggregation policies.

B. Performance Requirements—Additional Metrics

34. The Commission declines to adopt usage-based metrics at this time. The Commission agrees with commenters that it is premature to predict the uses of innovative, IoT-type services with sufficient specificity to calculate a meaningful usage-based metric. Though IoT-type services nonetheless are required to meet the UMFUS buildout rules, the Commission acknowledges that some IoT-type services may have difficulty meeting the population-based metrics that the Commission adopted

for fixed and mobile services. In that regard, in the *Second FNPRM,* published elsewhere in this issue of the **Federal Register**, the Commission proposes a more traditional, geographic area coverage metric for fixed and mobile services that is intended to provide a more viable option for IoT-type services to demonstrate performance, without the complications of predicting usage.

35. In addition, the Commission recognizes the possibility that, rather than facing challenges in meeting the buildout metrics for fixed and mobile services, certain IoT-type services may be able to avoid meaningful buildout by taking advantage of a potential loophole in the buildout rules for mmW services. In order to allow licensees as much flexibility as possible to design and construct their networks, these rules have not placed any limits on what types of licensees or services must use which performance metric. However, in the case of IoT-type services, including networks of sensors and ''smart'' devices, a licensee using the buildout metric for fixed services could fulfill the performance requirements for an entire multi-county license area (in 39 GHz) with a deployment spanning a single building, by counting each connection between the sensors as a fixed point-to-point link. For example, suppose a licensee wants to equip an office building with environmental sensors to increase the efficiency of its HVAC system. A building with ten floors, and one sensor on each corner of each floor, would have forty sensors. If each sensor were connected to its four neighbors (those in adjacent corners, and in the same corner on adjacent floors) over UMFUS spectrum, this sensor network would have 152 connections (32*4 + 8*3; the sensors on the first and tenth floor would have only 3 connections each). Under the performance metric, the Commission adopted for fixed point-to-point services, which requires one link per 67,000 population, this sensor network would fulfill buildout requirements for a license area of up to 10.1 million people. According to 2010 Census data, that limit encompasses every county, and thus every 28 GHz license area, in the United States. The Commission does not believe this result is consistent with its obligation to prevent spectrum warehousing.

36. To address this issue, the Commission modifies its existing part 30 rules to adopt a specific definition of ''fixed point-to-point link,'' which includes the use of point-to-point stations as already defined in part 30 and is based on power level. This definition is intended to separate ''traditional'' point-to-point links from the sensor and device connections. The Commission anticipates will be part of new IoT networks in these bands. This definition would not apply to a network of fixed sensors or smart devices operating at low power over short distances.

37. Traditional point-to-point links use relatively high power, while the details that currently exist for IoT services indicate that most sensor or smart device networks will use very low power and are not likely to incorporate highly directional antennas due to size and cost constraints. The Commission therefore believes that power level is an appropriate metric to distinguish between traditional fixed links and IoT deployments. To the extent that any sensor networks do use higher power, it is likely that they will be connecting over longer distances, and therefore resemble a more traditional fixed network in terms of magnitude of deployment and scope of service provided.

38. Specifically, the Commission defines a ''fixed point-to-point link'' as ''a radio transmission between point-to-point stations (as already defined in part 30), where the transmit power exceeds +43 dBm.'' This power limit is the limit the Commission previously adopted for mobile handsets transmitting in UMFUS bands. The maximum power (average Effective Isotropic Radiated Power (EIRP) allowed for fixed point-to-point stations in UMFUS bands under the Commission's current rules is +55 dBW, which is equivalent to +85 dBm. Under this definition, stations or devices transmitting using lower power levels will not count towards the number of fixed links required under that performance metric. Licensees whose networks include such low-power connections must either rely on another part of their network to demonstrate buildout (*e.g.,* mobile area coverage or higher-power fixed backhaul links), or offer detailed responses to the Commission's proposal in the *Second FNPRM,* published elsewhere in this issue of the **Federal Register**, to work out a more suitable alternative.

39. Performance requirements for point-to-point services have always been calculated assuming that point to point links consist of communications between specified points using highly directional antennas and relatively high power; this definition merely makes that assumption explicit. This explicit statement is necessary in light of new technological developments, in order to prevent unintended consequences and gamesmanship of the Commission's rules. The Commission reminds commenters that it continues to explore new metrics that will accommodate innovative services in UMFUS bands, including a proposal in the *Second FNPRM.*

C. Mobile Spectrum Holdings Policies

40. The Commission finds that it is unnecessary to set pre-auction limits on the amount of spectrum an entity may acquire at auction in the bands proposed for flexible terrestrial wireless use in the *FNPRM.* The Commission also concludes that the bands that it makes available for flexible terrestrial wireless use in this *Second R&O*—the 24 GHz and 47 GHz bands—should be newly included as part of the total mmW spectrum threshold for reviewing proposed secondary market transactions. In the *Second FNPRM,* the Commission proposes to eliminate the pre-auction limits on the amount of spectrum in the 28 GHz, 37 GHz and 39 GHz bands that an entity may acquire at auction. In addition, the Commission seeks comment on whether there is a need to review mmW band holdings (24 GHz, 28 GHz, 37 GHz, 39 GHz, and 47 GHz) on a case-by-case basis when applications for initial licenses are filed post-auction to ensure that, while providing flexibility to bidders and assigning licenses to those who value them the most, the public interest benefits of having a threshold on mmW spectrum applicable to secondary market transactions are not rendered ineffective. The Commission takes an incremental approach in relieving only certain restrictions in connection with acquisition of spectrum at auction at this time. This accounts for the fact that spectrum in additional bands (24 GHz and 47 GHz) will become available as a result of the decisions in this *Second R&O* and for the possibility that spectrum subject to new uses on the secondary market is available, or may become available, from existing spectrum holders in the mmW bands. The Commission wishes to encourage such new uses, if they are in the public interest, as quickly as possible, including in advance of the Commission's resolution of issues in the *Second FNPRM* and any future auction making more spectrum available in the mmW bands, respectively.

41. The Commission declines to adopt a pre-auction limit, as proposed in the *FNPRM* and suggested by certain commenters, on the amount of 24 GHz and 47 GHz band spectrum that an entity can acquire through competitive bidding in an auction. Generally, bright-line, pre-auction limits may restrict unnecessarily the ability of entities to participate in and acquire spectrum in

an auction, and the Commission is not inclined to adopt such limits on auction participation absent a clear indication that they are necessary to address a specific competitive concern. In the case of the mmW bands, the Commission is not persuaded by commenters' generalized assertions that a bright-line, pre-auction limit in these bands is necessary to protect competition in the provision of wireless services. First, the Commission notes that the 24 GHz and 47 GHz bands that it makes available in this *Second R&O* will add 1700 megahertz to the 3250 megahertz of mmW spectrum made available in the *R&O,* for a total of 4950 megahertz of mmW spectrum for flexible terrestrial wireless use. Furthermore, the spectrum in these new bands, as well as the 3250 megahertz of spectrum previously made available, will be licensed in multiple blocks of different sizes and geographic areas, providing many spectrum opportunities for various types of auction bidders. In addition, as indicated in the record, development of the 24 GHz and 47 GHz bands and the mmW bands overall is still in the early stages, with a myriad of potential use cases that may require varying amounts of bandwidth for providers to offer consumers innovative services. Under these circumstances, the Commission finds that establishing pre-auction limits for the 24 GHz and 47 GHz bands would not serve the public interest.

42. Although the Commission declines to adopt a pre-auction limit for the 24 GHz and 47 GHz bands, it concludes that it is in the public interest to include these two bands as part of the previously-adopted mmW spectrum threshold for reviewing proposed secondary market transactions. This pre-auction limit may unnecessarily restrict competition at auction by automatically precluding a provider from acquiring spectrum. This secondary market mmW spectrum threshold, in contrast to a pre-auction limit, does not establish a bright line that would prohibit a provider from acquiring spectrum. Rather, the mmW spectrum threshold for secondary markets review merely identifies those markets that may warrant further competitive analysis, similar to the Commission's spectrum screen for review of secondary market transactions involving other lower frequency spectrum bands. Given that the 24 GHz and 47 GHz bands share similar technical characteristics and potential uses with the 28 GHz, 37 GHz, and 39 GHz bands already included in the mmW spectrum threshold, the Commission will group all five bands together for purposes of applying the mmW spectrum threshold to review secondary market transactions. Taking into consideration the additional 1700 megahertz of mmW spectrum that the Commission is making available in the 24 GHz and 47 GHz bands, it adds 600 megahertz, or approximately one-third of this additional spectrum, to the 1250 megahertz mmW spectrum threshold, for a combined threshold of 1850 megahertz for proposed secondary market transactions. As noted, the Commission has adopted previous changes in this area through a variety of mechanisms, including rulemaking and orders approving transactions. *Policies Regarding Mobile Spectrum Holdings Expanding the Econ. & Innovation Opportunities of Spectrum Through Incentive Auctions,* Report and Order, 29 FCC Rcd 6133, 6135, para. 4 (2014); *Sprintcom, Inc., Shenandoah Personal Communications, LLC & Ntelos Holding Corp.,* Memorandum Opinion and Order, 31 FCC Rcd 3631, 3637–38, para. 15 (WT/IB 2016); *Applications of AT&T Mobility Spectrum LLC, New Cingular Wireless Pcs, LLC, Comcast Corp., Horizon Wi-Com, LLC, Nextwave Wireless, Inc., & San Diego Gas & Elec. Co. for Consent to Assign & Transfer Licenses,* Memorandum Opinion and Order, 27 FCC Rcd 16459, 16470–71, para. 31 (2012). To the extent necessary, we clarify that the Commission retains the discretion to do so in the future (including as we authorize service in additional mmW bands). For purposes of this proceeding, we provide that this specific change will apply as of publication in the **Federal Register**.

D. Part 15 Operation On-Board Aircraft in the 57–71 GHz Band

43. The Commission is adopting rules to allow unlicensed operation on-board most aircraft in the 57–71 GHz band under part 15 of its rules. The Commission's decision opens this band for unlicensed use on-board aircraft and would allow up to six (6) non-overlapping WiGig channels of 2160 megahertz each. The Commission finds that allowing 60 GHz unlicensed transmitters to operate in all flight phases of aircraft operation in the 57–71 GHz spectrum, with the limitations described herein, will not cause harmful interference to other authorized radio services, including Earth Exploration Satellite Service (EESS) and the radio astronomy service (RAS), while facilitating expanded access to broadband services in flight.

44. The Commission is modifying its part 15 rules to allow unlicensed operation on-board most aircraft during flight in the 57–71 GHz band. The Commission finds that allowing unlicensed use of this spectrum on-board aircraft while airborne, with certain limitations, will facilitate air travelers' expanded access to broadband/internet services during flight and provide an opportunity to reduce aircraft weight from connecting wires, all without causing harmful interference to authorized radio services, as the Commission elaborates further below.

45. In the *R&O* in this proceeding, the Commission determined that the record did not reflect a clear perspective of the types of unlicensed applications envisioned on-board aircraft that would provide an adequate assessment of their harmful interference profile. Thus, in the *FNPRM* in this proceeding, the Commission set out to request further information and analyses with respect to the various types of unlicensed applications envisioned on-board aircraft, the priority/order of their planned introduction, as well as their associated potential harmful interference profile with respect to passive sensor services. The use cases outlined in the AVSI Study suggest that planned WiGig systems use access point stations affixed to the interior ceiling in commercial passenger transport aircraft to deliver internet/entertainment products wirelessly to travelers' laptops/tablets, or to in-seat display monitors on the aircraft. The Commission is also aware that wireless avionic intra-communications (WAIC) applications (as studied by the ITU in lower frequency bands) would be highly useful in providing wireless back-up connections for primary wired connections between various electrical systems of the aircraft, to lighten the aircraft's total weight. WAIC systems provide radio communications between two or more stations on a single aircraft and constitute exclusive closed on-board networks required for the operation of an aircraft. The Commission is therefore adopting unlicensed technical rules herein with these two types of applications, broadband internet/entertainment access in closed networks on-board aircraft, and certain WAIC applications, in mind.

46. As the Commission observed in the *R&O,* the existing ITU studies on wireless avionics applications only cover frequency bands lower than the 60 GHz band. However, the Commission expects that the propagation characteristics of radio waves in the 57–71 GHz band would result in even greater attenuation than was documented in these ITU studies of lower frequency bands. The Commission notes that extensive

simulations and actual measurement data presented in the AVSI Study confirm that typical aircraft effective fuselage attenuation is 40 dB in the 57–71 GHz frequency range, which is in line with the ITU findings of up to 45 dB aircraft fuselage attenuation at other frequencies.

47. The Commission finds that use of the 57–71 GHz spectrum on-board aircraft would not cause harmful interference to authorized services for several reasons. First, signals at these frequencies have high propagation losses and are easily blocked by obstacles, including seats, bulkheads and human bodies on the aircraft. Second, the aircraft fuselage provides significant attenuation of signals, as supported by the ITU studies and the AVSI Study, discussed above. Third, although unshielded aircraft windows provide significantly less attenuation than the aircraft fuselage, the risk of these beams being misdirected out of a window is minimal because 60 GHz transmitters use directional antenna beams to deliver the signals to the intended receivers inside the airplane. The Commission observes that the AVSI Study data indicate that the average effective aircraft attenuation (including transmissions through windows and inside aircraft cabin at multiple antenna steering angles) is on the order of 40 dB and is by and large independent of antenna location and antenna type used by either access point stations or mobile devices inside the aircraft. The Commission further finds that because the aircraft fuselage attenuation plays an important role in the link budget for the prevention of harmful interference caused by 60 GHz signals on-board aircraft to EESS (as computer-modeled and measured on commercial passenger transport aircraft by the AVSI Study; and as assessed by the ITU–R studies), the Commission will exclude use of 60 GHz unlicensed transmitters on-board aircraft where there is little attenuation of RF signals by the body/fuselage of the aircraft. These aircraft include, for example, toy/model aircraft, unmanned aerial vehicles (UAV) such as drones, small/light crop-spraying aircraft and aerostats.

48. With respect to WAIC applications, CORF strongly urges the Commission to prohibit this type of operation in the band to protect vital weather forecasting data collection. The Commission finds that the combination of high fuselage attenuation in commercial passenger transport aircraft and free-space propagation loss along with the directionality of the WiGig antenna beams inside the aircraft cabin will prevent harmful interference to passive sensor services. However, the Commission notes that WAIC applications could encompass external structural sensors or external cameras mounted on the outside of the aircraft structure to monitor the different phases of aircraft operation. These externally located transmitters may generate RF signals that would not be attenuated by the fuselage while the aircraft is in flight; thus, 60 GHz signals have the potential to escape into the air at various altitudes of flight and may present a potential for harmful interference to passive sensors. The Commission is therefore addressing CORF's concern by prohibiting operation of 60 GHz transmitters in WAIC applications on the outside of the aircraft body/fuselage while airborne, to ensure that passive services continue to be protected.

49. On the other hand, the Commission denies CORF's recommendations that any aeronautical use of the 57–71 GHz bands must require strict OOB emission limits at the harmonic frequencies (which fall into passive service spectrum such as RAS) and should be considered in the aggregate within the airplane, as well as aggregated over multiple planes within the beam and side lobes of the passive service telescope. The Commission notes that the AVSI Study generally addressed CORF's concerns by analyzing via dynamic simulation the effects of OOB and spurious emissions of on-board aircraft WiGig devices on passive services, both in a single aircraft with aggregate multiple equipment factor and worst-case emission levels; and in multiple aircraft in the aggregate during worst-case peak air traffic; the results demonstrated that passive services continue to be protected by a significant margin. This study suitably supplements the Wi-Fi Alliance Industry Interference Report (Wi-Fi Alliance Report) previously submitted in the record of this proceeding, in which it found comparable results while assuming a more conservative aircraft attenuation of 25 dB, instead of 40 dB.

50. The Commission finds that the existing spurious emission limits in § 15.255(c) of the rules are sufficient to protect passive services. Section 15.255(c) already restricts spurious emissions to a very low power density limit of 90 pW/cm^2 at a distance of 3 meters for frequencies between 40 GHz and 200 GHz, and to the general limit for intentional radiators in § 15.209 for frequencies below 40 GHz. The Commission determines that RF signals in this spectrum suffer from severe propagation losses, and are blocked easily by obstacles inside the aircraft, as well as heavily attenuated by the aircraft fuselage; therefore, 60 GHz operation on-board aircraft would not increase the potential for harmful interference to passive services, when compared to 60 GHz operation on the ground, indoors or outdoors. The Commission also determines that spurious and harmonic emissions generally roll off (*i.e.,* reduce in amplitude) the further they are in frequency from the fundamental emission; therefore, if fundamental emissions are severely attenuated, harmonics would be affected proportionally; thus, the Commission finds that unlicensed operations in the 57–71 GHz spectrum would not adversely affect passive services operating in frequency bands that contain the harmonics of this spectrum. The Commission further finds that, depending on their angle of escape out of the aircraft fuselage, the probability of any of these stray harmonic emissions finding their way into the main beam/side lobes of the victim telescope is virtually non-existent. The AVSI Study results generally confirm the Commission's assessments by its dynamic simulations supported by corroborating measurements, as discussed above. The Commission therefore denies CORF's request for rule changes with respect to specific conditions on spurious emissions limits.

51. Based on the above, the Commission finds that, absent any record evidence to the contrary, it is the Commission's predictive judgment that 60 GHz transmitters operating on-board an aircraft in the 57–71 GHz band, with the limitations that the Commission is imposing herein, will not cause harmful interference, which is defined not to protect against isolated occurrences, but only against interference that ''seriously degrades, obstructs, or repeatedly interrupts.''

E. Amendments to Certain Part 1 Rules

52. The Commission amends §§ 1.901 and 1.902 of the Commission's rules to include part 30 in the list of s to which the part 1, subpart F, rules apply. The *R&O* clearly expressed the Commission's intent to apply the part 1, subpart F rules to UMFUS. Amending §§ 1.901 and 1.902 to include UMFUS will be consistent with that intent. Notice and comment is not required for this change because the changes go to rules of practice and procedure. In addition, the Commission is amending § 101.115 of our rules to fix a footnote numbering error in the Antenna Standards table in § 101.115. The change clarifies that the footnote applicable to the 70 GHz and 80 GHz bands should be labelled footnote 14.

III. Order on Reconsideration

A. Security

53. In the *R&O,* the Commission adopted rules requiring licensees, prior to commencing operations, to submit to the Commission security plans and related information indicating how confidentiality, integrity, and availability principles are applied in its network security design processes. Several parties filed petitions for reconsideration, which ask the Commission to eliminate the security reporting requirements.

54. The Commission acknowledges that there may be other mechanisms that foster more secure networks without imposing the burden of additional regulation. The Commission therefore believes that more flexible security mechanisms should be fully explored, including ones employing voluntary means, in order to achieve a narrowly tailored fit with the Commission's goal of secure 5G networks and devices.

55. By exploring flexible security mechanisms as the Commission's next step, it can avoid the costs of implementing the *R&O's* reporting and security requirements, which could slow the development of innovative 5G services. For example, NCTA claims that these requirements would ''impose substantial compliance costs on 5G network operators with no meaningful corresponding benefit in light of the fact that network providers already have enormous incentives to adopt measures to protect their networks.'' NCTA further argues that ''a band-by-band approach to cybersecurity . . . would increase compliance costs.''

56. The Commission also believes that a regulatory approach to 5G security is premature at this time. As CTIA states, the ''supporting architecture for 5G is presently in development and is likely to remain in flux.'' Similarly, TIA maintains that it is not clear yet how 5G networks will operate. Given these considerations, the Commission believes that it would serve the public interest to rescind the reporting and security requirements. To reduce the risk to network reliability and security, the Commission instead seeks industry input through the CSRIC process. The Commission believes that CSRIC is an appropriate vehicle to explore these network security issues given its track record of addressing cybersecurity issues through flexible, voluntary means. As CTIA states, the Commission generally favors a ''business-driven cybersecurity risk management'' approach because a ''flexible, adaptable approach'' offers a ''workable strategy for securing commercial networks.'' The Commission expects tangible, practical security benefits from the CSRIC processes as part of the public-private partnership which, as NCTA notes, already exist to address best practices. The Commission has asked CSRIC to identify the network reliability and security risks associated with 5G networks and develop best practices to mitigate those risks. The Commission may also use CSRIC recommendations to help inform any additional steps that may be necessary.

B. Earth Station Siting Rules

1. Background

57. The 27.5–29.5 GHz band has had long-standing allocations for the fixed, mobile, and FSS (Earth-to-space) services. In the 1996 *LMDS First Report and Order,* the Commission designated the 27.5–28.35 GHz band for LMDS on a primary basis and determined that satellite services would be permitted in that band on a non-interference basis to LMDS systems, and only for the purpose of providing limited gateway-type services.

58. The U.S. Table of Frequency Allocations accords co-primary status to FSS earth stations (space-to-Earth) in the 37.5–40 GHz band. Under the rules in effect prior to the *Notice of Proposed Rulemaking (NPRM)* (*see* 81 FR 1802), gateway earth stations in the 39 GHz band could be deployed only if the FSS licensee obtained a 39 GHz license for the area where the earth station would be located, or if it entered into an agreement with the corresponding 39 GHz licensee.

59. In the *R&O*, the Commission found that ''FSS earth stations in the 28 GHz band can share the band with minimal impact on terrestrial operations.'' Based upon that finding, the Commission grandfathered all existing 28 GHz FSS earth stations authorized as of the adoption date of the *Report and Order* and granted them the right to operate under the terms of their existing authorizations without taking into account possible interference to UMFUS operations. It also grandfathered pending applications for 28 GHz earth stations filed prior to the adoption date of the *R&O* if such applications were subsequently granted pursuant to the existing part 25 rules. The Commission also gave FSS operators multiple mechanisms for deploying earth stations. First, it granted status to any FSS earth stations for which the FSS operator also holds the UMFUS license, whether through participation in an auction or the secondary markets, that covers the earth station's permitted interference zone. To the extent FSS operators and UMFUS licensees enter into private agreements, the Commission held that their relationship will be governed by those agreements. The Commission also determined that FSS earth stations may continue to be authorized without the benefit of an interference zone, *i.e.,* on a secondary basis.

60. Finally, the Commission decided that it would continue to authorize satellite earth stations on a first-come, first-served basis in the 28 GHz band, but adopted guidelines for their deployment. First, it would authorize no more than three locations in each county where FSS would be allowed to deploy earth stations that do not have to protect UMFUS stations from interference. Second, an FSS applicant would be required to demonstrate in its license application that the permitted interference zone around its earth station would cover no more than 0.1 percent of the population of the county license area where the earth station was to be located. Third, the applicant would be required to show that the permitted interference zone would not infringe upon any major event venue, arterial street, interstate or U.S. highway, urban mass transit route, passenger railroad, or cruise ship port. Fourth, to ensure that the earth station would not interfere with existing facilities operating under a 28 GHz UMFUS license, the Commission required that the satellite operator coordinate with the UMFUS licensee in the county where it proposed to locate its earth station using the coordination procedures contained in § 101.103(d) of the Commission's rules.

61. In contrast to the 28 GHz band, where FSS earth stations transmit, FSS earth stations in the 37.5–40 GHz band receive. Accordingly, earth stations in that band need protection against interfering signals from terrestrial operations. Prior to the *NPRM*, Commission rules for the 39 GHz band provided that gateway earth stations would be allowed only if the satellite licensee obtained a license for the terrestrial geographic service area where the earth station would be located, or if the satellite operator entered into an agreement with the corresponding terrestrial licensee. In the *R&O,* the Commission allowed FSS operators to place earth stations using any of the market-based mechanisms adopted for the 28 GHz band.

62. The Commission further determined that it would authorize non-Federal satellite earth stations in the 37.5–40 GHz band on a first-come, first-served basis and give them protection from terrestrial transmissions subject to

the following conditions. First, the earth station applicant must define a protection zone in its application around its earth station where no terrestrial operations may be located. The FSS applicant may self-define this protection zone, but it must demonstrate using reasonable engineering methods that the designated protection zone is no larger than necessary to protect its earth station. Second, the Commission determined that it would authorize a maximum of three protection zones in each Partial Economic Area (PEA). Accordingly, the applicant was required to demonstrate either that there are no more than two existing protection zones in the PEA or to demonstrate that its protection zone would be contiguous to any preexisting satellite protection zone. Third, the applicant must demonstrate that the existing and proposed protection zones, in the aggregate, would not cover more than 0.1 percent of the PEA's population. Fourth, the Commission required the applicant to show that the protection zone would not infringe upon any major event venue, arterial street, interstate or U.S. highway, urban mass transit route, passenger railroad, or cruise ship port. Finally, the earth station applicant is required to coordinate with terrestrial fixed and mobile licensees whose license areas overlap with the protection zone, in order to ensure that the protection zone does not encompass existing terrestrial operations. If the earth station is authorized, the Commission's rules prohibit UMFUS licensees from placing facilities within the protection zone absent consent from the FSS operator, and the FSS operator must respond in good faith to requests to place facilities within a protection zone.

63. In petitions for reconsideration, some satellite operators seek a relaxation of the 0.1 percent limits on populations affected by exclusion zones around their earth stations, curtailment of the rules that limit the impact of satellite operations on the provision of terrestrial services to users in transit, and elimination of the rules that limit earth station zones to three per geographic area. Parties also seek various clarifications, which the Commission addresses below.

64. The burden of proof falls upon petitioners to demonstrate that FSS needs additional flexibility to locate earth stations in the 28 GHz and 37.5–40 GHz bands, which primarily are designated for terrestrial use. They fail to meet that burden, except in the limited instances discussed below.

2. 0.1 Percent Population Limit

65. Satellite petitioners and their supporters propose various ways to relax the rules that limit earth station exclusion zones to 0.1 percent of the population of UMFUS license areas. Their proposals include applying the 0.1 percent limit to the entire country or Basic Trading Areas (BTAs) rather than to counties or PEAs, increasing the limit to 0.2 percent, allowing satellite operators to deploy earth stations anywhere outside of urban cores, and modifying the rule's limits with respect to small and medium-sized markets.

66. The Commission rejects the request to increase 0.1 percent population to 0.2 percent in larger markets. As Nextlink argues, that change could have a significant adverse impact on terrestrial service in urban areas. Moreover, none of the proponents of this change have demonstrated that increasing the population threshold in larger markets is necessary to provide sufficient opportunity for siting earth stations in these bands. As the Commission observed in the *R&O*, satellite operators will not necessarily need to deploy earth stations in the more densely populated markets. Indeed, the Satellite Broadband Operators have indicated that they can accept a limit of 0.1 percent in the largest markets. In addition, ViaSat, the FSS operator that appears to be most interested in locating earth stations in urban markets, supports the existing 0.1 percent limit.

67. On the other hand, the Commission concludes that for smaller markets, relaxing the 0.1 percent population metric is consistent with the Commission's goal of creating meaningful, targeted opportunities to deploy additional FSS earth stations without harming terrestrial operations. Maintaining the 0.1 percent limit in smaller markets could make it more difficult for FSS operators to site earth stations in those markets, which could drive earth station siting towards more heavily populated places and centers of commercial activity. In contrast, relaxing the 0.1 percent limit in smaller markets is more consistent with the Commission's goal of providing targeted opportunities for siting earth stations in more remote, less-densely populated areas.

68. On the other hand, the Commission believes that SES and O3b have not justified the level of impact on terrestrial service that they seek. In the smallest markets, they have not justified limiting access to terrestrial services to up to 10 percent of the population in the 28 GHz band. Since many of the smallest markets cover large geographic areas, FSS operators should have sufficient flexibility with a 7.5 percent population limit. In the middle tier of markets, the Commission notes the concern of the Rural LMDS Operators that losing even 600 potential customers could make providing service uneconomic. While SES and O3b attempt to justify the 600-person limit based on an analysis of one of their existing, grandfathered earth station, given the trend towards smaller, lower impact earth stations identified by ViaSat and others, it is equitable to require FSS operators to make additional efforts to limit their impact on UMFUS in bands that are designated primarily for terrestrial use. The Commission anticipates that satellite operators will substantially reduce the sizes of the exclusion zones that they require by constructing artificial site shields or by taking advantage of naturally occurring terrain features.

69. Taking the entire record into account, the Commission will adopt a modified version of the SES/O3b proposal for providing additional flexibility in second- and third-tier markets. For the 28 GHz band, the limits will be as follows:

Population within UMFUS license area	Maximum permitted aggregate population within PFD contour of earth stations
Greater than 450,000	0.1 percent of population in UMFUS license area.
Between 6,000 and 450,000	450 people.
Fewer than 6,000	7.5 percent of population in UMFUS license area.

For the 37.5–40 GHz band, the population limits will apply on a PEA basis as follows:

Population within Partial Economic Area (PEA) where earth station is located	Maximum permitted aggregate population within PFD contour of earth stations
Greater than 2,250,000	0.1 percent of population in PEA.
Between 60,000 and 2,250,000	2,250 people.
Fewer than 60,000	3.75 percent of population in PEA.

The additional flexibility will encourage siting of earth stations in areas with less population, decrease potential conflicts between FSS and UMFUS, and maintain the primacy of UMFUS in the 28 GHz and 39 GHz bands.

3. Other Limits on Earth Station Siting

70. Some satellite operators request that the Commission repeal, modify, and clarify the *R&O*'s limitations on deployment of earth stations in places where they preclude terrestrial service to people or equipment that are in transit or are present at mass gatherings. EchoStar and Inmarsat also argue that the Commission's transient population rules impair their ability to deploy gateway stations in places with ready sources of electricity, adequate roads to permit access for maintenance, neighborhoods with appropriate commercial zoning, sufficient space for installation and expansion of large satellite antennas with an unobstructed view of the sky, and sufficient cooling capacity for large amounts of computing equipment. The Satellite Broadband Operators, which include the petitioners, recommend that the Commission's prohibition against earth station interference with passenger railroads be limited to Amtrak trains. The petitioners also urge us to eliminate or curtail sharply the rule barring FSS deployments near major event venues in the 28 and 37.5–40 GHz bands. The Satellite Broadband Operators ask that they be allowed to extend their exclusion zones over major event venues except for those with a seating capacity exceeding 10,000 people.

71. The Commission denies the requests to modify the additional limits on earth station siting, with certain exceptions discussed below. EchoStar and Inmarsat contend that one of the reports cited in the *R&O* demonstrates that fiber connectivity needed by earth station facilities is highly correlated with major roadways and railways. The Commission disagrees. The authors of the *InterTubes Report,* which petitioners cite, emphasize that they are exclusively interested in the long-haul fiber-optic portions of the internet and do not even attempt to portray any of the short-haul fiber routes that are used to add or drop off network services in many different places within metropolitan areas. Moreover, the Commission notes that in the 28 GHz band, where there are incumbent earth stations, no licensed earth station is co-located with a long-haul internet node and the average distance by road from a 28 GHz earth station to the nearest long-haul internet node is 37.5 miles, with a median distance of 22.4 miles. Notably, a recent application for 20 gateway earth stations states that they will be ''at sites distributed throughout the United States that comply with the Commission's 28 GHz siting rules and have sufficient electrical facilities, reliable fiber-delivered broadband capacity, and ease of access for personnel to provide operational support.''

72. Furthermore, the Commission continues to believe that the limitations that it has placed on earth station siting provide incentives for FSS operators to avoid areas where there is going to be high demand for terrestrial service using mmW bands. The wide bandwidths that are available to terrestrial services in the 28 GHz and 37.5–40 GHz bands will support vital new terrestrial services on roads, railroads, and mass transit routes, and at ports, major event venues, homes and offices. The current need for wireless service along transit routes is clear for a variety of uses, including navigation, and demand is likely to increase with advances in technology. Like people in transit, many who attend major events use cell phones to obtain information, to exchange text and images with others, and to engage in other forms of communication. That is why mobile carriers often deploy temporary cellular base stations at major events. The Commission anticipates that 5G services supported by millimeter-wave spectrum will engender more use of mobile telecommunications at live events.

73. The Commission agrees with the petitioners, however, that it would be helpful to clarify the types of roads that earth station siting should avoid. The *R&O* restricted earth station interference zones from infringing upon any arterial streets or interstate or U.S. highway. On review, the Commission finds that limitation may be unclear. The Commission therefore clarifies this prohibition to include only the following types of roads, as they are defined and classified by the U.S. Department of Transportation:

- Interstate
- Other Freeways and Expressways
- Other Principal Arterial.

74. Regarding the *R&O*'s restrictions on earth station interference to ''major event venues,'' the record does not provide a sufficient basis to specify which locations are considered such venues. Generally speaking, the Commission considers a major event venue to be any location where large numbers of people could gather on a regular basis in a setting where they would expect to use wireless service. The Commission recognizes that there are multiple types of locations that could qualify, including popular venues that seat less than 10,000 persons. For example, the Commission agrees with Verizon that an arbitrary limit of 10,000 persons would improperly exclude venues such as the arena where the Minnesota State Mavericks play ice hockey games (a venue seating 5,280 person). The Commission declines to unnecessarily restrict these locations to venues seating more than 10,000 people, as advocated by the Satellite Broadband Operators. To the extent that an UMFUS licensee is concerned that the interference or protection contour of a proposed FSS earth station might encompass a major event venue, the Commission expects that the UMFUS licensee will identify the venue as part of the coordination process, and the Commission expects that the parties will work cooperatively to identify and avoid major event venues.

75. For similar reasons, the Commission also declines to modify the *R&O*'s limitations on earth station siting that would impair passenger railroads by narrowing that restriction to encompass only Amtrak, as advocated by the Satellite Broadband Operators. This limitation properly encompasses *any* passenger railroads where there is going to be high demand for terrestrial service using mmW bands, such as key commuter rail lines.

4. Numerical Limits on Earth Stations

76. As noted above, the *R&O* limited the number of earth station locations to three per county in the 28 GHz band and three per PEA in the 37.5–40 GHz band. Satellite operators urge us to eliminate those limits on the grounds that they are redundant, that it would be impractical for multiple satellite

operators to share the same sites, that the thousands of small footprints produced by large fleets of NGSO satellites will each require a gateway earth station, and that a numeric limitation might have the perverse effect of forcing satellite operators to deploy gateway stations in urban areas before they have exhausted the siting opportunities of rural geographic service areas with wide expanses of thinly populated territory. Straight Path argues that the Commission should continue to apply numeric limits to earth station deployments because there is no data in the record to support the claim that the satellite industry will need more than 1,200 ground stations in the 39 GHz band. FWCC says that it is not opposed in principle to dropping the numeric earth station limits if the Commission maintains reasonable limits on population coverage.

77. In the 28 GHz band, which is licensed for terrestrial use on a county basis, the Commission declines to eliminate the numeric limit of three earth station locations per license area. The numerical limitations that the Commission imposed are part of the framework that it adopted ''to provide FSS licensees with substantial opportunities to expand their limited use of the 28 GHz band to deploy earth stations that do not have to protect terrestrial services, while minimizing the impact on terrestrial operations.'' FSS operators have not demonstrated that they have a substantial need to exceed the numeric location limits imposed in the *R&O.* Furthermore, eliminating those limits would be inconsistent with the decision to prioritize terrestrial deployment in these bands. In particular, eliminating the numerical limits in smaller markets where the Commission grants additional flexibility to FSS providers could inappropriately hinder deployment of terrestrial service in less populated areas. The Commission notes that in the smallest markets, allowing FSS providers to have an interference zone covering up to 10 percent of the population could impact a substantially larger amount of area, since populations may not be evenly distributed in rural areas.

78. The Commission will, however, increase the three locations per license area limit on earth stations in the 37.5–40 GHz band, which is licensed for terrestrial use on a PEA basis. In that band, where the FSS allocation is space-to-Earth, the function of earth stations is to receive signals from satellites, not to transmit. An earth station location in that context represents the protection zone around one or more earth stations from which terrestrial operations are excluded, in order to prevent them from causing interference to the earth stations. The existing limit on earth station locations in that band was based on the Commission's calculations of populations that they were likely to cover, based on the size of the protection zone that would be required to protect 37.5–40 GHz receiving earth stations. The protection zone area that the Commission used for these calculations was provided in comments from EchoStar, which stated that the radius of the exclusion zone around a 37.5–40 GHz earth station would be up to two kilometers. Recently, Inmarsat, SES and O3b provided an analysis that represents a separation distance of less than 1100 meters from the center of a terrestrial mobile deployment area that occupies an area of 3.8 square kilometers would be sufficient to protect an FSS earth station. In another study, ViaSat purports to show that moderately sized stations on roof tops, with appropriate shielding, could be embedded in urban or suburban settings where 5G systems are deployed without requiring interference protection from the 5G system. Boeing analyzes both studies, and concludes that each is based on valid assumptions and employs appropriate technical analysis, but believes that the Inmarsat/SES/O3b submission used unnecessarily conservative assumptions and that a separation distance of less than 500 meters would be sufficient. While the assumptions ViaSat uses will not apply to every earth station (not every earth station will be located on a roof or will be shielded), based on the Commission's analysis of the contribution submitted into the record of this proceeding by Inmarsat, SES and O3b, and the ViaSat filing, it now appears that earth stations can be designed that require substantially smaller exclusion zones than the two-kilometer radius estimate available to the Commission at the time of the *R&O.* With smaller exclusion zones, the Commission can justify allowing more satellite earth stations in a given area because the impact in terms of geographic area will be smaller.

79. Taking into account the Commission's current understanding of the required exclusion zone and the fact that this band is primarily a terrestrial band, the Commission believes that it would be reasonable to increase the permissible number of earth station locations in the 37.5–40 GHz band from three to 15 per PEA, but with no more than three earth station locations per county. The Commission's grant of relief on the numerical limits in the 37.5–40 GHz band is premised on the idea that the exclusion zones required by FSS to protect their earth stations are substantially smaller than the Commission originally believed. If, in reviewing FSS earth station applications, the Commission sees that FSS providers are claiming substantially larger protection zones, the Commission reserves the right to take appropriate action.

80. The Commission also declines to adopt ViaSat's request to modify § 25.136 to allow the deployment of additional ''zero impact'' earth stations on a protected basis, regardless of the numerical earth station limits otherwise applicable in a given county or PEA. These deployments may not have ''zero impact.'' In light of the greater flexibility the Commission is granting above with respect to the absolute number limit on earth station locations, the Commission finds that ViaSat has not demonstrated that the additional requested flexibility would be in the public interest.

81. In addition, the Commission takes the opportunity to clarify the determination in the *R&O* that, for purposes of complying with the limit on the absolute number of earth station locations within an UMFUS license area, each location can accommodate multiple earth stations that are either collocated with each other or at locations contiguous to each other. As stated in the *R&O,* a ''location'' in this context refers to either, in the case of earth stations transmitting in the band, the contour within which one or more earth stations generate a PFD no more than -77.6 dBm/m^2/MHz at 10 meters above ground level, or, in the case of earth stations receiving in the band, the self-defined protection zone around one or more earth stations within which no terrestrial operations may be located. The Commission clarifies that, although adding an earth station to a location will in most cases expand the relevant contour, the *R&O* does not preclude the expansion of such contours, nor does it apply any numeric limit to the number of earth stations to be deployed at a location, provided that the deployment complies with other earth station siting limits in the Commission's rules. Although the *R&O* does not limit the number of earth stations *per se,* it does limit the proliferation of protection zones surrounding those earth stations, and that serves an important policy objective.

5. Placement of Additional Antennas at Grandfathered 28 GHz Sites

82. EchoStar and Inmarsat ask us to clarify the extent to which additional earth station antennas may be placed at

grandfathered 28 GHz earth station sites, and SES and O3b specifically request that the Commission exempts additional earth stations from the 0.1 percent population limitation rule if they are located within one second of latitude and one second of longitude of grandfathered sites. EchoStar and Inmarsat argue that, if the Commission requires grandfathered sites to count against the 0.1 percent cap, other FSS operators will be unable to deploy precisely in those areas that have been identified as most attractive to date. The Satellite Broadband Operators also argue that the Commission should exclude grandfathered 28 GHz band earth stations from counting toward the population limits.

83. The Commission rejects the petitioners' requests for three reasons. First, the modifications that the Commission is making to the 0.1 percent population limit provide substantial and adequate relief to the requesting parties. Second, no material purpose would be served by adding a *de minimis* exception: One second of latitude equals about 31 meters, and one second of longitude in any of the contiguous 48 states would be fewer than 30 meters. Third, EchoStar and Inmarsat state elsewhere in their petition that it would be impractical in any case for multiple satellite operators to share the same sites. If it is true that other operators would be reluctant in any case to deploy their antennas at a grandfathered site that is licensed to another operator, the Commission needs not be concerned that they would be deterred from doing so by the absence of a further exception to its rules.

C. Secondary Status of FSS in 28 GHz Band

84. In the *R&O,* after evaluating in detail prior rulemakings involving the 28 GHz band, the Commission rejected arguments from FSS providers and determined that FSS would be secondary to both fixed and mobile terrestrial operations in the 28 GHz band. SIA asks the Commission to clarify that certain protected FSS operations are in fact co-primary with respect to the new UMFUS.

85. SIA simply repeats arguments that it submitted earlier in response to the *NPRM,* and it presents no new theory or new reason for why FSS should be given co-primary status. The *R&O* thoroughly considered this issue and concluded that, ''the 28 GHz band will play a vital role in the deployment of advanced mmW services, and fully upgrading FSS under the Commission's service rules to co-primary status would be inconsistent with this goal and would be unnecessary to meet the FSS community's needs.'' Accordingly, the Commission rejects that aspect of SIA's petition as repetitious, pursuant to § 1.429 of its rules. Moreover, the Commission has again reviewed the record in the light of the arguments urged in SIA's petition and the Commission finds no reason to depart from the findings of fact and conclusions contained in the decision.

D. 28 GHz Aggregate Interference

86. Commenters have expressed concern that upward transmissions from large numbers of terrestrial stations will, in the aggregate, generate enough power to be received at the satellite's receiver, thus degrading the satellite's performance. In the *R&O,* the Commission, after noting that FSS was secondary to both fixed and mobile services, concluded that, ''the record in this proceeding does not demonstrate that the rules that we adopt today would significantly risk harmful interference to satellite operations because of aggregate interference received at the satellite receiver.'' The Commission rejected requests from FSS providers to limit the aggregate skyward transmissions of UMFUS providers in the 28 GHz band. In petitions for reconsideration, satellite operators argue that we should reconsider our earlier decision and set an overall limit on aggregate interference to satellite receivers.

87. The Commission denies the petitions for reconsideration on this issue because none of the petitions for reconsideration make the requisite showing under § 1.429 of its rules with respect to the aggregate interference issue. The petitions filed by satellite operators are deficient in two significant respects. First, they fail to acknowledge the defects identified in the *R&O* in the technical studies that formed the basis for their arguments. Second, and more fundamentally, the requests of the satellite operators are inconsistent with the Commission's goal of providing UMFUS licensees with a flexible rules framework that could allow them to provide a variety of services. Boeing and SES/O3b ask the Commission to embed into its rules certain characteristics that are under development for mmW mobile systems, such as beamforming, antenna downtilt, and power control. The Commission adopted technical rules that were as flexible as possible, while at the same time preventing harmful interference. By doing so, the Commission maximized the ability of licensees to design and evolve their networks according to their own judgement and thereby offer new and innovative services to the public. Establishing specific technical parameters in the Commission's rules based on its understanding of technological developments at one point in time would risk preventing licensees from developing new services to meet market demand. The limits on emissions that the satellite operators seek could limit the ability of UMFUS licensees to operate certain types of networks.

88. Finally, the Commission rejects petitioners' argument that the Commission's failure to adopt rules to limit aggregate interference to satellites licensed by countries that are adjacent to the U.S constitutes a breach of its country's obligations under international agreements. As Intel and CTIA point out, the rules adopted in the *R&O* already provide more protection to other countries' satellites than is required by ITU rules.

89. The Commission retains the authority to monitor developments and intervene to prevent unacceptable interference to satellites if that becomes necessary, but it finds no evidence to date that suggests that any such intervention will be necessary. The *R&O* explained why it is unlikely that the addition of mobile services to the 28 GHz band will cause significant interference to satellites in the 28 GHz band, and petitioners have provided no basis to revisit that conclusion at this time.

E. Base Station Power Limit

90. In the *Report and Order,* the Commission adopted a base station power limit of 75 dBm/100 MHz EIRP for UMFUS. For channel bandwidths less than 100 megahertz, the permitted EIRP was reduced below 75 dBm in proportion to the amount of bandwidth involved. Boeing asks the Commission to reconsider the 75 dBm limit and adopt the 62 dBm limit proposed in the *NPRM.*

91. The Commission denies Boeing's petition on this issue. Boeing claims that the Commission adopted the 75 dBm power limit without a ''real technical or policy foundation . . .'' That characterization is inaccurate. As noted above, the 75 dBm power limit made the UMFUS rules consistent with rules for other mobile services and reflected a consensus of parties involved in developing equipment and service. To the extent Boeing and O3b are concerned about the ability to place earth stations in the 37.5–40 GHz band, the Commission notes that UMFUS licensees will be required to protect earth station facilities pursuant to § 25.136 of the Commission's rules. To the extent that Boeing's advocacy is

based on its desire to operate user equipment in the 37.5–40 GHz band, the Commission's decision denying its request to allow operation of FSS user equipment in 37.5–40 GHz makes this concern irrelevant. While Boeing's technical study assumed that UMFUS base stations were operating continuously at 75 dBm, that deployment scenario is unrealistic because UMFUS facilities will have incentives to operate at the minimum power necessary. The Commission acknowledges that many terrestrial service proponents have described systems that have lower transmitted power, but its UMFUS rules are designed to facilitate the deployment of a wide variety of mmW technology. The Commission does not believe it would be appropriate to limit the development of new technology or deployment of novel services by needlessly limiting the power of UMFUS equipment.

92. The Commission also denies Boeing's request to establish a separate total radiated power limit. The Commission agrees with Intel and T-Mobile that such a limit is unnecessary and burdensome. Boeing has not explained why the UMFUS bands are meaningfully different from other bands where the Commission has only adopted EIRP limits.

F. Base Station Location Disclosure

93. EchoStar/Inmarsat and SES/O3b ask the Commission to require the creation of a database of UMFUS facilities to facilitate coordination between FSS and UMFUS. Given the potentially huge number of deployments in these bands, it would be extremely burdensome to require UMFUS licensees to maintain and update information on each deployment. On the other hand, FSS providers would only need this information when they were planning to coordinate an earth station location. The Commission disagrees with SES/O3b that the existing coordination procedures are inadequate for them to obtain the information they need to coordinate with existing UMFUS licensees. The part 101 coordination rules, which apply to coordination of proposed earth stations, require UMFUS licensees to specify the technical details relevant to any objection. The Commission concludes that the burden of the disclosure requirement would far outweigh any benefit. The Commission therefore denies the petitions on this issue.

G. 64–71 GHz

94. The Commission affirms the Commission's decision to authorize unlicensed operations across the entire 64–71 GHz band. Contrary to petitioner's arguments, the Commission thoroughly articulated the public interest benefits of making 64–71 GHz available for unlicensed use, and the Commission's decision took into account the needs of both licensed and unlicensed services. In contrast, petitioners have provided no explanation as to how they would make use of this band as a licensed band, and they mostly repeat arguments previously considered and rejected by the Commission.

95. Petitioners' focus on the amount of spectrum made available for licensed versus unlicensed use is misguided. The Commission has previously explained that this was not a valid comparison when responding to claims of ''gigahertz parity'' from commenters who shared the same view as CTIA. Furthermore, the Commission makes additional spectrum available for licensed use, and it will continue to work to make more licensed spectrum available.

96. The Commission's expectation that unlicensed services would quickly serve the public interest in the 64–71 GHz band, based on the band's adjacent location to the 57–64 GHz band where WiGig devices are being actively deployed, is supported by the fact that the FCC Equipment Authorization Database shows close to 200 product certification grants for operation in the 57–64 GHz band. Furthermore, the Commission notes that the technical specifications for 802.11ad unlicensed devices to operate in the 64–71 GHz band are already supported in the approved IEEE 802.11–2016 standard, using the same communication protocols for six 2160-megahertz wide channels.

H. Mobile Spectrum Holdings (In-Band Aggregation Limits)

97. CCA requests reconsideration of the Commission's decision not to adopt band-specific limits for each of the 28 GHz, 37 GHz and 39 GHz bands. In the *R&O,* the Commission found that band-specific limits were unnecessary, stating because any technical differences between these three bands is not sufficient to significantly affect how these spectrum bands might be used. The Commission finds that CCA merely restates general arguments previously considered and rejected, and the Commission therefore denies its request for reconsideration.

I. 28 and 39 GHz License Area Sizes

1. 28 GHz Band

98. In the *R&O,* the Commission selected counties as the base geographic unit for UMFUS license areas in the 28 GHz band and subdivided existing Basic Trading Area (BTA) licenses into counties. Several petitioners seek reconsideration of the Commission's choice of counties in the *R&O.* Their arguments in favor of reconsideration largely involve what they see as an increased monetary, administrative and technological burden created by switching to counties as opposed to BTAs.

99. The Commission denies these arguments because they were fully considered and rejected by the Commission in its *R&O,* and petitioners have failed to present any basis for revisiting its decision. The Commission fully considered and rejected the following concerns before reaching its decision, namely that (1) counties did not fit the contemplated services to be offered using mmW spectrum; (2) counties would result in more border areas requiring greater coordination; (3) the number of counties would impose administrative burdens on licensees and the Commission; and (4) requiring buildout showings on a county basis would increase licensees' costs. The Commission also noted that it had moved towards license areas based on EAs and that counties were more consistent with EAs. Finally, it noted that using BTAs for UMFUS would require a new licensing agreement with Rand McNally, the owner of BTAs. It concluded that county-based licenses would afford a licensee the flexibility to develop localized services, target deployment based on market forces and consumer demand, and facilitate access by both smaller and larger carriers—and that these benefits outweighed any administrative burden on licensees or the Commission. The Commission, rejecting the arguments that many counties previously included in BTAs would be abandoned because it was not economically viable or administratively cost-effective to build them out, concluded that it would be better to allow new providers to obtain licenses and make use of that spectrum. The Commission believes this logic applies equally to rural areas, tribal land, counties containing military bases, or counties that contain federal lands such as the National Parks. To the extent licensees previously acquired these areas under the expectation that they would provide service, it is inconsistent for licensees to now deny such intent. If there is no intent to provide service

in an area, they should surrender these license rights and give others the opportunity to provide service in those areas.

100. The Commission considered the move to a county-based license fair to incumbents because they not only retained their fixed license rights but also would gain valuable mobile rights by virtue of acquiring UMFUS licenses. The Commission concluded generally that the benefits of these smaller license areas outweighed any administrative burden on licensees and on the Commission. To the extent Petitioners are now making new arguments, such claims would appear to be barred because they have not justified why they failed to raise such arguments previously or why it is incumbent upon us to review them in the public interest.

101. The Commission rejects the takings argument raised by Nextlink and CCA. ''[C]ourts have concluded that licensees do not have property rights in any license that the Commission issues to them, and so are not protected by the Fifth Amendment.'' It is also ''undisputed that the Commission has always retained the power to alter the term of existing licenses by rulemaking.'' Nor is there anything inherently unfair in the Commission's action. LMDS licenses have received mobile use rights they previously lacked and these licensees were given extra time to fulfill their buildout requirements.

2. 39 GHz Band

102. CCA requests that we reconsider the Commission's decision to divide the 39 GHz band into PEAs from previous EA-based license areas because it allegedly will harm incumbents by increasing the burdens and costs of buildout. The Commission rejects these arguments for most of the same reasons it rejects these arguments with respect to the 28 GHz band. One distinction the Commission observes between the 28 GHz bands and 39 GHz bands, however, is that in the 39 GHz band, the decision to allocate license areas by PEA should address many of the petitioners' concerns. Specifically, the magnitude of change between EAs and PEAs is far smaller than the change from BTAs to counties in the 28 GHz band. There are 176 EAs and 416 PEAs, whereas there are 493 BTAs and 3,174 counties or county-like areas. The Commission correctly concluded that use of the PEA formed the appropriate middle ground between counties and EAs because PEAs were small enough to permit access to licenses by smaller carriers while still large enough to incentivize investment in new technologies. The PEA license size should thus address many of the monetary and administrative cost burdens that Petitioners decry.

J. Performance Requirements for Incumbent Licenses

103. As an alternative to reconsidering its decision to divide the current 28 GHz BTA-based LMDS license areas into counties, several petitioners argue the Commission should either reduce its performance requirements or provide incumbent licensees with greater flexibility in meeting these requirements. Parties also seek similar relief for incumbent 39 GHz licenses. We decline to adopt either of these proposals.

104. The Commission continues to believe that extending the deadline for meeting the new performance requirements to 2024 for incumbent licensees provides sufficient relief. Petitioners ignore the fact that buildout obligations serve the important purpose of ensuring that scarce spectrum resources are put to use and deployed in a manner that serves all communities. Indeed, the Commission's construction obligations promote the Commission's objective of making spectrum ''available, so far as possible, to all the people of the United States'' regardless of where they live. The Commission rejects as unsupported and contrary to the public interest the idea that, in this instance, allowing licensees to hold on to unused spectrum indefinitely would promote service. In the *R&O,* the Commission noted the various proposals by parties that would have permitted incumbent licensees to meet their then existing performance requirements before the end of their license terms. Petitioners largely repeat the same arguments and the Commission denies them on the ground they are plainly repetitious. To the extent petitioners attempt to craft variations on those previous performance proposals or propose entirely new performance standards, they have not adequately explained why they could not have raised these arguments at the earlier stage of the proceeding, and the Commission sees no reason to review its performance requirements on public interest grounds.

105. The Commission continues to believe that the 2024 deadline for incumbents to meet buildout requirements is reasonable. Indeed, developments since release of the *R&O* indicate that the Commission's 2020 estimate for availability of equipment may have been pessimistic. Both Verizon and AT&T have commenced trials for roll-out of commercial 5G services. Verizon has begun offering 5G mobile and broadband service to pilot customers in 11 cities, and AT&T conducted its first 5G business customer trial in 2016 and states that it is currently pursuing 5G video trials with DirecTV NOW as well as additional fixed and mobile 5G trials with Qualcomm and Ericsson. Furthermore, it is estimated that 3GPP standards for Non-Standalone New Radio (NSA NR) will be completed by March 2018, and that full Standalone New Radio with Next Generation Core will be completed by September 2018. The Commission believes these developments belie petitioners' claims that they will not have sufficient time to meet performance requirements by 2024 due to the inability to obtain equipment.

106. Finally, the Commission rejects the argument that parity requires that incumbent licensees receive the same amount of time as new licensees to meet their buildout requirements. Incumbents have an advantage over potential new UMFUS licensees because they have immediate access to spectrum and can begin planning for deployments now.

K. Splitting of 28 GHz Band Into Two Licenses

107. Nextlink asks that the Commission reconsider its decision to split the 850 MHz A1 Band into two 425 MHz segments and instead make this spectrum available for UMFUS as a single band. We deny this request both because it is plainly repetitive and because petitioners have failed to rebut the reasoning of the *R&O* which found that a split band would increase competition.

108. The Commission denies Nextlink's request on the merits and because Nextlink seeks to reargue matters that the Commission thoroughly considered. Nextlink's assertion that the Commission does not provide a valid basis for splitting the A1 band into two 425 megahertz licenses is incorrect. As T-Mobile argued in response to the *NPRM,* ''where available bandwidth is more limited, as it is at 28 GHz and may be in other lower bands, smaller license blocks should be licensed in order to preserve competition.'' AT&T and NSMA also support smaller channels in the 28 GHz band. Nextlink previously had alleged that bifurcating the A1 band would exacerbate the problems it had raised against county based licensing, such as increased costs and 'stranding' deployments in different halves of the A1 band, but those arguments were considered and rejected by the Commission. On balance, the Commission continues to believe that

the benefits to competition of having multiple licenses in an area outweigh any marginal increase in costs to licensees.

L. Applicability of Part 30 Rules to Satellite Operations

109. EchoStar and Inmarsat note that § 30.6 of the Commission's rules states that when providing FSS services, UMFUS licensees must operate consistent with part 25 of our rules governing satellite communications. EchoStar and Inmarsat ask for a clarification that FSS operators holding licenses ''for the purpose of protecting FSS operations'' would only be subject to the following UMFUS service rules: (1) Section 30.5 (Service Areas); Section 30.104 (License Term); and (3) Section 30.106 (Geographic partitioning and spectrum disaggregation).

110. EchoStar and Inmarsat are correct that the Commission did not intend to apply part 30 technical rules to satellite operations. Accordingly, the Commission will revise § 30.6 to state explicitly that part 30 technical rules do not apply when UMFUS licenses are used in connection with satellite operations. The part 30 licensing rules do apply, however, to all UMFUS licenses, regardless of use. For example, if a satellite operator acquired an UMFUS license at auction, it would acquire those licenses pursuant to the competitive bidding rules in part 30, subpart D. Furthermore, the Commission buildouts requirements apply to all UMFUS licenses, but there is a special provision in the rules allowing FSS operators to comply with those requirements in a given county by demonstrating that an earth station is in service, operational, and using the spectrum associated with the license. Accordingly, the Commission denies the petition to the extent it seeks to broadly exclude FSS operations from the UMFUS licensing rules.

IV. Memorandum Opinion and Order

A. 48.2–50.2 GHz

111. At this time, the Commission declines to authorize fixed and mobile use in the 48.2–50.2 GHz band, but rather retain the broad flexibility of satellite systems to operate in that band. The Commission believes the satellite broadband services that could be delivered over the networks proposed by Boeing, SpaceX, and others could play a useful role in bringing the benefits of broadband to more Americans. Given the current state of satellite technology, these systems would need access to spectrum where satellite end user devices can operate. The Commission's actions will provide FSS operators with 2 gigahertz of both uplink and downlink spectrum where they can operate satellite end user devices and earth stations without having to share with terrestrial licensees. In addition, the Commission recognizes the importance to the satellite industry of having spectrum to freely deploy uplink user terminals across the United States. Further, the Commission notes that there is no explanation in the record for how the V-band could work successfully for both satellite and terrestrial providers without dedicated spectrum for FSS end-user terminals. Accordingly, while the Commission is making additional spectrum, including the 47.2–48.2 GHz band, available for terrestrial use, it will reserve the 48.2–50.2 GHz band for FSS use at this time, pursuant to the existing part 25 rules, in order to give satellite operators an opportunity to provide services in the V-band.

B. 40–42 GHz

112. The Commission declines to authorize mobile use in the 40–42 GHz band at this time. No proponent of mobile use for this band has explained how such use would be consistent with the operation of satellite user devices in this band. This analysis is different from the sharing analysis between UMFUS and individually licensed earth stations because the number and location of individually licensed earth stations can be controlled. As with 48.2–50.2 GHz, the Commission will reserve the 40–42 GHz band for FSS use at this time, pursuant to the existing part 25 rules, in order to give satellite operators an opportunity to provide services in V-band.

113. The Commission acknowledges the ongoing international studies at the ITU–R for mobile (IMT) use in the band 37–43.5 GHz. The Commission notes that the benefits of global harmonization are not limited to situations where all regions have identical spectrum allocations and can be facilitated through the use of radio tuning ranges. Radio tuning ranges allow manufacturers to develop equipment that can operate across multiple bands within a contiguous range while allowing regulators flexibility to manage spectrum resources for domestic requirements. The Commission will continue to follow the ongoing studies in this band leading up to WRC–19.

C. 71–76 and 81–86 GHz Bands (70/80 GHz Band)

1. Introduction

114. On October 16, 2003, the Commission adopted a *Report and Order* establishing service rules to promote non-Federal development and use of the mmW spectrum in the 71–76 GHz (70 GHz), 81–86 GHz (80 GHz), and 92–95 GHz (90 GHz) bands, which are allocated to non-Federal and Federal users on a co-primary basis. Based on the determination that highly directional, ''pencil-beam'' signal characteristics permit systems in these bands to be engineered so that many operations can co-exist in the same vicinity without causing interference to one another, the Commission in 2003 adopted a flexible and innovative regulatory framework for the bands. Specifically, the Commission created a two-pronged authorization scheme for non-Federal entities for the entire 12.9 GHz of spectrum in the band. First, a licensee applies for a non-exclusive nationwide license; second, the licensee registers individual point-to-point links. Under this licensing scheme, a non-exclusive license serves as a prerequisite for registering individual point-to-point links. Licensees may operate a link only after the link is both registered with a third-party database and coordinated with NTIA. This flexible and streamlined regulatory framework was designed to encourage innovative uses of the mmW spectrum, facilitate future development in technology and equipment, promote competition in the communications services, equipment, and related markets, and advance sharing between non-Federal and Federal systems.

115. As of June 12, 2017, there were 454 active non-exclusive nationwide licenses covering the 70 GHz, 80 GHz, and 90 GHz bands. Based upon information available from the third-party database managers that are responsible for registering links in those bands, as of June 10, 2016, there were approximately 11,882 registered fixed links in the 70 GHz and 80 GHz bands.

116. Access to these bands is based on a set of spectrum rights and sharing mechanisms between Federal and non-Federal users, and among different types of non-Federal uses (fixed and satellite). In these bands, non-Federal operations may not cause harmful interference to, nor claim protection from, Federal FSS operations located at 28 military bases. In addition, in the 80 GHz band, licensees proposing to register links located near 18 radio astronomy observatories must coordinate their proposed links with those observatories.

Third-party database managers are responsible for recording each proposed non-Federal link in the third-party database link system and for coordinating with NTIA's automated ''green light/yellow light'' mechanism, under which a non-federal link entered into NTIA's system is either approved for 60 days (green light) or subject to further coordination (yellow light), to determine the potential for harmful interference to Federal operations and radio observatories.

2. Mobile Use

117. The Commission declines to authorize mobile use in the 70 GHz and 80 GHz bands under UMFUS rules at this time. There is broad support in the record for focusing on and enhancing the existing rules for fixed use of the band, while there is little consensus among the proponents of mobile use as to how to coexist with fixed links. Under the existing licensing mechanism, these bands can play an important role in 5G development by facilitating backhaul and other fixed uses. It is important not only to protect existing links but also to provide an opportunity for future growth of FS in these bands as demand for backhaul and other related services increases.

118. The Commission has several proposals pending in its Wireless Backhaul proceeding (WT Docket No. 10–153) to modify the existing rules for these bands. The proposals include adjustments to the antenna standards, allowing +/-45 degree polarization, establishing a channelization plan, requiring construction certifications for registered links, and allowing minor modifications to link registrations. The Commission also notes that companies such as Aeronet, Google, and The Elefante Group have proposed different uses for these bands which neither fit the traditional mobile broadband nor fixed link models. The Commission's best course of action is for it to consider those proposals and possible future uses in the Wireless Backhaul proceeding. Once the Commission decides what changes, if any, to make to the existing rules, it encourages interested parties to discuss possible methods of promoting coexistence between fixed links and mobile operations. The Commission reserves the right to revisit this issue as mobile use deploys in other mmW bands, technology develops, and as further thought is given to mobile/fixed coexistence.

3. Indoor-Only Unlicensed Use Under Part 15

119. The Commission declines at this time to authorize indoor-only unlicensed use under part 15 of its rules in the 70 GHz and 80 GHz bands. The Commission finds that little has changed since it rejected the use of unlicensed devises in the 70 GHz and 80 GHz bands in 2003. The Commission further finds that, given the risks of interference to existing fixed uses, additional studies are warranted before considering indoor unlicensed use in the 70 GHz and 80 GHz bands. Parties supporting unlicensed indoor use in the 70 GHz and 80 GHz bands fail to provide sufficient evidence that such use would cause no interference to authorized uses. Rather, they rely on general references to the propagation characteristics in these bands, building materials, device limitations (*e.g.,* a requirement that equipment comply with § 15.257 of the rules), or they advocate the adoption of an SAS framework to protect authorized uses from interference.

120. The Commission further finds that the current availability of 14 gigahertz of contiguous spectrum for unlicensed operations immediately below the 70 GHz band reduces the urgency to introduce unlicensed indoor use in the 70 GHz and 80 GHz bands. In this regard, the Commission notes that, while unlicensed indoor use is permitted under part 15 at 90 GHz, no equipment has been authorized for use as of June 12, 2017, so it would be premature to extend the rules of a yet-to-be successful service to the bands immediately below it that, as demonstrated by the record, support a thriving mmW service. The Commission further finds that it is neither necessary nor cost-effective to establish a geolocation database to facilitate coordination of unlicensed devices at this time, as proposed by OTI and Public Knowledge. The Commission's decision to delay introducing unlicensed indoor use at this time furthers the public interest by protecting existing operations and successful services in the 70 GHz and 80 GHz bands without foreclosing future innovations in these bands.

D. 37.5–40 GHz Band Satellite Issues

1. Satellite Power Flux Density Limits

121. The Commission concludes that the record does not establish conditions under which FSS could operate at a higher power flux density (PFD) consistent with terrestrial use of the band. The Commission recognizes that Boeing has devoted considerable effort to address its questions about the rain fading issue. At this time, however, the Commission believes that allowing FSS to operate with a higher PFD would be inconsistent with its decisions to designate 37.5–40 GHz as an UMFUS band and to grant UMFUS licensees the flexibility to provide a wide variety of fixed and mobile technologies. UMFUS technologies are new, rapidly evolving, and proliferating. Boeing's studies emphasize coexistence with mobile broadband systems, but that is not the only use case being developed for this band. Verizon announced that it will begin offering 5G fixed wireless service to pilot customers in 11 cities in the first half of 2017, and AT&T conducted its first 5G business customer trial in 2016 and states that it is currently pursuing 5G video trials with DirecTV NOW as well as additional fixed and mobile 5G trials with Qualcomm and Ericsson. The Commission notes that the existing PFD limits for satellite signals were designed to protect fixed systems. Another use case is IoT devices, which Boeing did not specifically consider. By one informed estimate, the IoT market could grow from an installed base of 15.4 billion devices in 2015 to 30.7 billion devices in 2020 and 75.4 billion in 2025. The most salient issue, however, is not the sheer number of IoT devices that are likely but the plethora of designs being developed.

122. Boeing's analysis proposes to impose limits on equivalent power-flux density (EPFD) instead of PFD on the ground. EPFD limits have been used in the Commission's rules to address the interference from NGSO FSS systems to GSO space stations as well as to earth stations receiving from such space stations. In these situations, the pointing direction of the interfered-with earth station antenna is fixed, the antenna pattern of the earth station is known, and the radio propagation conditions can be approximated by line of sight propagation. By contrast, UMFUS receivers use phased array antennas to dynamically form beams in the direction of the transmitter over the relative path of motion, and the received signals are generally subject to multipath propagation conditions. Boeing's analysis addressed the dynamic nature of UMFUS beamforming by modeling the random pointing of UMFUS antennas while using a 3GPP-suggested antenna pattern, and Boeing also presented computer simulation results for multipath environments in nine cities. Boeing's computer simulations illustrate the complexity of characterizing the interference performance of these systems and, even if the Commission was to adopt EPFD-based limits, additional work would be required. Furthermore, UMFUS receivers are in

the early stage of development and have not yet been manufactured for deployment. Any EPFD limit set at this time based on a 3GPP-suggested antenna pattern may limit the future development of antenna reception technology for known applications or for applications that have not even been conceived.

123. Boeing has made a good faith effort to model a broadly representative range of UMFUS devices and pointing conditions, but at this nascent stage of the technology it would be impossible to capture all variants of UMFUS use cases that could yet emerge. Under these circumstances, Boeing and others have not yet met the burden of proving that they can strengthen their satellite signals during rain storms without interfering with terrestrial systems in the 37.5–40 GHz band. Accordingly, the Commission will not make any changes to § 25.208(q) or (r) of its rules.

2. Authorizing Satellite User Equipment

124. The Commission finds that allowing satellite earth stations in the 37.5–40 GHz band has the potential to result in a negative customer experience for satellite broadband consumers. It is true that no earth stations in the 37.5–40 GHz band will generate any direct interference because earth stations operate in a receive-only mode in that band, where satellite operations are authorized only in a space-to-Earth mode. In general, however, consumer earth stations tend to need stronger satellite signals than larger, more sophisticated gateway earth stations. The Commission has denied Boeing's request for increased power levels at this time, but Boeing could renew its request. If the Commission allowed satellite user equipment to use 37.5–40 GHz on an opportunistic basis, but the buildout of terrestrial systems eventually required FSS operators to relinquish their use of channels below 40 GHz, customers could experience a reduction in service quality. The Commission does not agree with Boeing's argument that consumers could simply narrow their usage to bands above 40 GHz, where satellite is primary. If it is true, as Boeing argues, that additional bandwidth below 40 GHz is necessary to provide adequate high-speed internet service to consumers, then surely those same consumers would experience a decline in the quality of their services if they were required to relinquish those channels. Alternatively, if those consumers would not experience a decline in the quality of their service upon relinquishing channels below 40 GHz, the implication is that those channels are not necessary for the delivery of high-quality satellite service.

125. The Commission agrees with Boeing that satellites could complement terrestrial services by providing assured coverage to rural areas, and it acknowledges that mmW mobile services will likely appear first in high-traffic areas. Recent developments, however, suggest that the same technologies that will support non-line-of-sight service to mobile users over short distances will also be able to support non-line-of-sight service to fixed users over longer distances. For example, Starry says that it can provide fixed mmW service to consumers at distances up to 1 kilometer. However, the Commission finds that FSS proponents have not met their burden of demonstrating that allowing satellite end user devices in 37.5–40 GHz is necessary and appropriate. FSS will retain the 40–42 GHz band where satellite end user devices can be located without restriction. In addition, FSS can use the 37.5–40 GHz band for a limited number of individually licensed earth stations. The Commission believes this framework promotes efficient spectrum use while providing both UMFUS and FSS with the opportunity to provide service.

E. Performance Requirements—Non-Federal Use-or-Share

126. The Commission declines to adopt any use or share regime for any of the part 30 bands at this time. This only addresses use-or-share between non-Federal licensees. The Commission's decision here does not limit or prejudge any actions it may take concerning sharing mechanisms with Federal users in shared bands. Furthermore, the Commission's decision herein does not encompass the Lower 37 GHz Band, either between Federal and non-Federal users or between non-Federal users.

127. The record reflects a lack of consensus on whether to adopt a use-or-share approach in the subject bands, and even among those who support the concept, on what specific use-or-share regime would best serve the public interest here. In any event, the Commission's assessment of the record leads us to conclude that the case has not been made that any one of the proposed variants of a use-or-share regime is likely to yield significant benefits. In contrast, commenters opposing implementation of a use-or-share regime in the subject bands have convinced us that whatever the speculative benefits may be, they are greatly outweighed by the likelihood that a use-or-share approach will discourage investment and delay deployment in these bands.

128. In particular, administering the shared areas would appear to be overly burdensome, whether that burden fell on the Commission, the licensee, or the incoming shared users. The Commission notes the burden would be particularly high in mmW bands, given the very large number of possible deployments due to the limited propagation in these bands. Moreover, potential business models in these bands might not necessarily blanket large portions of the geography or population in the licensed areas during the initial term. Some commenters indicated cautious support for a use-or-share mechanism that would enable the licensee to ''claw back'' previously-shared spectrum if their future expansion required it, but such clawing back would be difficult to execute in practical terms, and would necessarily cause disruption to the operations of the shared users, potentially including customers among the public. Any SAS the Commission adopted to administer this system would face all the challenges it has discussed in other contexts, including difficulty defining appropriate terms and equitably distributing the cost of establishing and maintaining it. The Commission would also be risking significant delays in deployment of mmW networks during the time required to address these concerns.

129. Discouraging investment is also a serious consideration. A prospective licensee purchases rights to a defined area, subject to a defined license term with defined buildout requirements at the end of it, which are calculated to be reasonably achievable within that timeframe. Prospective licensees plan their auction bids with these specifications in mind. A use-or-share regime divorced from buildout requirements, which opened up the entire portion of the license area not in actual use by the licensee on some date, would undermine this system and introduce uncertainty and instability into the auction process. Given the record on this issue, the Commission finds that imposing a use-or-share regime at this time would discourage investment. The Commission believes its concerns are particularly relevant in these bands given the nascent state of technology and the potential scale and cost of deployments.

130. Given the well-documented challenges that would accompany the adoption of a use-or-share regime, the Commission would need a clear showing of benefits from a use-or-share regime in order to adopt such a regime. No such showing has been made here.

In the 3.5 GHz band, the part 96 SAS-based system provides a form of use-or-share. The UMFUS bands that the Commission has established so far generally do not have similar incumbent or Federal coordination issues. Although some commenters argue that use-or-share would increase the efficiency of spectrum use in UMFUS bands, any such increase would require both entities willing and able to take advantage of such a regime, and a mechanism to be in place, while also preserving licensees' rights.

131. The difficulty of crafting such a balanced mechanism is discussed above. In the matter of willing entities, the Commission notes that those commenters supporting use-or-share do not agree on how such a regime should be structured; all others who commented are opposed. With regard to the comments from Inmarsat and O3b, the Commission does not believe that a use-or-share regime that is useful only to the satellite industry, at the cost of complicating terrestrial deployment, is in the public interest. The use-or-share concept was proposed as a way to encourage additional *flexible* use of the UMFUS bands. That goal certainly encompasses additional sharing opportunities for satellite operators, but not to the extent that it impedes terrestrial deployment. Sharing mechanisms that will allow satellite operators to coexist with terrestrial licensees in the UMFUS bands have already been established, and will continue to be refined.

132. The Commission also rejects O3b's argument that a use-or-share regime is required by the Communications Act. The Communications Act requires us to ''include performance requirements, such as appropriate deadlines and penalties for performance failures, to ensure prompt delivery of service to rural areas, to prevent stockpiling or warehousing of spectrum by licensees or permittees, and to promote investment in and rapid deployment of new technologies and services.'' The Commission has, in fact, included performance requirements in its regulations for the new UMFUS bands. Those requirements include appropriate deadlines and penalties for performance failures. The Commission has promulgated similarly-structured requirements in other bands and services. The Commission has designed the current performance requirements for UMFUS to balance encouraging deployment of potentially novel services with ensuring accountability in terms of actually providing service, and it is satisfied that its requirements meet the requirements of the Communications Act.

133. Wi-Fi Alliance and Intel both suggested that given the difficulties of implementing a use-or-share regime, the best alternative to exclusive geographic area licensing is unlicensed spectrum. The Commission agrees. Unlicensed spectrum provides the low barriers to entry that can encourage innovative business models, while not undermining the substantial investments of which more established operators are capable. Given that the Commission has already made available a full 14 gigahertz of unlicensed spectrum in the mmW bands, it does not believe that it is in the public interest to complicate terrestrial deployment in the UMFUS bands.

F. Digital Station Identification

134. The Commission declines to require mmW band licensees or operators to transmit digital identifiers. The record provides insufficient support for the adoption of digital ID requirements for these mmW bands, particularly if the Commission was to specify a particular format. In particular, commenters have pointed out that treatment of interference in these mmW bands would differ from how the Commission handles similar issues in most other wireless bands if the Commission were to require transmission of digital ID. The Commission observes that characteristics of the mmW bands at issue in the *Report and Order* and in the *Second R&O* make the occurrence of interference less likely in the first instance, relative to other bands. Licensees and operators in the bands being authorized generally will use short-distance transmissions, creating more potential for spectrum reuse by multiple licensees in one area and generally limiting the location of an interfering party to a relatively small area. Further, ''pencil-beam'' signal characteristics and other technologies being developed specifically for these bands should also make it easier for operations to co-exist in the same vicinity without causing interference to one another. The Commission acknowledges the important role of the agency in identifying and locating devices that cause harmful interference, but it finds that it is unnecessary and unsupported in the case of these mmW bands to adopt a digital ID requirement.

G. Technical Issues

1. Antenna Height

135. Based on the record, the Commission declines to adopt antenna height limits. The Commission agrees with 5G Americas and Qualcomm that there may be uses in these bands that could require higher antenna heights. The Commission also agrees that licensees are in the best position to determine their network configuration and when antenna downtilt is necessary. The Commission finds that the comments in support of adopting antenna height limits and corresponding power reductions have failed to demonstrate that limits are necessary to avoid interference. The supporters of antenna height limits have not provided any engineering analysis or examples of deployments supporting the need for antenna height limits. In the absence of a clear showing that antenna and power limits are necessary, the Commission believes that it should minimize regulatory burdens and maximize flexibility for licensees to deploy diverse systems and to coordinate with adjacent licensees to avoid interference.

136. While Samsung and T-Mobile argue that adopting antenna height restrictions would be consistent with how other wireless technology services are regulated, antenna height limits do not apply to all part 27 radio services. For instance, the 305 meter threshold limitation does not apply to the Advanced Wireless Services (AWS), the Broadband Radio Service (BRS), or the Educational Broadband Service (EBS). The Commission also notes that antenna height thresholds and corresponding power reductions primarily apply to lower frequency bands, while higher frequency bands generally do not have such limits.

137. The Commission agrees with Boeing that there is an increased likelihood of clear line of sight conditions as the base station tower height increases. As 5G Americas and Qualcomm note, however, service providers also may operate facilities in these bands that require line of sight operations hundreds of meters above ground level. The Commission does not want to adopt rules that would unnecessarily restrict licensee's flexibility to deploy diverse systems. Further, as 5G Americas notes, licensees can work together coordinating height of facilities, beam tilt and angular discrimination as needed to protect each other in the same market, and meet the power levels at a given border to protect adjacent service. In the absence of clear evidence that PFD limits and licensee to licensee coordination are insufficient to prevent interference, the Commission concludes that additional regulatory requirements are not necessary.

138. Finally, while Starry asks that specific language be added to part 27

rules to account for the variations in technical characteristics between mmW and low band spectrum, it has not provided sufficient detail or an explanation of what this proposed language should include. For the reasons noted above, the Commission declines to adopt antenna height thresholds and corresponding power reductions.

2. Coordination Criteria at Market Borders for Fixed Point-to-Point Operations

139. The Commission declines to revise the coordination criteria for point-to-point operations. While the Commission appreciates Nextlink's and Starry's efforts to develop alternative coordination criteria, no party has identified any concrete defect or problem with the existing coordination criteria. While it is true that the Commission has established smaller license areas in these bands, no showing has been made that changes in coordination criteria are needed to accommodate those smaller license areas. Indeed, T-Mobile believes the existing criteria work well. Furthermore, under Nextlink's and Starry's proposals, applicants would have to conduct an engineering analysis in order to determine whether a link needed to be coordinated. The Commission does not believe the benefit of having to avoid coordination in certain circumstances justifies requiring applicants to do an engineering analysis to identify whether links require coordination. The existing rules provide clear standards that licensees can readily apply to determine when coordination is needed.

140. Another problem with the Nextlink and Starry proposals is that they are not supported by the technical analysis requested in the *FNPRM.* Starry's proposal lacks specific details as to how the contour zone would be calculated, what protection threshold would be provided within the contour zone, or how the 50-meter height was derived. Because of the lack of details in Starry's proposal, the Commission is not able to determine whether it would adequately mitigate interference and therefore cannot adopt it. Nextlink's proposal, while more developed than Starry's, also was not supported with technical analysis that describes how their method would ensure adequate mitigation of interference between adjacent area licensees. Specifically, Nextlink's methodology appears to assume that the signal level produced by a transmitter operating at maximum EIRP oriented directly at the market border, taking into account free space loss at 20 km, will not cause interference to adjacent licensees. This may not be the case. Given the lack of technical analysis and the failure to demonstrate a need for revised criteria, the Commission concludes that retaining the existing coordination criteria at market borders for fixed point-to-point operations is most appropriate.

3. Minimum Bandwidth for Given BS/MS/Transportable Transmit Power Levels

141. At this time, the Commission maintains its current power limit rules for mobile and transportable classes without scaling. While the Commission recognizes that power scaling can potentially help limit interference among UMFUS providers and other services using these bands, it also recognizes that there are other methods that can help limit interference, such as power control. Furthermore, UMFUS providers have an incentive to maintain a balanced power spectral density among all their network components if they wish to avoid interference within their own networks. The Commission agrees with Nextlink and Qualcomm that at this nascent stage of 5G technological development establishing power scaling factors could inadvertently preclude some yet-to-be-developed use cases and prematurely constrain development of the next generation of devices.

142. The Commission declines to establish a minimum bandwidth requirement because there is no need for such a requirement and establishing such a requirement could accidentally preclude uses of this spectrum. These bands can facilitate data exchange for a great number of devices embedded with electronics, software, sensors, and actuators (*e.g.,* IoT). Different types of devices may have significantly different bandwidth requirements. For example, a utility meter that exchanges data on monthly or even daily bases requires far less bandwidth than a live video streaming device monitoring an inter. Given the early stage of 5G technological development, the Commission chose not to impose a regulatory requirement and provide equipment developers with flexibility to design equipment to meet market needs. Consequently, the Commission will not adopt a minimum bandwidth for UMFUS devices.

4. Sharing Analysis and Modeling

143. The Commission will remain flexible with respect to the appropriate propagation model to apply when analyzing sharing in the mmW bands. As many commenters pointed out, the appropriate sharing model at mmW frequencies will depend on the particular sharing environment, including whether the interference path is terrestrial, air-to-ground or space-to-ground, as well as the technologies deployed. As a general principle, the Commission concurs with the commenters who support models and scenarios that consider a statistical probability of interference based on deployment, propagation, and usage scenarios as opposed to a worse case approach.

V. Procedural Matters

144. As required by the Regulatory Flexibility Act of 1980 (RFA), the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) and a Supplementary Final Regulatory Flexibility Analysis (Supplemental FRFA) of the possible significant economic impact on small entities of the policies and rules adopted in the *Second Report and Order and Order on Reconsideration.* The analysis associated with the policies and rules in *Second Report and Order* are contained in the FRFA, and the Supplemental FRFA contains the analysis associated with the policies and rules in *Order on Reconsideration.*

VI. Final Regulatory Flexibility Analysis

A. Need for, and Objectives of, the Final Rules

145. In the *Second R&O,* the Commission increases the Nation's supply of spectrum for mobile broadband by adopting rules for fixed and mobile services in the 24.25–24.45 GHz and 24.75–25.25 GHz band (24 GHz band), and the 47.2–48.2 GHz band. The Commission includes these bands in the part 30 UMFUS. This additional spectrum for mobile use will help ensure that the speed, capacity, and ubiquity of the nation's wireless networks keeps pace with the skyrocketing demand for mobile service. It will also make possible new types of services for consumers and businesses. The Commission will award PEA-based licenses for these bands to best balance the needs of large and small carriers, with partitioning available for the 24 GHz band.

146. Until recently, the mmW bands were generally considered unsuitable for mobile applications because of propagation losses at such high frequencies and the inability of mmW signals to propagate around obstacles. As increasing congestion has begun to fill the lower bands and carriers have resorted to smaller and smaller

microcells in order to re-use the available spectrum, however, industry is taking another look at the mmW bands and beginning to realize that at least some of its presumed disadvantages can be turned to advantage. For example, short transmission paths and high propagation losses can facilitate spectrum re-use in microcellular deployments by limiting the amount of interference between adjacent cells. Furthermore, where longer paths are desired, the extremely short wavelengths of mmW signals make it feasible for very small antennas to concentrate signals into highly focused beams with enough gain to overcome propagation losses. The short wavelengths of mmW signals also make it possible to build multi-element, dynamic beam-forming antennas that will be small enough to fit into handsets—a feat that might never be possible at the lower, longer-wavelength frequencies below 6 GHz where cell phones operate.

147. The Commission also revises its rules for sharing between UMFUS and satellite services in the 28 GHz, 39 GHz, and 37 GHz bands, and apply the revised rules to the 47 GHz band. Specifically, the Commission revises the population limits and numerical limits on satellite earth stations in those bands. These revisions will facilitate the placement of earth stations in smaller markets and promote coexistence between UMFUS and satellite services.

148. The Commission further revises its rules for the 57–71 GHz band to allow unlicensed operation on board aircraft under part 15 of the Commission's rules. This rule change will facilitate expanded access to broadband services in flight.

149. Overall, the new provisions the Commission is adopting are designed to allow licensees, particularly smaller entities, to choose their type of service offerings, to encourage innovation and investment in mobile and fixed use in this spectrum, and to provide a stable regulatory environment in which fixed, mobile, and satellite deployment will be able to develop through the application of flexible rules. The market-oriented licensing framework for these bands will ensure that this spectrum is efficiently utilized and will foster the development of new and innovative technologies and services, as well as encourage the growth and development of a wide variety of services, ultimately leading to greater benefits to consumers.

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

150. No comments were filed that specifically addressed the proposed rules and policies presented in the IRFA.

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

151. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel for Advocacy of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rules as a result of those comments. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

152. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted herein. 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.

153. *Small Businesses, Small Organizations, and Small Governmental Jurisdictions.* The Commission's action may, over time, affect small entities that are not easily categorized at present. The Commission therefore describes here, at the outset, three broad groups of small entities 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 percent of all businesses in the United States, which translates to 28.8 million businesses. 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 2007, there were approximately 1,621,215 small organizations. Finally, the small entity described as a ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' U.S. Census Bureau data published in 2012 indicate that there were 89,476 governmental jurisdictions in the United States. The Commission estimates that, of this total, as many as 88,761 entities may qualify as ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

154. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, 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, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

155. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the UMFUS and the mmW Service where licensees can choose between common carrier and non-common carrier status. At present, there are approximately 66,680 common carrier fixed licensees, 69,360 private and public safety operational-fixed licensees, 20,150 broadcast auxiliary radio licensees, 411 LMDS licenses, 33 24 GHz DEMS licenses, 777 39 GHz licenses, and five 24 GHz licenses, and 467 mmW licenses in the microwave services. The Commission has not yet defined a small business with respect to microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA

rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 had employment of 999 or fewer, and 12 firms had employment of 1,000 employees or more. Thus, under this SBA category and the associated standard, the Commission estimates that the majority of fixed microwave service licensees can be considered small.

156. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 36,708 common carrier fixed licensees and up to 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. The Commission notes, however, that both the common carrier microwave fixed and the private operational microwave fixed licensee categories includes some large entities.

157. *Satellite Telecommunications and All Other Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 shows that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

158. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments 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, U.S. Census Bureau data for 2012 shows that there were a total of 1442 firms that operated for the entire year. Of these firms, a total of 1400 firms had gross annual receipts of under $25 million and 42 firms had gross annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that a majority of ''All Other Telecommunications'' firms potentially affected by its actions can be considered small.

159. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has established a size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry is small.

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

160. The projected reporting, recordkeeping, and other compliance requirements in the *Second Report and Order* will apply to all entities in the same manner. The revisions the Commission adopts should benefit small entities by giving them more information, more flexibility, and more options for gaining access to wireless spectrum.

161. Small entities and other applicants for UMFUS licenses will be required to file license applications using the Commission's automated Universal Licensing System (ULS). ULS is an online electronic filing system that also serves as a powerful information tool, one that enables potential licensees to research applications, licenses, and antenna structures. It also keeps the public informed with weekly public notices, FCC rulemakings, processing utilities, and a telecommunications glossary. Small entities, like all other entities who are UMFUS applicants, must submit long-form license applications must do so through ULS using Form 601, FCC Ownership Disclosure Information for the Wireless Telecommunications Services using FCC Form 602, and other appropriate forms.

162. The Commission expects that the filing, recordkeeping and reporting requirements associated with the demands described above will require small businesses as well as other entities that intend to utilize these new UMFUS licenses to use professional, accounting, engineering or survey services in order to meet these requirements. As described below, several steps have been taken that will alleviate the burdens of the requirements on small businesses.

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

163. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its 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.

164. As noted above, the various construction and performance requirements and their associated showings will be the same for small and large businesses that license the UMFUS bands. To the extent applying the rules equally to all entities results in the cost of complying with these burdens being relatively greater for smaller businesses than for large ones, these costs are necessary to effectuate the purpose of the Communications Act, namely to further the efficient use of spectrum and to prevent spectrum warehousing.

Likewise compliance with the Commission's service and technical rules and coordination requirements are necessary for the furtherance of its goals of protecting the public while also providing interference free services. Moreover, while small and large businesses must equally comply with these rules and requirements, the Commission has taken the steps described below to alleviate the burden on small businesses that seek to comply with these requirements.

165. First, the *Second Report and Order* provides that in the 24 GHz and 47.2–48.2 GHz bands small businesses will have the flexibility to provide any fixed or mobile service that is consistent with their spectrum allocation. This breaks with the recent past in which 24 GHz licensees were limited to only a single use licenses in these bands, and such new flexibility benefits small businesses by giving them more avenues for gaining access to valuable wireless spectrum.

166. Furthermore, the PEA license areas chosen in the *Second Report and Order* should provide spectrum access opportunities for smaller carriers by giving them access to less densely populated areas that match their footprints. While PEAs and counties are small enough to provide spectrum access opportunities for smaller carriers and PEAs could even be further disaggregated, these units of area also nest within and may be aggregated to form larger license areas. Therefore, the benefits and burdens resulting from assigning spectrum in PEA are the result of the Commission balancing the needs of small and large businesses.

167. Finally, the proposals to facilitate satellite service in the 28 GHz and 37.5–40 GHz bands should also assist small satellite businesses by providing them with additional flexibility to locate their earth stations without causing interference to or receiving interference from UMFUS licensees.

G. Federal Rules That May Duplicate, Overlap, or Conflict With the Final Rules

168. None.

VII. Supplementary Final Regulatory Flexibility Act Analysis

A. Need for, and Objective of, the Final Rules

169. In the July 2016 R&O, the Commission made mmW spectrum available through both licensed and unlicensed mechanisms. The Commission authorized both fixed and mobile operations in the 28 GHz and 39 GHz bands using geographic area licensing through the creation of a new UMFUS. The Commission also limited the number of FSS earth station locations to three per county in the 28 GHz band and three per PEA in the 37.5–40 GHz band. It protected a limited number of Federal military sites across the full 37 GHz band and maintained the existing Federal fixed and mobile allocations throughout the band. In the 64–71 GHz band, the Commission authorized unlicensed operations under part 15 based on the rules for the adjacent 57–64 GHz band, providing more spectrum for unlicensed uses like short-range devices for interactive motion sensing and Wi-Fi-like ''WiGig'' operations.

170. The Commission also set up licensing and operating rules for the UMFUS. It granted mobile operating rights to existing LMDS and 28 GHz band licensees, while subdividing their existing licensees to either the county or PEA level. The Commission adopted service and technical rules to facilitate full and complete use of the bands. It also adopted spectrum holdings policies for the 28GHz, 37 GHz, and 39 GHz bands that apply to licenses acquired through auctions and the secondary market. It also adopted performance requirements for mobile, point-to-multipoint, and fixed uses. The Commission adopted a requirement that UMFUS licensees submit a statement describing their security plans and related information prior to commencing operations. It also restricted earth station interference zones from infringing upon any arterial streets or interstate or U.S. highway. Lastly, it deleted the broadcasting and broadcasting-satellite service allocations from the 42–42.5 GHz band (42 GHz band) and declined to allocate the band to the FSS (space-to-Earth).

171. In this *Order on Reconsideration,* the Commission rescinds the reporting and security requirements for UMFUS licensees. Instead, the Commission seeks industry input through the CSRIC process. The Commission will also provide additional flexibility in smaller markets. The Commission modifies and limit the prohibition of earth station interference zones from infringing on a specific set of roads, as defined and classified by the U.S. Department of Transportation: Interstate, Other Freeways and Expressways, or Other Principal Arterial. Finally, the Commission increases the three locations per license area limit on earth stations in the 37.5–40 GHz band to 15 in each PEA, subject to an additional limitation of no more than three earth stations per county.

172. The analysis of the Commission's efforts to minimize the possible significant economic impact on small entities as described in the previous FRFA in this proceeding is hereby incorporated into this FRFA. As a result of the Commission's actions in this *Order on Reconsideration* small entities as well as other licensees will save time and resources that would have been spent complying with the service and technical rules. The cost of compliance with the July 2016 *R&O* is relatively greater for smaller businesses, however with the rescission of the security measures, some of that compliance cost is eliminated. The Commission believes this should result in small businesses having an easier time providing service.

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

173. No comments were filed that specifically addressed the proposed rules and policies presented in the IRFA.

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

174. Pursuant to the Small Business Jobs Act of 2010, which amended the RFA, the Commission is required to respond to any comments filed by the Chief Counsel of the Small Business Administration (SBA), and to provide a detailed statement of any change made to the proposed rule(s) as a result of those comments

175. The Chief Counsel did not file any comments in response to the proposed rules in this proceeding.

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

176. The RFA directs agencies to provide a description of, and where feasible, an estimate of the number of small entities that may be affected by the proposed rules and policies, if adopted herein. 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.

177. As noted above, a FRFA was incorporated into the July 2016 R&O. In that analysis, the Commission described

in detail the small entities that might be significantly affected by the rules adopted in the R&O. In this *Order on Reconsideration,* the Commission hereby incorporates by reference the descriptions and estimates of the number of small entities from the previous FRFA in this proceeding.

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

178. The reporting, recordkeeping and other compliance requirements for small entities required by the July 2016 *R&O* as described in the previous FRFA in this proceeding is hereby incorporated into this FRFA. The actions taken in this Order on Reconsideration revise those requirements by no longer requiring small entities as well as other licensees to submit general statements of their plans for safeguarding their networks and devices from security breaches. The changes to the Earth station siting requirement will not change the reporting and recordkeeping requirements applicable to the rules.

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

179. The RFA requires an agency to describe any significant, specifically small business, alternatives, that it has considered in reaching its 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 such small entities; (3) the use of performance rather than design standards; and (4) and exemption from coverage of the rule, or any part thereof, for such small entities.''

180. The analysis of the Commission's efforts to minimize the possible significant economic impact on small entities as described in the previous FRFA in this proceeding is hereby incorporated into this FRFA. As a result of the Commission's actions in this *Order on Reconsideration* small entities as well as other licensees will save time and resources that would have been spent complying with the security reporting requirement. The Commission believes this should result in small businesses having an easier time providing service. The changes to the Earth station limits from three per PEA to 15 per PEA should increase competition and allow more opportunities for small businesses.

G. Report to Congress

181. The Commission will send a copy of this Order, including this Supplemental FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Small Business Regulatory Enforcement Fairness Act of 1996. In addition, the Commission will send a copy of this Order, including the Supplemental FRFA, to the Chief Counsel for Advocacy of the Small Business Administration. A copy of this Order and Supplemental FRFA (or summaries thereof) will also be published in the **Federal Register**.

VIII. Ordering Clauses

182. *It is ordered,* pursuant to the authority found in sections 1, 2, 3, 4, 5, 7, 301, 302, 302a, 303, 304, 307, 309, and 310 of the Communications Act of 1934, 47 U.S.C. 151, 152, 153, 154, 155, 157, 301, 302, 302a, 303, 304, 307, 309, and 310, Section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 1302, and § 1.411 of the Commission's rules, 47 CFR 1.411, that this *Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration,* and *Memorandum Opinion and Order is hereby adopted.*

183. *It is further ordered* that the provisions and requirements of this Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration, and Memorandum Opinion and Order and the rules adopted herein *will become effectiv*e February 1, 2018, except for those provisions which *will become effective* January 2, 2018, and those rules and requirements which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act and *will become effective* after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

184. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Second Report and Order, Second Further Notice of Proposed Rulemaking, Order on Reconsideration,* and *Memorandum Opinion and Order,* including the Final, Supplemental Final, and Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

185. *It is further ordered* that the Commission *shall send* a copy of the *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).

List of Subjects in 47 CFR Parts 1, 2, 15, 25, 30, and 101

Communications common carriers, Communications equipment, Reporting and recordkeeping requirements.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

Final Rules

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR parts 1, 2, 15, 25, 30, and 101 as follows:

PART 1—PRACTICE AND PROCEDURE

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

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

■ 2. Section 1.901 is revised to read as follows:

§ 1.901 Basis and purpose.

The rules in this subpart are issued pursuant to the Communications Act of 1934, as amended, 47 U.S.C. 151 *et seq.* The purpose of the rules in this subpart is to establish the requirements and conditions under which entities may be licensed in the Wireless Radio Services as described in this part and in parts 13, 20, 22, 24, 27, 30, 74, 80, 87, 90, 95, 96, 97, and 101 of this chapter.

■ 3. Section 1.902 is revised to read as follows:

§ 1.902 Scope.

In case of any conflict between the rules set forth in this subpart and the rules set forth in parts 13, 20, 22, 24, 27, 30, 74, 80, 87, 90, 95, 96, 97, and 101 of title 47, chapter I of the Code of Federal Regulations, the rules in this part shall govern.

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 4. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 5. Section 2.106, the Table of Frequency Allocations, is amended as follows:

■ a. Pages 54 and 59 are revised.

■ b. In the list of non-Federal Government (NG) Footnotes, footnote NG65 is added.

The revisions and addition read as follows:

§2.106 Table of Frequency Allocations.

* * * * *

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24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur Radio (97)
24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Amateur Earth exploration-satellite (active) Radiolocation 5.150	RF Devices (15) ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
24.25-24.45 FIXED	24.25-24.45 RADIONAVIGATION	24.25-24.45 FIXED MOBILE RADIONAVIGATION	24.25-24.45	24.25-24.45 FIXED MOBILE	RF Devices (15) Upper Microwave Flexible Use (30)
24.45-24.65 FIXED INTER-SATELLITE	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		RF Devices (15) Satellite Communications (25)
24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)	24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE MOBILE 5.533	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		
24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B	24.75-25.25 FIXED-SATELLITE (Earth-to-space) 5.535	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE	24.75-25.25	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) NG535 MOBILE	RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30)
25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.25-25.5 Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space)	RF Devices (15)
25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536B FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) 5.536C Standard frequency and time signal-satellite (Earth-to-space) 5.536A			25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	25.5-27 SPACE RESEARCH (space-to-Earth) Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space) 5.536A US258	Page 54

Table of Frequency Allocations	46.9-59 GHz (EHF)				Page 59
International Table			United States Table		FCC Rule Part(s)
Region 1 Table	Region 2 Table	Region 3 Table	Federal Table	Non-Federal Table	
(See previous page)			46.9-47 MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION-SATELLITE 5.554	46.9-47 FIXED MOBILE MOBILE-SATELLITE (Earth-to-space) RADIONAVIGATION-SATELLITE 5.554	
47-47.2 AMATEUR AMATEUR-SATELLITE			47-48.2	47-47.2 AMATEUR AMATEUR-SATELLITE	Amateur Radio (97)
47.2-47.5 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.552A				47.2-48.2 FIXED FIXED-SATELLITE (Earth-to-space) US297 NG65 MOBILE	Satellite Communications (25) Upper Microwave Flexible Use (30)
47.5-47.9 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A MOBILE	47.5-47.9 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE				
47.9-48.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.552A					
48.2-48.54 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 (space-to-Earth) 5.516B 5.554A 5.555B MOBILE	48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.338A 5.516B 5.552 MOBILE		48.2-50.2 FIXED FIXED-SATELLITE (Earth-to-space) US156 US297 MOBILE US264		Satellite Communications (25)
48.54-49.44 FIXED FIXED-SATELLITE (Earth-to-space) 5.552 MOBILE 5.149 5.340 5.555					
49.44-50.2 FIXED FIXED-SATELLITE (Earth-to-space) 5.338A 5.552 (space-to-Earth) 5.516B 5.554A 5.555B MOBILE	5.149 5.340 5.555		5.555 US342		
50.2-50.4 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) 5.340			50.2-50.4 EARTH EXPLORATION-SATELLITE (passive) SPACE RESEARCH (passive) US246		

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* * * * *

Non-Federal Government (NG) Footnotes

* * * * *

NG65 In the band 47.2–48.2 GHz, stations in the fixed and mobile services may not claim protection from individually licensed earth stations authorized pursuant to 47 CFR 25.136. However, nothing in this footnote shall limit the right of UMFUS licensees to operate in conformance with the technical rules contained in 47 CFR part 30. The Commission reserves the right to monitor developments and to undertake further action concerning

interference between UMFUS and FSS, including aggregate interference to satellite receivers, if appropriate.

* * * * *

PART 15—RADIO FREQUENCY DEVICES

■ 6. The authority citation for part 15 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303(r), 304, 307, 336, 544a, and 549.

■ 7. Amend § 15.255 by revising paragraph (a)(1), redesignating paragraphs (b) through (h) as paragraphs (c) through (i), adding new paragraph (b), and revising newly redesignated paragraphs (c)(1)(ii)(A) and (c)(3) to read as follows:

§ 15.255 Operation within the band 57–71 GHz.

(a) * * *

(1) Equipment used on satellites.

* * * * *

(b) Operation on aircraft is permitted under the following conditions:

(1) When the aircraft is on the ground.

(2) While airborne, only in closed exclusive on-board communication networks within the aircraft, with the following exceptions:

(i) Equipment shall not be used in wireless avionics intra-communication (WAIC) applications where external structural sensors or external cameras are mounted on the outside of the aircraft structure.

(ii) Equipment shall not be used on aircraft where there is little attenuation of RF signals by the body/fuselage of the aircraft. These aircraft include, but are not limited to, toy/model aircraft, unmanned aircraft, crop-spraying aircraft, aerostats, etc.

(c) * * *

(1) * * *

(ii) * * *

(A) The provisions in this paragraph (c) for reducing transmit power based on antenna gain shall not require that the power levels be reduced below the limits specified in paragraph (c)(1)(i) of this section.

* * * * *

(3) For fixed field disturbance sensors other than those operating under the provisions of paragraph (c)(2) of this section, and short-range devices for interactive motion sensing, the peak transmitter conducted output power shall not exceed −10 dBm and the peak EIRP level shall not exceed 10 dBm.

* * * * *

PART 25—SATELLITE COMMUNICATIONS

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

Authority: Interprets or applies 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 9. Amend § 25.130 by revising paragraph (b) and the note to paragraph (g) to read as follows:

§ 25.130 Filing requirements for transmitting earth stations.

* * * * *

(b)(1) Applicants for earth stations transmitting in frequency bands shared with equal rights between terrestrial and space services must provide a frequency coordination analysis in accordance with § 25.203(b), and must include any notification or demonstration required by any other relevant provision in § 25.203.

(2) Applicants for user transceiver units associated with the NVNG MSS must provide the information required by § 25.135.

(3) Applicants for 1.6/2.4 GHz MSS user transceivers must demonstrate that the transceivers will operate in compliance with relevant requirements in § 25.213.

(4) Applicants for earth stations licensed in accordance with § 25.136 must demonstrate that the transmitting earth stations will meet the relevant criteria specified in that, including any showings required under § 25.136(a)(4), (c), and/or (d)(4).

* * * * *

(g) * * *

Note 1 to paragraph (g): This paragraph does not apply to applications for blanket-licensed earth station networks filed pursuant to § 25.115(c) or § 25.218; applications for conventional Ka-band hub stations filed pursuant to § 25.115(e); applications for NGSO FSS gateway earth stations filed pursuant to § 25.115(f); applications for individually licensed earth stations filed pursuant to § 25.136; applications filed pursuant to §§ 25.221, § 25.222, § 25.226, or § 25.227; or applications for 29 GHz NGSO MSS feeder-link stations in a complex as defined in § 25.257.

■ 10. Amend § 25.136 by revising the section heading and paragraphs (a) introductory text, (a)(4), (c), and (d) and adding paragraphs (e) and (f) to read as follows:

§ 25.136 Earth Stations in the 27.5–28.35 GHz, 37.5–40 GHz, and 47.2–48.2 GHz bands.

(a) FSS is secondary to the Upper Microwave Flexible Use Service in the 27.5–28.35 GHz band. Notwithstanding that secondary status, an applicant for a license for a transmitting earth station in the 27.5–28.35 GHz band that meets one of the following criteria may be authorized to operate without providing interference protection to stations in the Upper Microwave Flexible Use Service:

* * * * *

(4) The applicant demonstrates compliance with all of the following criteria in its application:

(i) There are no more than two other authorized earth stations operating in the 27.5–28.35 GHz band within the county where the proposed earth station is located that meet the criteria contained in either paragraph (a)(1), (2), (3), or (4) of this section. For purposes of this requirement, multiple earth stations that are collocated with or at a location contiguous to each other shall be considered as one earth station;

(ii) The area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m2/MHz, together with the similar area of any other earth station authorized pursuant to paragraph (a) of this section, does not cover, in the aggregate, more than the amount of population of the UMFUS license area within which the earth station is located as noted in table 1 to this paragraph (a)(4)(ii):

TABLE 1 TO PARAGRAPH (a)(4)(ii)

Population within UMFUS license area	Maximum permitted aggregate population within −77.6 dBm/m^2/MHz PFD contour of earth stations
Greater than 450,000	0.1 percent of population in UMFUS license area.
Between 6,000 and 450,000	450 people.
Fewer than 6,000	7.5 percent of population in UMFUS license area.

(iii) The area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz does not contain any major event venue, urban mass transit route, passenger railroad, or cruise ship port. In addition, the area mentioned in paragraph (a)(4)(ii) of this section shall not cross any of the following types of roads, as defined in functional classification guidelines issued by the Federal Highway Administration pursuant to 23 CFR 470.105(b): Interstate, Other Freeways and Expressways, or Other Principal Arterial. The Federal Highway Administration Office of Planning, Environment, and Realty Executive Geographic Information System (HEPGIS) map contains information on the classification of roads. For purposes of this rule, an urban area shall be an Adjusted Urban Area as defined in section 101(a)(37) of Title 21 of the United States Code.

(iv) The applicant has successfully completed frequency coordination with the UMFUS licensees within the area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz with respect to existing facilities constructed and in operation by the UMFUS licensee. In coordinating with UMFUS licensees, the applicant shall use the applicable processes contained in § 101.103(d) of this chapter.

* * * * *

(c) The protection zone (as defined in paragraph (b) of this section) shall comply with the following criteria. The applicant must demonstrate compliance with all of the following criteria in its application:

(1) There are no more than two other authorized earth stations operating in the 37.5–40 GHz band within the county within which the proposed earth station is located that meet the criteria contained in paragraph (c) of this section, and there are no more than 14 other authorized earth stations operating in the 37.5–40 GHz band within the PEA within which the proposed earth station is located that meet the criteria contained in paragraph (c) of this section. For purposes of this requirement, multiple earth stations that are collocated with or at a location contiguous to each other shall be considered as one earth station;

(2) The protection zone, together with the protection zone of other earth stations in the same PEA authorized pursuant to this, does not cover, in the aggregate, more than the amount of population of the PEA within which the earth station is located as noted in table 1 to this paragraph (c)(2):

TABLE 1 TO PARAGRAPH (c)(2)

Population within Partial Economic Area (PEA) where earth station is located	Maximum permitted aggregate population within protection zone of earth stations
Greater than 2,250,000	0.1 percent of population in PEA.
Between 60,000 and 2,250,000	2,250 people.
Fewer than 60,000	3.75 percent of population in PEA.

(3) The protection zone does not contain any major event venue, urban mass transit route, passenger railroad, or cruise ship port. In addition, the area mentioned in the preceding sentence shall not cross any of the following types of roads, as defined in functional classification guidelines issued by the Federal Highway Administration pursuant to 23 CFR 470.105(b): Interstate, Other Freeways and Expressways, or Other Principal Arterial. The Federal Highway Administration Office of Planning, Environment, and Realty Executive Geographic Information System (HEPGIS) map contains information on the classification of roads. For purposes of this rule, an urban area shall be an Adjusted Urban Area as defined in section 101(a)(37) of Title 21 of the United States Code.

(4) The applicant has successfully completed frequency coordination with the UMFUS licensees within the protection zone with respect to existing facilities constructed and in operation by the UMFUS licensee. In coordinating with UMFUS licensees, the applicant shall use the applicable processes contained in § 101.103(d) of this chapter.

(d) Notwithstanding that FSS is co-primary with the Upper Microwave Flexible Use Service in the 47.2–48.2 GHz band, earth stations in the 47.2–48.2 GHz band shall be limited to individually licensed earth stations. An applicant for a license for a transmitting earth station in the 47.2–48.2 GHz band must meet one of the following criteria to be authorized to operate without providing any additional interference protection to stations in the Upper Microwave Flexible Use Service:

(1) The FSS licensee also holds the relevant Upper Microwave Flexible Use Service license(s) for the area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz; or

(2) The earth station in the 47.2–48.2 GHz band was authorized prior to February 1, 2018; or

(3) The application for the earth station in the 47.2–48.2 GHz band was filed prior to February 1, 2018; or

(4) The applicant demonstrates compliance with all of the following criteria in its application:

(i) There are no more than two other authorized earth stations operating in the 47.2–48.2 GHz band within the county where the proposed earth station is located that meet the criteria contained in paragraph (d)(1), (2), (3), or (4) of this section, and there are no more than 14 other authorized earth stations operating in the 47.2–48.2 GHz band within the PEA where the proposed earth station is located that meet the criteria contained in paragraph (d)(1), (2), (3), or (4) of this section. For purposes of this requirement, multiple earth stations that are collocated with or at a location contiguous to each other shall be considered as one earth station;

(ii) The area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz, together with the similar area of any other earth station authorized pursuant to paragraph (d) of this section, does not cover, in the aggregate, more than the amount of population of the PEA within which the earth station is located as noted in table 1 to this paragraph (d)(4)(ii):

TABLE 1 TO PARAGRAPH (d)(4)(ii)

Population within Partial Economic Area (PEA) where earth station is located	Maximum permitted aggregate population within −77.6 dBm/m²/MHz PFD contour of earth stations
Greater than 2,250,000	0.1 percent of population in PEA.
Between 60,000 and 2,250,000	2,250 people.
Fewer than 60,000	3.75 percent of population in PEA.

(iii) The area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz does not contain any major event venue, any highway classified by the U.S. Department of Transportation under the categories Interstate, Other Freeways and Expressways, or Other Principal Arterial, or an urban mass transit route, passenger railroad, or cruise ship port; and

(iv) The applicant has successfully completed frequency coordination with the UMFUS licensees within the area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz with respect to existing facilities constructed and in operation by the UMFUS licensee. In coordinating with UMFUS licensees, the applicant shall use the applicable processes contained in § 101.103(d) of this chapter.

(e) If an earth station applicant or licensee in the 27.5–28.35 GHz, 37.5–40 GHz, or 47.2–48.2 GHz bands enters into an agreement with an UMFUS licensee, their operations shall be governed by that agreement, except to the extent that the agreement is inconsistent with the Commission's rules or the Communications Act.

(f) Any earth station authorizations issued pursuant to paragraph (a)(4), (c), or (d)(4) of this section shall be conditioned upon operation being in compliance with the criteria contained in the applicable paragraph.

PART 30—UPPER MICROWAVE FLEXIBLE USE SERVICE

■ 11. The authority citation for part 30 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 303, 304, 307, 309, 310, 316, 332, 1302.

■ 12. Amend § 30.4 by redesignating paragraphs (a), (b), and (c) as paragraphs (b), (c), and (d) and adding new paragraphs (a) and (e) to read to read as follows:

§ 30.4 Frequencies.

* * * * *

(a) 24.25–24.45 GHz and 24.75–25.25 GHz bands—24.25–24.35 GHz; 24.35–24.45 GHz; 24.75–24.85 GHz; 24.85–24.95 GHz; 24.95–25.05 GHz; 25.05–25.15 GHz; and 25.15–25.25 GHz.

* * * * *

(e) 47.2–48.2 GHz band—47.2–47.4 GHz; 47.4–47.6 GHz; 47.6–47.8 GHz; 47.8–48.0 GHz; and 48.0–48.2 GHz.

■ 13. Amend § 30.6 by revising paragraph (b) to read as follows:

§ 30.6 Permissible communications.

* * * * *

(b) Fixed-Satellite Service shall be provided in a manner consistent with part 25 of this chapter. The technical and operating rules in this part shall not apply to Fixed-Satellite Service operation.

§ 30.8 [Remove and Reserve]

■ 14. Remove and reserve § 30.8.

■ 15. Amend § 30.104 by revising paragraph (a) to read as follows:

§ 30.104 Construction requirements.

(a) Upper Microwave Flexible Use Service licensees must make a buildout showing as part of their renewal applications. Licensees relying on mobile or point-to-multipoint service must show that they are providing reliable signal coverage and service to at least 40 percent of the population within the service area of the licensee, and that they are using facilities to provide service in that area either to customers or for internal use. Licensees relying on point-to-point service must demonstrate that they have four links operating and providing service, either to customers or for internal use, if the population within the license area is equal to or less than 268,000. If the population within the license area is greater than 268,000, a licensee relying on point-to-point service must demonstrate it has at least one link in operation and is providing service for each 67,000 population within the license area. In order to be eligible to be counted under the point-to-point buildout standard, a point-to-point link must operate with a transmit power greater than +43 dBm.

* * * * *

PART 101—FIXED MICROWAVE SERVICES

■ 16. The authority citation for part 101 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

§ 101.115 [Amended]

■ 17. Section 101.115 is amended in the table in paragraph (b)(2), in the entries ''71,000 to 76,000 (co-polar),'' ''71,000 to 76,000 (cross-polar),'' ''81,000 to 86,000 (co-polar),'' and ''81,000 to 86,000 (cross-polar),'' by removing footnote designation ''15'' and adding footnote designation ''14'' in its place.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170828813–7999–02]

RIN 0648–BH15

Snapper-Grouper Fishery of the South Atlantic Region; Temporary Measures to Reduce Overfishing of Golden Tilefish

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

ACTION: Final temporary rule.

SUMMARY: This final temporary rule implements interim measures to reduce overfishing of golden tilefish in Federal waters of the South Atlantic. Beginning in 2018, this temporary rule reduces the total annual catch limit (ACL), the commercial and recreational sector ACLs, and the quotas for the hook-and-line and longline components of the commercial sector. This final temporary rule is effective for 180 days, although NMFS may extend the temporary rule's effectiveness for up to an additional 186 days. The purpose of this final temporary rule is to reduce overfishing of golden tilefish while the South Atlantic Fishery Management Council

(Council) develops management measures to end overfishing of golden tilefish on a permanent basis.

DATES: This final temporary rule is effective on January 2, 2018, through July 1, 2018.

ADDRESSES: Electronic copies of the environmental assessment (EA) supporting these interim measures may be obtained from the Southeast Regional Office website at *http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2017/golden_tilefish_interim/index.html.* The EA includes a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Karla Gore, NMFS Southeast Regional Office, telephone: 727–824–5305, or email: *karla.gore@noaa.gov.*

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region includes golden tilefish and is managed under the Fishery Management Plan for Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On October 30, 2017, NMFS published a proposed temporary rule in the **Federal Register** and requested public comment (82 FR 50101). The proposed temporary rule and EA outline the rationale for the actions contained in this final temporary rule, and the EA is available from NMFS (see **ADDRESSES** section). A summary of the management measures described in the EA and implemented by this final temporary rule is provided below.

Golden tilefish are harvested by both commercial and recreational fishermen throughout the South Atlantic, although total landings are dominated by the commercial sector using bottom longline gear. Golden tilefish are also harvested commercially using hook-and-line gear, while the recreational sector harvests at a much lower level than either component of the commercial sector.

In April 2016, an update to the 2011 Southeast Data, Assessment, and Review stock assessment (SEDAR 25) was completed for golden tilefish using data through 2014 (SEDAR 25 Update 2016). While SEDAR 25 concluded that golden tilefish was not subject to overfishing and was not overfished, the SEDAR 25 Update 2016 concluded that golden tilefish is undergoing overfishing but is not overfished. NMFS notified the Council of the updated stock status determination in a letter dated January 4, 2017. As mandated by the Magnuson-Stevens Act, the Council and NMFS must prepare and implement an FMP, FMP amendment, or regulations to end overfishing of golden tilefish.

In May 2016, the Council's Scientific and Statistical Committee (SSC) reviewed the SEDAR 25 Update 2016 and indicated that the SEDAR 25 Update 2016 was based on the best scientific information available. During the Council's review of the SEDAR 25 Update 2016, Council members stated their concern over the large differences in biological benchmarks between SEDAR 25 and the SEDAR 25 Update 2016 and the much lower fishing level recommendations in the SEDAR 25 Update 2016. The Council subsequently requested that the SSC review the SEDAR 25 Update 2016 again as a result of their concerns.

In May 2017, the SEDAR Steering Committee considered a Council request for another golden tilefish update assessment, which was intended to address the SEDAR 25 Update 2016 concerns raised by the Council and their SSC during their earlier reviews. While an update assessment could not be included in the SEDAR schedule for 2017, the Southeast Fisheries Science Center (SEFSC) agreed to revise the SEDAR 25 Update 2016 to address these Council concerns.

As requested by the Council, the 2017 revision to the SEDAR 25 Update 2016 used a newly developed model to assess the golden tilefish stock in the South Atlantic. The 2017 revised analysis was reviewed by the SSC at their October 2017 meeting, and the SSC did not recommend basing stocks status and fishing level recommendations on the revised analysis completed in 2017, but rather on the SEDAR 25 Update 2016. The Council is scheduled to discuss the SSC recommendations at their December 2017 meeting, and the recommendations will be used to develop management measures in Amendment 45 to the FMP, which is intended to end overfishing of golden tilefish on a permanent basis.

Because the revised catch level recommendations from the Council's SSC were not available until late October 2017, and the majority of golden tilefish landings typically occur early in the fishing year, there was insufficient time for the Council and NMFS to develop and possibly implement management measures, respectively, to end overfishing of golden tilefish on a permanent basis in time for the start of the 2018 fishing year beginning on January 1.

Therefore, as a result of the limited timeframe to develop revised catch level recommendations, the Council sent a letter to NMFS, dated June 27, 2017, to request that NMFS implement interim measures to immediately reduce overfishing of golden tilefish while management measures are developed through Amendment 45 to end overfishing of golden tilefish on a permanent basis. For 2018, the Council recommended setting the total ACL at the projected yield at 75 percent of the yield produced by the fishing mortality rate at maximum sustainable yield, which would be 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight. The interim measures in this final temporary rule are effective for 180 days after the publication date in the **Federal Register** and may be extended one time for an additional 186 days. If NMFS does not extend the proposed interim measures beyond 180 days, the total and sector ACLs, as well as the quotas for the hook-and-line and longline components of the commercial sector, would revert to their previously implemented values. The final rule for Amendment 18B implemented the previous commercial ACL and commercial component quotas (78 FR 23858, April 23, 2013), and the final rule for Regulatory Amendment 12 implemented the previous recreational ACL (77 FR 61295, October 9, 2012). The Council intends to have Amendment 45 developed and implemented prior to the expiration of these interim measures.

Management Measures Contained in This Final Temporary Rule

During the effectiveness of this final temporary rule, which starts in the 2018 fishing year, the total ACL for golden tilefish is 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight. This final temporary rule also specifies the commercial and recreational sector ACLs and component commercial quotas using the existing sector allocations. For golden tilefish, 97 percent of the total ACL is allocated to the commercial sector, with 25 percent of the commercial ACL available for the hook-and-line component and 75 percent available for the longline component. The recreational sector is allocated three percent of the total ACL. Therefore, during the effectiveness of this final temporary rule, the commercial ACL is 313,310 lb (142,115 kg), gutted weight. The commercial quota for the hook-and-line component is 78,328 lb (35,529 kg), gutted weight, and the commercial quota for the longline component is 234,982 lb (106,586 kg), gutted weight. The

recreational ACL during the effectiveness of this final temporary rule starting in 2018 is 2,187 fish, which is equivalent to 9,690 lb (4,395 kg), gutted weight.

The temporary reductions in the ACLs and quotas being implemented through this final temporary rule could result in earlier in-season closures particularly for the commercial sector. The earlier closures would likely result in short-term adverse socio-economic effects. However, the temporary ACLs and quotas are expected to minimize future adverse socio-economic effects by potentially reducing future reductions in the ACLs and quotas required to end overfishing through Amendment 45. The temporary ACLs and quotas would also provide biological benefits to the golden tilefish stock by reducing the current levels of fishing mortality.

Comments and Responses

NMFS received 23 comment submissions from individuals, fishing associations, and commercial, private recreational, and charter vessel/headboat (for-hire) recreational fishing entities during the public comment period on the proposed temporary rule. Sixteen of the comments were in general opposition to the actions in the golden tilefish proposed temporary rule, citing adverse socio-economic effects, and uncertainty with the stock assessment. Seven comments supported the need for protection of golden tilefish. Comments that were beyond the scope of the proposed temporary rule and comments that agreed with the proposed actions have not been addressed in this final rule. Comments that specifically relate to the actions contained in the proposed temporary rule, as well as NMFS' respective responses, are summarized below.

Comment 1: Golden tilefish are above target fishing levels and the data, model, and science used to make the overfishing determination are flawed. SEDAR 25 Update 2016 should not be accepted as the best scientific information available, the proposed temporary rule should not be implemented, and NMFS should wait until better data become available or a new stock assessment is completed before making any management decisions.

Response: NMFS disagrees. The EA and this final temporary rule respond to the latest stock assessment for golden tilefish in the South Atlantic (SEDAR 25 Update 2016), which includes waters off North Carolina through the east coast of Florida. The SEDAR 25 Update 2016 concluded that the stock is undergoing overfishing but is not overfished. NMFS notified the Council of the updated stock status determination in a letter dated January 4, 2017.

The SEDAR process is a peer-reviewed cooperative effort to assess the status of stocks in the jurisdictions of the South Atlantic, Caribbean, and Gulf of Mexico Fishery Management Councils; as well as NMFS' SEFSC and Southeast Regional Office, and the NMFS Highly Migratory Species Division; and the Atlantic and Gulf States Marine Fisheries Commissions. SEDAR also relies on state agencies and universities throughout the region for research, data collection, and stock assessment expertise. Fishery-dependent and independent data were utilized in the stock assessment. All of the data sources used are further described in the SEDAR 25 Update 2016, which is available on the SEDAR website at *http://sedarweb.org.* The SEDAR website also provides extensive supporting documentation that describes data collection programs and research findings. In May 2016, the Council's SSC reviewed the SEDAR 25 Update 2016 and indicated that the assessment is based on the best scientific information available.

The Council received the results of the assessment update from the SSC in June 2016, and Council members expressed concern over the large differences in biological benchmarks and fishing level recommendations between SEDAR 25 Update 2016 and SEDAR 25, and subsequently requested an updated stock assessment for golden tilefish.

To address the Council's concerns, in May 2017, the SEDAR Steering Committee agreed to revise the SEDAR 25 Update 2016, because a new golden tilefish stock assessment could not be completed in 2017. The SSC reviewed the 2017 revision to the SEDAR 25 Update 2016 at their October 2017 meeting and determined that it was unsuitable for management. Therefore, the best scientific information available for golden tilefish remains the SEDAR 25 Update 2016.

NMFS and the South Atlantic Council expect the recent level of golden tilefish landings to continue in the near future. Because the majority of the golden tilefish landings are taken between January and early spring in most years, there was not sufficient time for the Council and NMFS to develop and possibly implement management measures to end overfishing of golden tilefish on a permanent basis in time for the start of the 2018 fishing year beginning on January 1. Therefore, to reduce overfishing, the Council recommended that NMFS implement interim measures to set the golden tilefish total ACL for 2018 at 323,000 lb (146,510 kg), gutted weight, while the Council develops Amendment 45 to end overfishing of golden tilefish on a permanent basis. This total ACL is expected to immediately address the need to reduce overfishing of golden tilefish. The SEFSC certified the EA for these interim measures and supported the Council's recommendations as the best scientific information available on October 3, 2017.

The temporary rule will take effect in 2018 for 180 days after the date of publication and may be extended once for a maximum of an additional 186 days while the Council develops management measures to end overfishing of golden tilefish in the South Atlantic on a permanent basis through Amendment 45. The next scheduled SEDAR benchmark stock assessment is scheduled to be completed in 2019.

Comment 2: The assessment model used for the SEDAR 25 Update 2016, which employed a robust multinomial likelihood function approach, was criticized by the Council's SSC and resulted in biasing the assessment results; consequently, the SEDAR 25 Update 2016 does not constitute best scientific information available for golden tilefish.

Response: NMFS disagrees. Subsequent to SEDAR 25, completed in 2011, the Council raised concerns about the assessment's use of a multinomial likelihood function approach. Partly in response to those concerns, the SEDAR 25 Update 2016 participants determined that the use of a robust multinomial likelihood function approach is more appropriate for the SEDAR 25 Update 2016 than the original multinomial likelihood function approach used in SEDAR 25. However, the Council was concerned with the use of the robust multinomial likelihood function approach in the SEDAR 25 Update 2016, because subsequent SEDAR assessments have raised concerns from the Council with the ability of the original and robust multinomial likelihood functions to estimate composition data, and a recent stock assessment of red grouper used a newly developed Dirichlet multinomial likelihood function approach. Therefore, in June 2016, the Council requested the SEFSC revise the SEDAR 25 Update 2016 using the Dirichlet multinomial likelihood function approach in place of the robust multinomial likelihood function approach.

The Council's SSC reviewed the revision to the SEDAR 25 Update 2016 at their October 2017 meeting. After

consideration, the SSC did not recommended basing stock status and fishing level recommendations using the Dirichlet multinomial likelihood function approach. Instead, the SSC recommended using the base model run of the SEDAR 25 Update 2016, which used the robust multinomial likelihood function approach. The SSC determined that the Dirichlet multinomial likelihood function approach has not been sufficiently tested using composition data obtained from sparse sampling, which is present in the 2017 revision to the SEDAR 25 Update 2016. In addition, the SSC determined that most model runs of the revision to the SEDAR 25 Update 2016 did not converge on a solution suitable for their recommendation as management advice. The criticisms referenced by the comment from the October 2017 SSC meeting were actually criticisms of the Dirichlet multinomial likelihood approach and not the robust multinomial likelihood approach to which the SSC defaulted with their final recommendation. The use of the robust multinomial likelihood function approach has been accepted as a valid stock assessment tool and has been used in other stock assessments, such as SEDAR 36 for snowy grouper and SEDAR 41 for red snapper. Ultimately, the use of the robust multinomial likelihood function approach in the SEDAR 25 Update 2016 was accepted by the SSC as best scientific information available, and has been accepted as such by NMFS.

Comment 3: The assessment model changes made in the SEDAR 25 Update 2016 from the SEDAR 25 benchmark assessment were contrary to accepted stock assessment policy, and resulted inaccurate changes to golden tilefish stock status results from the SEDAR 25 Update 2016.

Response: NMFS disagrees. Performing additional analyses, and not merely updating landings data, is not uncommon in update assessments completed via the SEDAR process. In this case, the inclusion of the robust multinomial likelihood function approach in the SEDAR 25 Update 2016 was within the changes allowed as specified in the Terms of Reference for an update assessment. The Terms of Reference provided for the SEDAR 25 Update 2016 specifically indicated that it needed to ''document any changes or corrections made to the model and input datasets,'' clearly establishing that such potential model changes were envisioned and potentially desired. While the SEDAR guidelines do not provide precise guidance on the proper scope of allowable changes in update assessments, the changes made in the SEDAR 25 Update 2016 are within the scope of what is allowed under the SEDAR guidelines that specify allowable changes under different assessment types. Further, the changes are consistent with changes made in other update assessments.

As noted in the response to *Comment 2,* the SEDAR 25 Update 2016 used widely accepted and commonly used analytical methods. It has been peer reviewed, extensively discussed by the relevant parties, and NMFS has determined that it constitutes the best scientific information available.

Comment 4: The interim measures will cause additional economic hardship on the commercial sector and for-hire components of the recreational sector, as well as the supporting businesses, such as fish houses, dealers, and restaurants. Many business operations will fail as a result of the proposed interim measures.

Response: As described in the EA, the proposed temporary rule, and the response to *Comment 1,* the temporary ACL and quota reductions are necessary to immediately reduce overfishing of golden tilefish in the South Atlantic, while the Council develops management measures in Amendment 45 to end overfishing of golden tilefish on a permanent basis. NMFS and the Council recognize the adverse socio-economic impacts that reducing the ACLs and quotas could have on fishing businesses and communities. However, these interim measures may result in less stringent measures that would be considered in Amendment 45 to end overfishing of golden tilefish on a permanent basis.

The economic analysis developed for this temporary rule indicates that the temporary ACL and quota reductions would affect the hook-and-line and longline components of the commercial sector, as well as for-hire operations in the recreational sector. The amount of the ACL and quota reductions is proportional to each sector or component's current allocation of the total ACL. Reductions to the total ACL, the commercial and recreational sector ACLs, and the commercial quotas for the hook-and-line and longline components of the commercial sector implemented by this final temporary rule are expected to result in adverse, short-term economic effects directly on the participants of the golden tilefish commercial and recreational sectors and indirectly on the supporting industries, such as dealers, tackle and bait shops, and fishing communities. In general, the larger the sector or component's percentage of the allocation, the greater the short-term adverse economic impacts would be. In addition, the more dependent an area or fishing community is on fishing for golden tilefish, the greater would be the adverse impacts on the area's fishing participants and supporting industries.

Insufficient information is available to determine if this final temporary rule will result in businesses exiting the snapper-grouper fishery. The initial regulatory flexibility analysis (IRFA) conducted for the proposed temporary rule notes that longline fishermen would be particularly adversely affected because they derive approximately 74 percent of their total revenues from golden tilefish. However, as described previously, these impacts are expected to be short-term and may result in less restrictive management measures possibly implemented through Amendment 45.

NMFS also expects consumers and recreational anglers to be negatively affected by the final temporary rule. While the effects on consumers cannot be estimated with available information, a good possibility exists that the presence of substitute species would mitigate the negative effects on consumers. The EA provides estimates of the loss in consumer surplus to recreational anglers as a result of the final temporary rule. However, no quantitative estimates of the economic effects on the for-hire component of the recreational sector could be provided due to the complexity of determining whether potentially affected for-hire trips would be totally lost or just redirected to other areas or to other species. In addition, recreational fishermen have varied preferences and may target or harvest a diverse mix of snapper-grouper and other species on a trip. The absence or reduction of the opportunity to fish for golden tilefish may or may not affect their overall desire to take or pay for trips.

As discussed in the EA, NMFS expects the reduced ACLs and quotas in this final temporary rule to result in diminished economic benefits in the short-term, but also to reduce overfishing sooner than if no interim measures were implemented to prevent the golden tilefish stock in the South Atlantic from becoming overfished, thereby resulting in greater economic benefits in the longer term.

Comment 5: The socio-economic analysis is inadequate because it did not consider the impacts beyond the commercial and recreational fishermen.

Response: NMFS disagrees. NMFS determined that an adequate socio-economic analysis, assessing the impacts of the temporary rule, was

performed and included in the EA. NMFS prepared an IRFA to analyze the economic impacts of the temporary rule on small entities, specifically commercial fishermen. A summary of the IRFA was included in the proposed temporary rule. A final regulatory flexibility analysis (FRFA) accompanies this final temporary rule that also considers the comments received on this action. The EA provides analyses of the economic benefits and costs of each alternative to the nation and the South Atlantic snapper-grouper fishery as a whole. The EA recognizes that the temporary rule will have economic effects on commercial and recreational supporting industries (dealers, wholesalers, retailers, restaurants) beyond the harvest market. The EA provides general information regarding the commercial and recreational sectors' economic impacts in terms of jobs, sales, income, and value added on the entire seafood industry, including the harvest, wholesale and retail markets. Quantifying the effects of each alternative on the commercial and recreational supporting industries is not possible due to lack of sufficient information. For the commercial sector, reactions from dealers, wholesalers, retailers, or restaurants to reduced availability of golden tilefish is uncertain, especially that substitute species exist. For the recreational sector, substitute species also exist and, as described in the response to *Comment 4,* the reduction or absence of the opportunity to fish for golden tilefish may or may not affect their overall desire to take or pay for trips. The EA also notes that fishing communities dependent on the golden tilefish segment of the snapper-grouper fishery would tend to bear a greater share of the short-term adverse impacts. The socio-economic analysis indicates that while the short-term socioeconomic impacts would be negative, ending overfishing through Amendment 45, if implemented, would be expected to result in greater long-term benefits.

Future Action

NMFS determined that this final temporary rule is necessary to reduce overfishing of golden tilefish in the South Atlantic. NMFS considered all public comments received on the proposed temporary rule in the determination of whether to proceed with a final temporary rule and whether any revisions to the final temporary rule were appropriate. This final temporary rule is effective for 180 days after the date of publication in the **Federal Register**, as authorized by section 305(c) of the Magnuson-Stevens Act. The final temporary rule could be extended if NMFS publishes a temporary rule extension in the **Federal Register** for up to an additional 186 days, because the public has had an opportunity to comment on the proposed temporary rule, and the Council is actively preparing an FMP amendment to address overfishing on a permanent basis.

Classification

The Regional Administrator for the NMFS Southeast Region has determined that this final temporary rule is consistent with the Magnuson-Stevens Act and other applicable laws.

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

In compliance with section 604 of the RFA, NMFS prepared a FRFA for this final temporary rule. The FRFA incorporates the IRFA, a summary of the significant economic issues raised by public comments, NMFS' responses to those comments, and a summary of the analyses completed to support the action. The FRFA follows.

A description of this final temporary rule, and its rationale, objectives, and legal basis are contained at the beginning of this section in the preamble and in the **SUMMARY** section of the preamble. The Magnuson-Stevens Act provides the statutory basis for this final temporary 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 temporary rule. Accordingly, this final temporary rule does not implicate the Paperwork Reduction Act.

No comments specific to the IRFA were received from the public or from the Chief Counsel for the Advocacy of the Small Business Administration; therefore, no public comments are addressed in this FRFA. However, there are comments that have economic implications, and they are addressed in the Comments and Responses section.

No changes to the proposed temporary rule were made in response to public comments. NMFS agrees that the Council's recommendation for the temporary action will best achieve their objectives for the final temporary rule while minimizing, to the extent practicable, the adverse effects on fishermen, support industries, and associated communities.

NMFS expects this final temporary rule will directly affect all commercial vessels that harvest South Atlantic golden tilefish under the FMP. The change in the recreational ACL in this final temporary rule will not directly affect or regulate for-hire businesses. Any impact to the profitability or competitiveness of for-hire fishing businesses will be the result of changes in for-hire angler demand and will therefore be indirect in nature. Under the RFA recreational anglers, who will be directly affected by this final temporary rule, are not considered to be small entities, so they are outside the scope of this analysis and only the effects on commercial vessels were analyzed. For RFA purposes only, NMFS has established a small business size standard for businesses, including their affiliates, whose primary industry is commercial fishing (see 50 CFR 200.2). A business primarily engaged in commercial fishing (NAICS code 11411) is classified as a small business if it is independently owned and operated, is not dominant in its field of operation (including affiliates), and has combined annual receipts not in excess of $11 million for all its affiliated operations worldwide.

As of August 10, 2017, there were 544 vessels with valid or renewable Federal South Atlantic snapper-grouper unlimited permits, 114 valid or renewable 225-lb trip limited permits, and 22 golden tilefish longline endorsements. The golden tilefish longline endorsement system started in 2013. From 2012 through 2016, an average of 23 longline vessels per year landed golden tilefish in the South Atlantic. These vessels, combined, averaged 255 trips per year in the South Atlantic on which golden tilefish were landed, and 182 trips taken in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. The average annual total dockside revenue (2016 dollars) for these vessels combined was approximately $1.56 million from golden tilefish, $0.10 million from other species co-harvested with golden tilefish (on the same trips in the South Atlantic), and $0.43 million from trips in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. Total average annual revenue from all species harvested by longline vessels harvesting golden tilefish in the South Atlantic was approximately $2.10 million, or approximately $92,000 per vessel. Longline vessels generated approximately 74 percent of their total revenues from golden tilefish. For the same period, an average of 82 vessels per year landed golden tilefish using other gear types (mostly hook-and-line) in the South Atlantic. These vessels, combined, averaged 483 trips per year

in the South Atlantic on which golden tilefish were landed, and 2,862 trips taken in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. The average annual total dockside revenue (2016 dollars) for these 82 vessels was approximately $0.36 million from golden tilefish, $0.66 million from other species co-harvested with golden tilefish (on the same trips in the South Atlantic), and $4.13 million from trips in the South Atlantic on which no golden tilefish were harvested or in areas outside the South Atlantic. The total average annual revenue from all species harvested by these 82 vessels was approximately $5.16 million, or approximately $62,000 per vessel. Approximately seven percent of these vessels' total revenues came from golden tilefish. Based on the foregoing revenue information, all commercial vessels using longlines or other gear types (mostly hook-and-line) affected by the final temporary rule are determined to be small entities.

Because all entities expected to be directly affected by this final temporary rule are determined to be small entities, NMFS determined that this final temporary rule will affect a substantial number of small entities. For the same reason, the issue of disproportionate effects on small versus large entities does not arise in the present case.

Reducing the South Atlantic total ACL for golden tilefish will reduce the specific ACLs for the commercial and recreational sectors. These ACL reductions will result in ex-vessel revenue losses of approximately $229,000 for hook-and-line vessels and $600,000 for longline vessels over the entire 2018 fishing year. Ex-vessel revenue reductions for the commercial sector will result in profit reductions, although this is more likely for longline vessels as they are more dependent on golden tilefish than hook-and-line vessels.

The following discusses the alternatives that the Council did not select as preferred.

Four alternatives, including the preferred alternative as described above, were considered for reducing the total and sector ACLs for South Atlantic golden tilefish. The first alternative, the no action alternative, would maintain the current economic benefits to all participants in the South Atlantic golden tilefish component of the snapper-grouper fishery. This alternative, however, would not address the need to curtail continued overfishing of the stock, very likely leading into the adoption of more stringent measures in the near future. The second alternative would reduce the ACLs more than the preferred alternative, and thus would be expected to result in larger revenue (and profit) losses to the commercial sector. The third alternative would establish higher ACLs than the preferred alternative. Although this alternative would result in lower revenue losses to the commercial sector, the ACLs it would establish may not be low enough to address the overfishing status of the stock. To an extent, this alternative would leave open a greater likelihood of implementing more stringent measures when management actions are developed and possibly implemented through Amendment 45 to end overfishing of golden tilefish on a permanent basis.

This final temporary rule responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action constitutes good cause to waive the 30-day delay in this final temporary rule's effectiveness, pursuant to the authority set forth in 5 U.S.C. 553(d)(3), as such procedure for this final temporary rule is impracticable and contrary to the public interest.

A delay in effectiveness is impracticable, because it would contribute to overfishing of golden tilefish, which is contrary to National Standard 1 of the Magnuson-Stevens Act. National Standard 1 requires NMFS to conserve and manage ocean resources to prevent overfishing, while achieving the optimum yield from each fishery. Without this final temporary rule becoming effective early in the 2018 fishing year, which begins on January 1, the commercial and recreational sectors would be able to harvest golden tilefish under higher ACLs and quotas than those implemented by this final temporary rule. These harvests could result in further overfishing of golden tilefish, contrary to NMFS' statutory obligations. By implementing this final temporary rule immediately, the total harvest of golden tilefish would be reduced until the Council and NMFS can prepare and possibly implement management measures under Amendment 45 to end overfishing of golden tilefish on a permanent basis.

In addition, delaying the effectiveness of this final temporary rule for 30 days is contrary to the public interest because of the need to immediately implement this action to protect golden tilefish. The capacity of the fishing fleet allows for rapid harvest of the ACL. Delaying the effectiveness of this final temporary rule would require time and could potentially result in a harvest in excess of the reduced ACLs implemented by this final temporary rule, increasing the likelihood of future overfishing and more restrictive measures to address it.

Accordingly, the 30-day delay in effectiveness of the measures contained in this final temporary rule is waived.

List of Subjects in 50 CFR Part 622

Annual catch limit, Fisheries, Fishing, Golden tilefish, South Atlantic.

Dated: December 21, 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 § 622.190, suspend paragraphs (a)(2)(i) through (iii) and add paragraphs (a)(2)(iv) through (vi) to read as follows:

§ 622.190 Quotas.

* * * * *

(a) * * *

(2) * * *

(iv) *Hook-and-line and longline components combined*—313,310 lb (142,115 kg).

(v) *Hook-and-line component*—78,328 lb (35,529 kg).

(vi) *Longline component*—234,982 lb (106,586 kg).

* * * * *

■ 3. In § 622.193, suspend paragraphs (a)(1)(i), (ii), and (iii) and (a)(2), and add paragraphs (a)(1)(iv), (v), and (vi), and (a)(3) to read as follows:

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

(a) * * *

(1) * * *

(iv) *Hook-and-line component.* If commercial landings for golden tilefish, as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(v), the AA will file a notification with the Office of the Federal Register to close the hook-and-line component of the commercial sector for the remainder of the fishing year. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(v) *Longline component.* If commercial landings for golden tilefish,

as estimated by the SRD, reach or are projected to reach the commercial ACL (commercial quota) specified in § 622.190(a)(2)(vi), the AA will file a notification with the Office of the Federal Register to close the longline component of the commercial sector for the remainder of the fishing year. After the commercial ACL for the longline component is reached or projected to be reached, golden tilefish may not be fished for or possessed by a vessel with a golden tilefish longline endorsement. Applicable restrictions after a commercial quota closure are specified in § 622.190(c).

(vi) If commercial landings of golden tilefish, as estimated by the SRD, exceed the commercial ACL (including both the hook-and-line and longline component quotas) specified in § 622.190(a)(2)(iv), and the combined commercial and recreational ACL of 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight, is exceeded during the same fishing year, and golden tilefish are overfished based on the most recent Status of U.S. Fisheries Report to Congress, the AA will file a notification with the Office of the Federal Register to reduce the commercial ACL for that following fishing year by the amount of the commercial ACL overage in the prior fishing year.

* * * * *

(3) *Recreational sector.* (i) If recreational landings of golden tilefish, as estimated by the SRD, reach or are projected to reach the recreational ACL of 2,187 fish, the AA will file a notification with the Office of the Federal Register to close the recreational sector for the remainder of the fishing year regardless if the stock is overfished, unless NMFS determines that no closure is necessary based on the best scientific information available. On and after the effective date of such a notification, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

(ii) If recreational landings of golden tilefish, as estimated by the SRD, exceed the recreational ACL, then during the following fishing year recreational landings will be monitored for a persistence in increased landings, and if necessary, the AA will file a notification with the Office of the Federal Register to reduce the length of the recreational fishing season and the recreational ACL by the amount of the recreational ACL overage, if the species is overfished based on the most recent Status of U.S. Fisheries Report to Congress, and if the combined commercial and recreational ACL of 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight, is exceeded during the same fishing year. The AA will use the best scientific information available to determine if reducing the length of the recreational fishing season and recreational ACL is necessary. When the recreational sector is closed as a result of NMFS reducing the length of the recreational fishing season and ACL, the bag and possession limits for golden tilefish in or from the South Atlantic EEZ are zero.

* * * * *

[FR Doc. 2017–27966 Filed 12–29–17; 8:45 am]

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Proposed Rules

Federal Register
Vol. 83, No. 1
Tuesday, January 2, 2018

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 929

[Doc. No. AMS–SC–17–0061; SC17–929–2 PR]

Cranberries Grown in States of Massachusetts, et al.; Free and Restricted Percentages for the 2017–18 Crop Year for Cranberries

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule invites comments on a recommendation to establish free and restricted percentages for the 2017–18 crop year under the marketing order for cranberries grown in the production area (Order). This action would establish the proportion of cranberries from the 2017–18 crop which may be handled and allow for the disposal of 2017–18 processed cranberry products. It would also establish a minimum quantity exemption and an exemption for handlers with no carryover inventory, exempt organically grown cranberries, and define outlets for restricted fruit. This action would adjust supply to more closely meet market demand, improve grower and handler returns and reduce inventory. This proposal also contains a formatting change to subpart references to bring the language into conformance with the Office of Federal Register requirements.

DATES: Comments must be received by February 1, 2018.

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

FOR FURTHER INFORMATION CONTACT: Doris Jamieson, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3375, Fax: (863) 291–8614, or Email: *Doris.Jamieson@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposal is issued under Marketing Agreement and Order No. 929, as amended (7 CFR part 929), regulating the handling of cranberries grown in the states of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York. Part 929 (referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Cranberry Marketing Committee (Committee) locally administers the Order and is comprised of growers and handlers of cranberries operating within the production area, and a public member.

The Department of Agriculture (USDA) is issuing this proposed rule in conformance with Executive Orders 13563 and 13175. This action falls within a category of regulatory actions that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017 titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposal has been reviewed under Executive Order 12988, Civil Justice Reform. Order provisions provide that the Committee may recommend and implement, subject to USDA approval, volume control regulation which would decrease the available supply of cranberries, whenever the Secretary finds that ''such regulation will tend to effectuate the declared policy of the Act.'' Accordingly, this proposed rule would establish free and restricted percentages for cranberries for the 2017–18 crop year, beginning September 1, 2017, through August 31, 2018.

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

This proposed rule invites comments on the establishment of free and restricted percentages for the 2017–18 crop year. This proposal would establish the proportion of cranberries from the 2017–18 crop that may be handled at 85 percent free and 15 percent restricted. This action would also allow for the disposal of 2017–18 processed cranberry products to meet up to 50 percent of a handler's

restriction. It would also establish a minimum quantity exemption, exempt handlers with no carryout inventory, exempt organically grown cranberries, and define outlets for restricted fruit. This action would adjust supply to more closely meet market demand, improve grower returns, and help reduce inventory.

The Committee met on August 4, 2017, and August 31, 2017, and recommended establishing these free and restricted percentages for the 2017–18 season, providing handlers with the option to divert processed cranberry products to meet up to 50 percent of their restricted percentage, and designating outlets for restricted fruit. The Committee also recommended establishing a minimum exemption of 125,000 barrels for each handler. After much consideration, USDA determined the minimum exemption portion of the recommendation should be revised. Consequently, this proposal would only exempt small handlers who process less than 125,000 barrels or handlers who would not have carryover inventory at the end of the 2017–18 fiscal year from the restriction. The 125,000 barrel exemption would not apply to handlers who do not meet these criteria.

Sections 929.52 and 929.54 provide authority to control volume by designating free and restricted percentages for cranberries acquired by handlers in a given crop year. Section 929.52 also provides that the Secretary shall control the handling of cranberries whenever the Secretary finds, from the recommendations and information submitted by the committee, or from other such information, that such volume control will tend to effectuate the declared policy of the Act. Free percentage volume may be shipped to any market, while restricted percentage volume must be diverted or used for noncompetitive purposes as prescribed in § 929.57. Section 929.51 requires the Committee to consider certain conditions, including supply and demand, prior to recommending a handler withholding program, and that any recommendation to do so be made by August 31.

Section 929.58(a) provides the authority to exempt from any or all requirements the handling of cranberries in such minimum quantities as the Committee, with the approval of the Secretary, may prescribe. Section 929.58(b) provides, in part, the authority to exempt from any or all requirements the handling of cranberries of such forms or types, including organic cranberries, as the Committee, with the approval of the Secretary, may prescribe.

Domestic cranberry production has been increasing over the past few years, up from 8.0 million barrels in 2012 to 9.6 million barrels in 2016. During the last few years, demand has remained relatively flat, and has not kept pace with the increases in supply. This has led to increasing levels of inventories. Ending inventory levels have increased from 5.8 million barrels in 2012 to 9.7 million barrels in 2016.

Demand for cranberries is inelastic, meaning changes in consumer price have a minimal effect on total sales volume. However, grower prices are very sensitive to changes in supply. As such, higher inventory levels place downward pressure on grower prices for cranberries and reduce grower returns. Data reviewed by the Committee indicates that the price per barrel received by some growers has fallen from $30 a barrel in 2011 to $10 a barrel in 2016. With the cost of production estimated at approximately $35 a barrel, for many growers returns have fallen below the cost of production.

On August 4, 2017, and again on August 31, 2017, the Committee met to discuss the levels of supply and demand and how market conditions were impacting the industry. The Committee discussed the approximate levels of production for the 2017–18 season, forecasting production at approximately 9.1 million barrels. Carry-in inventory was estimated at approximately 9.9 million barrels and foreign acquired cranberries are expected to provide an additional 2.1 million barrels, for a total available supply of approximately 21.1 million barrels for the year. After accounting for shrinkage, the Committee agreed on an adjusted supply of 20.4 million barrels for the 2017–18 season.

The Committee also reviewed anticipated sales for the upcoming season. Sales for fresh fruit were estimated at 333,000 barrels and processed fruit sales were estimated at 9.2 million barrels. Based on these expectations, inventory at the end of the 2017–18 crop year is anticipated to be roughly 10.9 million barrels, a 10 percent increase from the previous year. Using these numbers, end of year inventories would be approximately 115 percent of average annual sales.

After calculating the anticipated level of surplus for the 2017–18 season, the Committee agreed the industry is faced with a large inventory that continues to build. In its discussions of how to address this issue, the Committee considered several options. During the discussion of regulating the volume for the 2017–18 season, some members preferred establishing a producer allotment for the 2018–19 season over implementing a handler withholding for the current season. However, other members stated that if no action was taken to control supply for the 2017–18 season, another million barrels of cranberries would be added to the surplus inventory. In addition, not regulating the 2017–18 crop would require greater levels of restriction on the 2018–19 crop, and grower returns may decline further.

The Committee discussed various levels of restriction, being sensitive to the impact volume control could have on small handlers. Some small handlers are able to sell all their production each year and do not maintain an inventory. Several Committee members stated a large restriction would place a hardship on these small handlers. The Committee also recognized a small restriction would not immediately balance supply with demand. However, even a small restriction would remove a portion of the volume from the market and help prevent an additional increase in inventory. Therefore, based on these discussions, the Committee recommended establishing free and restricted percentages at 85 percent free and 15 percent restricted.

The Committee also recommended an allowance for the diversion of 2017–18 processed cranberry products to meet up to 50 percent of a handler's restriction. The Committee made this recommendation recognizing that processing fresh fruit to produce one of its top-selling items, sweetened dried cranberries, results in juice concentrate as a by-product. A significant amount of current carry-in inventory is in the form of juice concentrate. By allowing for the diversion of processed cranberry products, such as juice concentrate, to meet a portion of a handler's restriction, the Committee believes this would help prevent additional build-up of carry-in inventory. The ability to use cranberry processed products in addition to fresh berries to meet diversion requirements may also help handlers who find they need to divert additional volume late in the year when the availability of fresh berries may be limited.

To ensure the disposal of processed products in lieu of fresh berries are correctly accounted for under the restriction, the Committee also recommended including a conversion table, Table 1, in the regulations. The table recognizes different conversion equivalencies of berries to processed product based on the volume of Brix concentrate.

Brix is the method for measuring the amount of sugar contained in the cranberry products, and the industry average is 50 Brix. The Committee

acknowledged that the Brix level can vary depending on the growing region and farming practices. This table would assist in ensuring that the disposal of processed product in lieu of fresh berries would be applied equitably among all handlers.

TABLE 1—CONVERSION TABLE

Region	Brix average	Concentrate yield for one barrel of cranberries
Oregon	9.8	1.91 gallons 50 Brix concentrate.
Washington	9.3	1.81 gallons 50 Brix concentrate.
New Jersey	8.8	1.72 gallons 50 Brix concentrate.
Wisconsin	8.7	1.70 gallons 50 Brix concentrate.
Massachusetts	8.4	1.64 gallons 50 Brix concentrate.
All others	8.7	1.70 gallons 50 Brix concentrate.

For example, using the conversion table above, handlers could determine the amount of cranberry concentrate they would need to divert, in lieu of fresh berries, to cover any restricted percentage. Juice concentrate should comprise the vast majority of processed product used for diversion. Should requests be made to use other processed products for diversion, conversion rates for those products would be provided by the Committee based on information provided by the requesting handler. The means for approving and appealing the conversion rates would be provided in a separate rulemaking action.

For example, a handler covered under the restriction whose acquired volume is 1,000,000 barrels would have 1,000,000 barrels in regulated volume with 850,000 barrels of free use cranberries (1,000,000 × .85) and 150,000 barrels of restricted use cranberries (1,000,000 × .15) for the 2017–18 season. Under this proposed rule, the handler could divert fresh fruit to outlets for restricted cranberries as prescribed in the Order, or divert up to 50 percent of the restriction, or a 75,000 barrel equivalent (150,000 barrels ÷ 2) in processed products from the 2017–18 harvest, with the remaining amount fulfilled using fresh berries. For cranberries produced in Wisconsin, this would equate to 127,500 gallons of concentrate (75,000 barrels × 1.7 gallons) that would need to be diverted to outlets for restricted cranberries.

Section 929.57 states that cranberries withheld from handling may only be diverted through such outlets as the Committee, with the approval of the Secretary, finds are noncompetitive to outlets for unrestricted (free percentage) cranberries. The Committee discussed various outlets and recommended the following: Foreign countries, except Canada; charitable institutions; any nonhuman food use; and, research and development projects approved by the Committee dealing with the development of foreign and domestic markets, including, but not limited to dehydration, radiation, freeze drying, or freezing of cranberries as outlets for withheld cranberries. They further recommended that cranberries may not be converted into canned, frozen, or dehydrated cranberries or other cranberry products by any commercial process prior to diversion to foreign countries. These outlets for restricted cranberries would be added to the rules and regulations under the Order by creating a new § 929.108.

The Committee also recommended organically grown cranberries be exempt from this proposed regulation as they serve a niche market and represent a very small portion of the total crop. All other cranberry production, including fresh cranberries, would be subject to regulation under the handler withhold volume regulation.

To address the burden the volume regulation would have on small handlers, the Committee also recommended providing a minimum quantity exemption of 125,000 barrels. Under the Committee's recommendation, the exemption would be given to handlers of record for the 2016–17 (previous) crop year and the 125,000 barrels would be subtracted from the handler's 2017–18 acquired volume before the restricted percentage would be applied. Small handlers whose acquired volume is 125,000 barrels or less would be exempt from the volume regulation, and handlers with slightly larger volumes would face minimal restrictions.

After much consideration, USDA determined the minimum exemption recommendation should be revised under this proposal. Rather than provide an exemption of 125,000 barrels for each handler, this action would exempt small handlers who process less than 125,000 barrels from the 15 percent restriction. Further, only handlers who would have carryover inventory that is not sold or under contract at the end of the 2017–18 fiscal year would be subject to the 15 percent restriction. These changes would reflect the Committee's goal of reducing the burden on small handlers, and would allow handlers that have matched their production with market demand to continue to serve their customer base and protect their market share. Handlers subject to the restriction should be able to meet any market shortfalls by utilizing cranberries or cranberry products they have in inventory.

With this change, only those handlers carrying inventory would be subject to the restriction. In reviewing the Committee's recommendation and other available industry information, it is the existing inventories in excess of 9 million barrels that is putting the most downward pressure on returns to both grower and handler. Consequently, this change would put more focus on reducing the volume in inventory.

Accordingly, this proposal would establish free and restricted percentages of 85 percent and 15 percent, respectively, for the 2017–18 season, provide handlers with the option to divert processed cranberry products to meet up to 50 percent of their restricted percentage, and define outlets for restricted fruit. The Committee recommended these actions in a vote of 11 in favor and 2 opposed. This rule would also would exempt small handlers who process less than 125,000 barrels from the restriction, as well as handlers with no carryout inventory.

One member who opposed the Committee's recommendations stated the regulation would cause a hardship on small handlers, as many are able to sell all of their production each season and do not maintain an inventory. He further stated that the small handlers did not create the problem and should not be a part of the solution. However, this issue is addressed by providing the minimum exemption of 125,000 barrels of cranberries, which would exempt many small handlers from the regulation entirely. The other member

who voted against the recommendation opposed volume regulation in general.

The Committee considered the estimated level of production, anticipated demand, and determined that without some action on the part of the Committee, inventory levels would continue to increase throughout the 2017–18 season. The Committee believes using the volume control authorities in the Order would help stabilize marketing conditions for cranberries by helping to adjust supply to meet market demand and improve grower returns.

The Committee also recommended reporting and recordkeeping requirements to be used with the volume regulation, as well as safeguard measures to monitor compliance. These recommendations are being considered under separate actions.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 1,100 cranberry growers in the regulated area and approximately 65 cranberry handlers subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to industry and Committee data, the average grower price for cranberries during the 2016–17 season was $23.50 per barrel and total sales were approximately 9.5 million barrels. The value for cranberries that year totaled $223,250,000 ($23.50 per barrel multiplied by 9.5 million barrels). Taking the total value of production for cranberries and dividing it by the total number of cranberry growers provides an average return per grower of $202,955. Using the average price and utilization information, and assuming a normal distribution, the majority of cranberry growers receive less than $750,000 annually.

According to USDA's Market News report, the average free on board (f.o.b.) price for cranberries was approximately $30.00 per barrel. Multiplying the f.o.b. price by total utilization of 9.5 million barrels results in an estimated handler-level cranberry value of $285 million. Dividing this figure by the number of handlers (65) yields an estimated average annual handler receipt of $4.3 million, which is below the SBA threshold for small agricultural service firms. Therefore, the majority of producers and handlers of cranberries may be classified as small entities.

While cranberry production has continued to rise, demand has failed to keep pace, and inventories have been increasing. In an industry such as cranberries, product can be stored in inventory for long periods of time. Large inventories are costly to maintain, difficult to market, and have a price-depressing effect. When supply outpaces demand resulting in high levels of inventories, grower and handler returns can be negatively impacted.

Demand for cranberries is inelastic, meaning changes in consumer price have a minimal effect on total sales. However, grower prices are very sensitive to changes in supply. With an inelastic demand, even a small shift in supply can affect grower prices. The Committee's recommendation to set free and restricted percentages would more closely align supply with demand. Free percentage cranberries could be marketed by handlers to any outlet, while restricted percentage volume could only be used for noncompetitive purposes. Establishing free and restricted percentages would result in a decrease in supply, as handlers can only deliver a certain portion of their cranberries into the competitive marketplace. Therefore, using volume regulation to reduce supply should increase grower and handler prices and revenues.

This proposal would control the supply of cranberries by establishing free and restricted percentages at 85 percent free and 15 percent restricted for the 2017–18 crop year. It would also allow for the diversion of 2017–18 processed cranberry products to meet up to 50 percent of a handler's restriction. In addition, this proposal would establish a minimum quantity exemption, exempt handlers with no carryout inventory, exempt organically grown cranberries, and define outlets for restricted fruit. These actions are designed to help stabilize marketing conditions, reduce burdensome inventories, and improve grower and handler returns. This rule would establish new §§ 929.107, 929.108 and 929.252. The authority for these actions is provided for in §§ 929.51, 929.52, 929.54, 929.57, 929.58. These changes are based on Committee recommendations from meetings on August 4 and August 31, 2017.

While these actions could result in some additional costs to the industry, the benefits are expected to outweigh them. The purpose of establishing free and restricted percentages is to address oversupply conditions and to stabilize grower prices. The industry has a significant volume in inventory, and this has had a negative impact on grower and handler returns. Without volume control, inventories would likely continue to increase, further lowering returns.

Inventories have more than doubled since 2011. In 2011, existing inventories were around 4.6 million barrels. By the end of the 2016–17 season, inventories are anticipated to be around 9.9 million barrels. Inventories as a percentage of total sales have also been increasing from approximately 50 percent in 2010 to approximately 103 percent in 2016, and will reach an anticipated 115 percent after the 2017–18 season if volume control is not implemented. These inventories have had a depressing effect on grower prices, which for many has fallen below their cost of production.

Retail demand for cranberries is highly inelastic, which indicates changes in consumer price do not result in significant changes in the quantity demanded. Consumer prices largely do not reflect changes in cranberry supplies. Therefore, this action should have little or no effect on consumer prices and should not result in a reduction in retail sales. However, even a small shift in supply could increase grower and handler returns. The use of free and restricted percentages would likely have a positive impact on grower and handler returns for this crop year.

This proposal would result in some fruit being taken off the market. However, a sufficient amount of fruit would still be available to supply all aspects of the market. In addition, allowing handlers the option to divert 2017–18 processed cranberry products to meet up to 50 percent of their restriction would provide handlers some additional flexibility and may help reduce inventories of juice concentrate, one of the largest segments of existing inventory.

This action would also exempt small handlers who process less than 125,000

barrels from the restriction. Consequently, small handlers whose acquired volume is 125,000 barrels or less would be exempt from the volume restriction, and handlers with slightly larger volumes would face minimal restrictions. This would reduce the burden the volume restriction would have on small handlers and their growers.

In addition, only handlers who would have carryover inventory that is not sold or under contract at the end of the 2017–18 fiscal year would be subject to the 15 percent restriction. This would allow handlers that have matched their production with market demand to continue to serve their customer base and protect their market share. Handlers subject to the restriction would be able to meet any shortfalls by utilizing cranberries or cranberry products they have in inventory.

There are also secondary uses available for restricted fruit, including foreign markets except Canada, charitable institutions, nonhuman food use, and research and development projects. While these alternatives may provide different levels of return than sales to primary markets, they play an important role for the industry. In addition, if demand is greater than anticipated, there are significant amounts of fruit in inventory that could be utilized to meet demand.

As the restriction represents a percentage of a handler's volume, the costs, when applicable, are proportionate and should not place an extra burden on small entities as compared to large entities. Likewise, growers and handlers, regardless of size, would benefit from the stabilizing effects of this restriction.

One alternative considered was not to impose volume restrictions during the 2017–18 crop year. However, Committee members believed that inventory levels were such that some form of volume control was necessary to help stabilize marketing conditions.

The Committee also considered other levels of free and restricted percentages. However, some members were concerned that setting a restriction that was too high could negatively impact small handlers. The Committee determined that allowing diversion of 50 percent to meet the restriction allows large handlers to reduce inventory and not add additional volumes of juice concentrate to the existing inventory levels. Therefore, for the reasons mentioned above, these alternatives were rejected by the Committee.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the Order's information collection requirements have been previously approved by OMB and assigned OMB No. 0581–0189, Generic Fruit Crops. The Committee will be recommending reporting and recordkeeping requirements to be used with the volume restriction, as well as safeguard measures to monitor compliance, under a separate rulemaking action.

As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this proposed rule.

AMS is committed to complying with the E-Government Act to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, the Committee's meetings were widely publicized throughout the cranberry industry and all interested persons were invited to attend the meetings and participate in Committee deliberations on all issues. Like all Committee meetings, the August 4 and August 31, 2017, meetings were public meetings and all entities, both large and small, were able to express views on these issues. Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/MarketingOrdersSmallBusinessGuide.* Any questions about the compliance guide should be sent to Richard Lower at the previously-mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposal. Thirty days is deemed appropriate since handlers are already receiving cranberries from the 2017–18 crop and the proposed handler withholding needs to be applied in order to be effective. All written comments timely received will be considered before a final determination is made on this rule.

List of Subjects in 7 CFR Part 929

Cranberries, Marketing agreements, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 929 is proposed to be amended as follows:

PART 929—CRANBERRIES GROWN IN STATES OF MASSACHUSETTS, RHODE ISLAND, CONNECTICUT, NEW JERSEY, WISCONSIN, MICHIGAN, MINNESOTA, OREGON, WASHINGTON, AND LONG ISLAND IN THE STATE OF NEW YORK

■ 1. The authority citation for part 929 continues to read as follows:

Authority: 7 U.S.C. 601–674.

Subpart Redesignated as Subpart A

■ 2. Designate the subpart labeled ''Order Regulating Handling'' as Subpart A.

Subpart Redesignated as Subpart B and Amended

■ 3. Designate the subpart labeled ''Rules and Regulations'' as Subpart B and revise the heading as shown below:

Subpart B—Administrative Requirements

■ 4. Add § 929.107 to read as follows:

§ 929.107 Conversion.

During a year of volume regulation, cranberry concentrate and other processed products made from excess or restricted cranberries harvested in that year may be diverted according to the provisions of this part. Any handler disposing of concentrate or other processed products must report the whole-berry equivalent to the Committee so that all excess or restricted cranberries are accounted for and reported per rules and regulations in effect. Table 1-Conversion Table provides a conversion rate for concentrate to barrels of whole berries based on Brix average by production region. Should requests be made to use other processed products for diversion, conversion rates for those products would be provided by the Committee based on information provided by the requesting handler.

TABLE 1 TO § 929.107—CONVERSION TABLE

Region	Brix average	Concentrate yield for one barrel of cranberries
Oregon	9.8	1.91 gallons 50 Brix concentrate.
Washington	9.3	1.81 gallons 50 Brix concentrate.
New Jersey	8.8	1.72 gallons 50 Brix concentrate.
Wisconsin	8.7	1.70 gallons 50 Brix concentrate.
Massachusetts	8.4	1.64 gallons 50 Brix concentrate.
All others	8.7	1.70 gallons 50 Brix concentrate.

■ 5. Add § 929.108 to read as follows:

§ 929.108 Outlets for restricted cranberries.

In accordance with § 929.57, restricted cranberries may be diverted only to the following noncommercial or noncompetitive outlets:

(a) Foreign countries, except Canada, provided that restricted cranberries diverted under this provision may not be converted into canned, frozen, or dehydrated cranberries or other cranberry products by any commercial process, prior to diversion;

(b) Charitable institutions;

(c) Any nonhuman food use, or;

(d) Research and development projects approved by the Committee dealing with the development of foreign and domestic markets, including, but not limited to dehydration radiation, freeze drying, or freezing of cranberries.

Subpart Redesignated as Subpart C

■ 6. Designate the subpart labeled ''Assessment Rate'' as Subpart C.

■ 7. Add § 929.252 to read as follows:

§ 929.252 Free and restricted percentages for the 2017–18 crop year.

(a) The percentages for cranberries handled by handlers during the crop year beginning on September 1, 2017, which shall be free and restricted, respectively are designated as follows: Free percentage, 85 percent and restricted percentage, 15 percent.

(b) Handlers have the option to process restricted cranberries into dehydrated cranberries or other processed products. Handlers also have the option to divert concentrate or other processed products as provided in § 929.107 to account for up to 50 percent of their restriction.

(c) Organically grown fruit shall be exempt from the volume regulation requirements of this section. Small handlers who process less than 125,000 barrels during the 2017–18 fiscal year are exempt from the restriction. Any handler who does not have carryover inventory at the end of the 2017–18 fiscal year would also be exempt.

Dated: December 26, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–28169 Filed 12–29–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Doc. No. AMS–SC–17–0047; SC17–930–1 PR]

Tart Cherries Grown in the States of Michigan, et al.; Revision of Exemption Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a recommendation from the Cherry Industry Administrative Board (Board) to revise the exemption provisions under the Marketing Order for tart cherries (Order). This rule changes the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit. This action would also permit handlers to apply for previously awarded projects if the original handler has not begun the project within a year of approval, and provides an expedited approval option for some market expansion activities. These changes are intended to encourage handlers to participate in new product, new market and market expansion activities, expand demand, and make the approval process more efficient.

This proposal also contains a formatting change to subpart references to bring the language into conformance with the Office of Federal Register requirements.

DATES: Comments must be received by February 1, 2018.

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

FOR FURTHER INFORMATION CONTACT: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). Jennie M. Varela, Marketing Specialist, or Christian D. Nissen, Regional Director, Southeast Marketing Field Office, Marketing Order and Agreement Division, Specialty Crops Program, AMS, USDA; Telephone: (863) 324–3775, Fax: (863) 291–8614, or Email: *Jennie.Varela@ams.usda.gov* or *Christian.Nissen@ams.usda.gov.*

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

SUPPLEMENTARY INFORMATION: This action, pursuant to 5 U.S.C. 553, proposes an amendment to regulations issued to carry out a marketing order as defined in 7 CFR 900.2(j). This proposed rule is issued under Marketing Order No. 930, as amended (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. Part 930

(hereinafter referred to as the ''Order'') is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.'' The Board locally administers the Order and is comprised of growers and handlers operating in the production area and one public member.

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Orders 13563 and 13175. This proposed rule falls within a category of regulatory action that the Office of Management and Budget (OMB) exempted from Executive Order 12866 review. Additionally, because this proposed rule does not meet the definition of a significant regulatory action, it does not trigger the requirements contained in Executive Order 13771. See OMB's Memorandum titled ''Interim Guidance Implementing Section 2 of the Executive Order of January 30, 2017, titled 'Reducing Regulation and Controlling Regulatory Costs' '' (February 2, 2017).

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule is not intended to have retroactive effect.

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

This proposed rule would change the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit from three years to five years. This action would also permit handlers to apply for previously awarded projects if the original handler has not made a shipment within a year of approval, and provides an expedited approval option for some market expansion activities. These changes are intended to encourage participation in new product, new market development and market expansion, expand demand, and make the approval process more efficient. The Board unanimously approved these changes at a meeting on May 3, 2017.

Section 930.59 authorizes handler diversion. When volume regulation is in effect, handlers may fulfill any restricted percentage requirement in full or in part by acquiring diversion certificates or by voluntarily diverting cherries or cherry products in a program approved by the Board, rather than placing cherries in an inventory reserve.

Section 930.159 specifies methods of handler diversion, including using cherries or cherry products for exempt purposes prescribed under § 930.162. Section 930.162 establishes the terms and conditions of exemption that must be satisfied for handlers to receive diversion certificates for exempt uses. Section 930.162(b) defines the activities which qualify for exemptions under new product, new market development, and market expansion and the period for which they are eligible for diversion credit. New products include foods or other products in which tart cherries or tart cherry products are incorporated which are not presently being produced on a commercial basis. New market development and market expansion activities include, but are not limited to, sales of cherries into markets that are not yet commercially established, product line extensions, or segmentation of markets along geographic or other definable characteristics.

The Order provides for the use of volume regulation to stabilize prices and improve grower returns during periods of oversupply. At the beginning of each season, the Board examines production and sales data to determine whether a volume regulation is necessary and, if so, announces free and restricted percentages to limit the volume of tart cherries on the market. Free percentage cherries can be used to supply any available market, including domestic markets for pie filling, water packed, and frozen tart cherries. Restricted percentage cherries can be placed in reserve or be used to earn diversion credits as prescribed in §§ 930.159 and 930.162. These activities include, in part, the development of new products, new market development and market expansion, as well as charitable contributions, and the development of export markets.

Changes in the domestic tart cherry market have provided challenges to the industry, particularly competition from imported cherry products. In the last five years, there has been a large increase in the volume of imported tart cherry products, especially tart cherry juice. The Board sees this juice market as a potential opportunity to expand domestic sales. The Board assigned a series of committees to look into the growing juice market, examine the impact of imports on the overall domestic market, and recommend actions that could help domestic handlers capture market share. As a result, the Board determined that the use of diversion credit for new markets and market expansion would be a valuable way to reach the developing juice market that is not currently utilizing domestic cherries.

The Board believes the development of new products, new markets, and expansion of current markets is an important part of the future success of the domestic industry. These projects are intended to help expand the market for tart cherries and increase demand. The Board sees the use of diversion credits as a way to encourage these activities using restricted fruit that may otherwise be stored or destroyed.

However, creating new products or establishing sales in new markets can be costly and time consuming. In 2015, the Board increased the eligibility for diversion credit from one year to a three-year duration for new market and market expansion projects and saw participation rise. In discussing the proposed change, Board members indicated that three years still did not provide handlers sufficient time to develop and recoup the costs and resources needed to establish one of these projects. The Board believes extending the availability of diversion credits from three years to five years would provide an incentive for handlers to develop new products, new markets, or to expand current markets.

Further, the Board believes that allowing handlers to apply for previously approved projects that the original handler has not fulfilled creates additional opportunities and promotes project development. Under the Order's regulations, diversion credit for new products and new markets can be issued for tart cherries for products or markets not yet commercially established. Consequently, the Board's administrative policy was that once a handler received approval for a project, that handler maintained the right to commercially develop that project for up to three years. However, the Board found that sometimes a handler received approval for a project but never started it. The Board recommended that if the handler does not start the project, it should still be considered a new product, new market, or market expansion activity, and other handlers should be able to apply for the previously approved project.

Under this proposed change, a handler would have one year to begin the new product, new market, or market expansion project with the opportunity to appeal for an additional six months if necessary to start the project. If the handler does not make a shipment, and does not request an extension, other handlers could apply to develop the project. The Board believes this would encourage handlers to start projects or create the opportunity for another handler to apply for the project if the original handler cannot, or chooses not to, proceed.

Finally, the Board recommended an expedited option so that diversion credit for some market expansion projects could be approved once the sales information is verified by Board staff, rather than review by a subcommittee. Adding this flexibility to the approval process would make it faster for diversion applicants.

Currently all types of new market, new product, and market expansion projects are reviewed by an appointed subcommittee, which can take considerable time. In hope of handlers participating in these activities, the Board recognized the need to make the approval process faster so that decisions on applications are not delayed. In the case of market expansion projects, some tart cherry handlers are competing to source buyers not currently using domestic tart cherries rather than developing a new product. The Board believes these transactions are vital to expanding sales of tart cherries. The Board recommended an expedited option for these market expansion projects. Diversion credit for these transactions would be approved once a statement from a buyer of its intent to use domestic tart cherries in products not currently supplied by the domestic market is sent to and verified by Board staff, rather than after review by the Board subcommittee. The Board believes this would expedite the approval process for diversion requests.

Initial Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA) (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of businesses subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf.

There are approximately 600 producers of tart cherries in the regulated area and approximately 40 handlers of tart cherries who are subject to regulation under the Order. Small agricultural producers are defined by the Small Business Administration (SBA) as those having annual receipts of less than $750,000, and small agricultural service firms have been defined as those whose annual receipts are less than $7,500,000 (13 CFR 121.201).

According to the National Agricultural Statistics Service and Board data, the average annual grower price for tart cherries during the 2016–17 season was approximately $0.273 per pound. With total utilization at around 323.1 million pounds for the 2016–17 season, the total 2016–17 crop value is estimated at $88.2 million. Dividing the crop value by the estimated number of producers (600) yields an estimated average receipt per producer of $147,000. This is well below the SBA threshold for small producers. In 2016, The Food Institute estimated a free on board (f.o.b.) price of $0.83 per pound for frozen tart cherries, which make up the majority of processed tart cherries. Multiplying the f.o.b price by total utilization of 323.1 million pounds results in an estimated handler-level tart cherry value of $268 million. Dividing this figure by the number of handlers (40) yields an estimated average annual handler receipts of $6.7 million, which is below the SBA threshold for small agricultural service firms. Assuming a normal distribution, the majority of producers and handlers of tart cherries may be classified as small entities.

This rule would revise § 930.162 of the regulations by changing the number of years that new product, new market development, and market expansion projects are eligible for handler diversion credit from three years to five years. This action would also permit handlers to apply for previously awarded projects if the original handler has not made a shipment within one year of approval, and provides an expedited approval option for some market expansion activities. These changes are intended to encourage handlers to participate in new product, new market and market expansion activities, to expand demand, and make the approval process more efficient. The authority for these actions is provided in § 930.59.

It is not anticipated that this proposed rule would impose additional costs on handlers or growers, regardless of size. Rather, this proposal should help handlers receive better returns on their new market development and market expansion projects by extending the time period that handlers can receive diversion credit for those activities. This should provide more opportunity for handlers to recover the time and resources required to establish these projects.

In addition, extending the number of years that these marketing projects are eligible for diversion credits may provide incentive for handlers to develop these programs, and may enable additional sales which could improve returns for growers and handlers. Board members indicated that three years does not provide handlers enough time to develop and recover the costs and resources needed to implement one of these projects. The Board expects increasing the time frame would provide an incentive for additional handlers to participate in these exempt activities. Additionally, the proposed changes would open up the opportunity for another handler if the original handler does not carry out an approved project. Creating a longer window for use of restricted fruit and making the process accessible to more handlers should help the industry in its efforts to expand demand.

Finally, this action would change the process by which handlers receive approval for market expansion projects that involve tart cherry handlers competing to source buyers not currently using domestic tart cherries. The Board believes this would help expand sales of tart cherries. The Board recommended that diversion credit for these sales transactions would be approved once the sales information is verified by Board staff, rather than after review by the subcommittee. The Board believes this would expedite the approval process for these types of diversion requests.

The Board does not believe that these changes would significantly impact the calculations for free and restricted percentages. These changes are intended to facilitate projects that will create future sales opportunities. The effects of this rule are not expected to be disproportionately greater or less for small handlers or producers than for larger entities.

Regarding alternatives to this action, the Board considered a number of options in its discussion, including leaving the length of time that new product, new market, and market expansion programs are eligible for handler diversion credit unchanged. However, given the increased

participation rate since the time period was extended in 2015, and the Board's desire to quickly open up opportunities for handlers, the Board preferred to expand the opportunity for diversion credits for these projects. Therefore, the alternatives were rejected.

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Order's information collection requirements have been previously approved and assigned OMB No. 0581–0177, Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin. No changes in those requirements are necessary as a result of this action. Should any changes become necessary, they would be submitted to OMB for approval.

This proposed rule would not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

AMS is committed to complying with the E-Government Act, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

In addition, USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

The Board's meeting was widely publicized throughout the tart cherry industry, and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the May 3, 2017, meeting was a public meeting, and all entities, both large and small, were able to express their views on this issue.

Finally, interested persons are invited to submit comments on this proposed rule, including the regulatory and informational impacts of this action on small businesses.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/rules-regulations/moa/small-businesses.* Any questions about the compliance guide should be sent to Richard Lower at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

A 30-day comment period is provided to allow interested persons to respond to this proposed rule.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR part 930 is proposed to be amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

■ 1. The authority citation for 7 CFR part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

[Subpart Redesignated as Subpart A]

■ 2. Redesignate ''Subpart—Order Regulating Handling'' as ''Subpart A—Order Regulating Handling''.

[Subpart Redesignated as Subpart B and Amended]

■ 3. Redesignate ''Subpart—Rules and Regulations'' as subpart B and revise the heading to read as follows:

Subpart B—Administrative Requirements

[Subpart Redesignated as Subpart C]

■ 4. Redesignate ''Subpart—Assessment Rate'' as ''Subpart C—Assessment Rate''.
■ 5. In § 930.162:
■ a. Revising the sentences at the end of (b)(1) and (b)(2);
■ b. Add new paragraph (c)(3);
■ c. Redesignating paragraphs (c)(3),(4) and (5) as (c)(4),(5) and (6); and
■ d. Add new paragraph (h).

The revisions to read as follows:

§ 930.162 Exemptions.

* * * * *

(b) * * *

(1) * * * In addition, the maximum duration of any credit activity is five years from the date of the first shipment.

(2) * * * In addition, shipments of tart cherries or tart cherry products in new market development and market expansion outlets are eligible for handler diversion credit for a period of five years from the handler's date of the first shipment into such outlets.

* * * * *

(c) * * *

(3) When applying to the Board for an exemption for the use of domestic tart cherry products in markets not currently served by the domestic industry, handlers may provide a verifiable statement from the buyer of its intent to use domestic tart cherry products to the Board staff for review in lieu of review by the subcommittee as detailed in (d) of this section. A verifiable statement is defined as a written statement from the buyer that it will use domestic tart cherries in products or markets not currently supplied by domestic sources, which will be reviewed and documented by Board staff.

* * * * *

(h) *Extensions and Transfers* If no shipments are made within the first year of any approved exemption project from the date of approval, new applications for a similar project (same market or product) are eligible for approval; *provided that,* handlers with an approved exemption project have the opportunity to apply to the subcommittee for a six month extension of this time period.

For projects granted extensions, if no shipment is made prior to the end of the extension period, new applications for the same market or project are eligible for approval.

* * * * *

Dated: December 26, 2017.

Bruce Summers,

Acting Administrator, Agricultural Marketing Service.

[FR Doc. 2017–28167 Filed 12–29–17; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1176; Product Identifier 2017–NM–123–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for certain The Boeing Company Model 747–8 series airplanes. This proposed AD was prompted by a report of restricted movement of the right brake pedals after landing rollout. This proposed AD would require revising the airplane flight manual (AFM) by adding an autobrake system limitation. This proposed AD would also require modifying intercostal webs near a main entry door, which would terminate the AFM limitation. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 16, 2018.

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

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

For service information identified in this NPRM, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221. It is also available on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1176.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1176; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Kelly McGuckin, Aerospace Engineer, Systems and Equipment Section, Seattle ACO Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057–3356; phone: 425–917–6490; fax: 425–917–6590; email: *Kelly.McGuckin@faa.gov.*

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2017–1176; Product Identifier 2017–NM–123–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM because of those comments.

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

Discussion

We have received a report of restricted movement of the right brake pedals after landing rollout after the flight crew disengaged the autobrakes using manual brake inputs. An investigation determined that the in-service event had occurred because ice had formed during the flight on the right brake control cable pulleys near door 3R due to inadequate routing and drainage of water. The left brake control system is also vulnerable to ice accumulation because the door 3L and door 3R designs are similar. We are proposing this AD to prevent restricted motion of the brake pedals, which could affect stopping performance and directional control of the airplane. This restricted motion could lead to high speed runway excursion or lateral runway excursion.

Related Service Information Under 1 CFR Part 51

We reviewed Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017. This service information describes procedures for modifying intercostal webs near main entry door 3 by drilling two drain holes in the station-18 intercostal web at door stop 8 and applying sealant at the fore-aft drain path of the upper main sill web at station 16 near door 3R and door 3L. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination

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

Proposed AD Requirements

This proposed AD would require revising the AFM to incorporate an autobrake system limitation. This proposed AD would also require accomplishment of the actions identified in the Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, except as discussed under Differences Between this Proposed AD and the Service Information,'' and except for any differences identified as exceptions in the regulatory text of this proposed AD.

Accomplishing the actions specified in the service information described previously would be terminating action for the AFM autobrake system limitation. For information on the procedures and compliance times for Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, see this service information at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1176.

Difference Between This Proposed AD and the Service Information

Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, is applicable to ''Model 747–8 series airplanes having line numbers 1434 through 1539 inclusive.'' However, this proposed AD would exclude airplanes having line numbers 1443, 1451, 1453, 1456, 1470, 1472, 1475, 1477, 1480, 1492, 1494, 1497, 1498, 1500, 1503, 1511, 1512, 1513, and 1514, because those airplanes were previously modified to address the identified unsafe condition.

Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, does not specify the type of sealant that must be used. However, this AD specifies using BMS 5–142, TYPE 2; BMS 5–95; PR–1826; or PR–1828 sealant.

We have coordinated these differences with Boeing.

Explanation of ''RB'' (Requirements Bulletin)

The FAA worked in conjunction with industry, under the Airworthiness Directive Implementation Aviation Rulemaking Committee (AD ARC), to enhance the AD system. One enhancement is a process for annotating which steps in the service information are ''required for compliance'' (RC) with an AD. Boeing has implemented this RC concept into Boeing service bulletins.

In an effort to further improve the quality of ADs and AD-related Boeing service information, a joint process improvement initiative was worked between the FAA and Boeing. The initiative resulted in the development of a new process in which the service information more clearly identifies the actions needed to address the unsafe condition in the ''Accomplishment

Instructions.'' The new process results in a Boeing Requirements Bulletin, which contains only the actions needed to address the unsafe condition (*i.e.,* only the RC actions).

Costs of Compliance

We estimate that this proposed AD affects 2 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
AFM revision	1 work-hour × $85 per hour = $85	$0	$85	$170
Modification	10 work-hours × $85 per hour = $850	(1)	850	1,700

[1] We have received no definitive data that would enable us to provide parts cost estimates for the modification specified in this proposed AD.

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

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

The Boeing Company: Docket No. FAA–2017–1176; Product Identifier 2017–NM–123–AD.

(a) Comments Due Date

We must receive comments by February 16, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to The Boeing Company Model 747–8 series airplanes, certificated in any category, as identified in Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, except for airplanes having line numbers 1443, 1451, 1453, 1456, 1470, 1472, 1475, 1477, 1480, 1492, 1494, 1497, 1498, 1500, 1503, 1511, 1512, 1513, and 1514.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Unsafe Condition

This AD was prompted by a report of restricted movement of the brake pedals after landing rollout. We are issuing this AD to prevent restricted motion of the brake pedals, which can affect stopping performance and directional control of the airplane. This restricted motion can lead to high speed runway excursion or lateral runway excursion.

(f) Compliance

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

(g) Required Actions

Within 120 days after the effective date of this AD: Revise the airplane flight manual (AFM) by incorporating the limitation specified in figure 1 to paragraph (g) of this AD.

FIGURE 1 TO PARAGRAPH (g) OF THIS AD—AUTOBRAKE LIMITATION

Autobrakes (Required by AD *-**-**)**

Takeoff is prohibited without an operative autobrake system.

The autobrake system must be used for landing, unless EICAS messages AUTOBRAKES or ANTISKID are displayed.

The autobrake system may be disengaged after slowing to a safe taxi speed or to a full stop, and only by use of the brake pedals.

(h) Terminating Action for AFM Limitation

Within 60 months after the effective date of this AD, do all applicable actions identified in, and in accordance with, the Accomplishment Instructions of Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017, except where the requirements bulletin specifies applying sealant, the following type of sealant must be used: BMS 5–142, TYPE 2; BMS 5–95; PR–1826; or PR–1828. Doing the actions specified in this paragraph terminates the AFM limitation required by paragraph (g) of this AD. The AFM limitation required by paragraph (g) of this AD may be removed from the AFM after accomplishing the actions specified in this paragraph.

Note 1 to paragraph (h) of this AD: Guidance for accomplishing the actions required by paragraph (h) of this AD can be found in Boeing Alert Service Bulletin 747–32A2525, dated September 6, 2017, which is referred to in Boeing Alert Requirements Bulletin 747–32A2525 RB, dated September 6, 2017.

(i) Special Flight Permit

Special flight permits, as described in Section 21.197 and Section 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199), are not allowed, except as provided by paragraph (j) of this AD.

(j) Ferry Flight Limitations

Operators who are prohibited from further flight due to the autobrake system being inoperative may perform a one-time non-revenue ferry flight to fly the airplane to a maintenance facility to either fix the autobrake system or incorporate the terminating action specified in paragraph (h) of this AD. This ferry flight must be performed without passengers, and with interior modifications to allow heated cabin air to warm the brake control cables and pulleys in the vicinity of door 3L and door 3R. These interior modifications must include, at a minimum, temporarily removing the side panels and insulation immediately aft of door 3L and door 3R.

(k) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO Branch, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the certification office, send it to the attention of the person identified in paragraph (l)(1) of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

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

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

(l) Related Information

(1) For more information about this AD, contact Kelly McGuckin, Aerospace Engineer, Systems and Equipment Section, Seattle ACO Branch, FAA, 1601 Lind Avenue SW, Renton, WA 98057 3356; phone: 425–917–6490; fax: 425–917–6590; email: *Kelly.McGuckin@faa.gov.*

(2) For service information identified in this AD, contact Boeing Commercial Airplanes, Attention: Contractual & Data Services (C&DS), 2600 Westminster Blvd., MC 110–SK57, Seal Beach, CA 90740–5600; telephone 562–797–1717; internet *https://www.myboeingfleet.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–28151 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2017–1175; Product Identifier 2017–NM–087–AD]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc., Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. This proposed AD was prompted by a report that Belleville washers installed on the shimmy damper of the main landing gear may fail due to fatigue. This proposed AD would require revising the maintenance or inspection program, as applicable, to incorporate a repetitive task specified in the maintenance review board report. We are proposing this AD to address the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by February 16, 2018.

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

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

For service information identified in this NPRM, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1175; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this NPRM, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposal. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–

2017–1175; Product Identifier 2017–NM–087–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this NPRM. We will consider all comments received by the closing date and may amend this NPRM based on those comments.

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

Discussion

Transport Canada Civil Aviation, which is the aviation authority for Canada, has issued Canadian AD CF–2017–14, dated April 21, 2017 (referred to after this as the Mandatory Continuing Airworthiness Information, or ''the MCAI''), to correct an unsafe condition for all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes. The MCAI states:

> It has been found that Belleville washers installed on the Main Landing Gear (MLG) Shimmy Damper may fail in fatigue. A failed washer segment migrating into the piston cavity may interfere with piston travel. As a result, shimmy damper performance would be compromised, MLG shimmy could occur and potentially lead to a MLG failure.
>
> As a result of this investigation, a restoration task has been added for Belleville washers' replacement at 20,000 flight cycles, during MLG overhaul. For aeroplanes that have passed the 20,000 flight cycle threshold, a phase-in period is defined.
>
> This [Canadian] AD is issued to mandate the Maintenance Review Board (MRB) revised task for the affected aeroplanes models.

You may examine the MCAI in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1175.

Related Service Information Under 1 CFR Part 51

Bombardier, Inc., has issued task number 320100–229, Restoration (Belleville Washing Replacement) of the MLG Shimmy Damper, of the Maintenance Review Board Report of the Bombardier CRJ700/705/900/1000 Maintenance Requirements Manual (MRM)—Part 1, CSP B–053, Revision 17, dated June 25, 2017. This service information describes the restoration (Belleville Washer Replacement) of the MLG shimmy damper. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

FAA's Determination and Requirements of This Proposed AD

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

This AD requires revisions to certain operator maintenance documents to include new actions (*e.g.,* inspections). Compliance with these actions is required by 14 CFR 91.403(c). For airplanes that have been previously modified, altered, or repaired in the areas addressed by this proposed AD, the operator may not be able to accomplish the actions described in the revisions. In this situation, to comply with 14 CFR 91.403(c), the operator must request approval for an alternative method of compliance according to paragraph (j) of this proposed AD. The request should include a description of changes to the required actions that will ensure the continued damage tolerance of the affected structure.

Costs of Compliance

We estimate that this proposed AD affects 544 airplanes of U.S. registry.

We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
Revise the airplane maintenance or inspection program.	1 work-hour × $85 per hour = $85	$0	$85	$46,240

Authority for This Rulemaking

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

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

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

Regulatory Findings

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

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

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

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

3. Will not affect intrastate aviation in Alaska; and

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

List of Subjects in 14 CFR Part 39

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

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Bombardier, Inc., Airplanes: Docket No. FAA–2017–1175; Product Identifier 2017–NM–087–AD.

(a) Comments Due Date

We must receive comments by February 16, 2018.

(b) Affected ADs

None.

(c) Applicability

This AD applies to all Bombardier, Inc., Model CL–600–2C10 (Regional Jet Series 700, 701, & 702) airplanes, Model CL–600–2D15 (Regional Jet Series 705) airplanes, Model CL–600–2D24 (Regional Jet Series 900) airplanes, and Model CL–600–2E25 (Regional Jet Series 1000) airplanes, certificated in any category.

(d) Subject

Air Transport Association (ATA) of America Code 32, Landing gear.

(e) Reason

This AD was prompted by a report indicating that Belleville washers installed on the shimmy damper of the main landing gear (MLG) may fail due to fatigue. We are issuing this AD to prevent a failed washer segment migrating into the piston cavity and interfering with piston travel. As a result, the shimmy damper performance could be compromised, and an MLG shimmy could occur, potentially leading to an MLG failure and affecting the airplane's safe flight and landing.

(f) Compliance

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

(g) Maintenance or Inspection Program Revision

Within 30 days after the effective date of this AD, revise the airplane maintenance or inspection program, as applicable, by incorporating maintenance review board (MRB) report task number 320100–229, Restoration (Belleville Washing Replacement) of the MLG Shimmy Damper, of the Maintenance Review Board Report of the Bombardier CRJ700/705/900/1000 Maintenance Requirements Manual (MRM)—Part 1, CSP B–053, Revision 17, dated June 25, 2017. The initial compliance time for MRB report task number 320100–229 is specified in paragraphs (g)(1) and (g)(2) of this AD, as applicable.

(1) For any shimmy damper with 20,000 total accumulated flight cycles or fewer as of the effective date of this AD, the initial compliance time is before the accumulation of 26,000 total flight cycles.

(2) For any shimmy damper with 20,000 total accumulated flight cycles or more as of the effective date of this AD, the initial compliance time is specified in paragraph (g)(2)(i) or (g)(2)(ii), whichever occurs later.

(i) Within 6,000 flight cycles after the effective date of this AD, but prior to the accumulation of 30,000 total flight cycles.

(ii) Within 30 days after effective date of this AD.

(h) Credit for Previous Actions

This paragraph provides credit for actions required by paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Bombardier Temporary Revision MRB–0070, dated October 20, 2015, prior to the effective date of this AD.

(i) No Alternative Actions or Intervals

After the airplane maintenance or inspection program has been revised, as required by paragraph (g) of this AD, no alternative actions (*e.g.,* inspections) or intervals may be used unless the actions and/or intervals are approved as an alternative method of compliance (AMOC) in accordance with the procedures specified in paragraph (j) of this AD.

(j) Other FAA AD Provisions

The following provisions also apply to this AD:

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

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

(k) Related Information

(1) Refer to Mandatory Continuing Airworthiness Information (MCAI) Canadian Airworthiness Directive CF–2017–14, dated April 21, 2017, for related information. This MCAI may be found in the AD docket on the internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2017–1175.

(2) For more information about this AD, contact Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Section, FAA, New York ACO Branch, 1600 Stewart Avenue, Suite 410, Westbury, NY 11590; telephone 516–228–7318; fax 516–794–5531.

(3) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; Widebody Customer Response Center North America toll-free telephone 1–866–538–1247 or direct-dial telephone 1–514–855–2999; fax 514–855–7401; email *ac.yul@aero.bombardier.com;* internet *http://www.bombardier.com.* You may view this service information at the FAA, Transport Standards Branch, 1601 Lind Avenue SW, Renton, WA. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on December 14, 2017.

Jeffrey E. Duven,

Director, System Oversight Division, Aircraft Certification Service.

[FR Doc. 2017–28149 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–13–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 2, 25, and 30

[GN Docket No. 14–177, IB Docket Nos. 15–256 and 97–95, WT Docket No. 10–112; FCC 17–152]

Use of Spectrum Bands Above 24 GHz for Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) seeks comment on proposed service rules to allow flexible fixed and mobile uses in additional bands and on refinements to the adopted rules in this document. A Final Rule document for the *Second Report and Order* related to this document for the *Second Further Notice of Proposed*

Rulemaking is published in this issue of this **Federal Register**.

DATES: Comments are due on or before January 23, 2018; reply comments are due on or before February 22, 2018.

ADDRESSES: You may submit comments, identified by GN Docket No. 14–177, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's website: https://www.fcc.gov/ecfs/.* Follow the instructions for submitting comments.
- *People with Disabilities:* Contact the FCC to request reasonable accommodations (accessible format documents, sign language interpreters, CART, etc.) by email: *FCC504@fcc.gov,* phone: 202–418–0530 or TTY: 202–418–0432.

For detailed instructions for submitting comments and additional information on the rulemaking process, see the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: John Schauble of the Wireless Telecommunications Bureau, Broadband Division, at (202) 418–0797 or *John.Schauble@fcc.gov,* Michael Ha of the Office of Engineering and Technology, Policy and Rules Division, at 202–418–2099 or *Michael.Ha@fcc.gov,* or Jose Albuquerque of the International Bureau, Satellite Division, at 202–418–2288 or *Jose.Albuquerque@fcc.gov.* For information regarding the PRA information collection requirements contained in this PRA, contact Cathy Williams, Office of Managing Director, at (202) 418–2918 or *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Second Further Notice of Proposed Rulemaking (Second FNPRM), GN Docket No. 14–177, FCC 17–152,* adopted on November 16, 2017 and released on November 22, 2017. The complete text of this document is available for public inspection and copying from 8 a.m. to 4:30 p.m. Eastern Time (ET) Monday through Thursday or from 8 a.m. to 11:30 a.m. ET on Fridays in the FCC Reference Information Center, 445 12th Street SW, Room CY–A257, Washington, DC 20554. The complete text is available on the Commission's website at *http://wireless.fcc.gov,* or by using the search function on the ECFS web page at *http://www.fcc.gov/cgb/ecfs/.* Alternative formats are available to persons with disabilities by sending an email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (tty).

Comment Filing Procedures

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: *http://fjallfoss.fcc.gov/ecfs2/.*
- *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 Dr., Annapolis Junction, Annapolis 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), 888–835–5322 (tty).

Ex Parte Rules—Permit-But-Disclose

Pursuant to § 1.1200(a) of the Commission's rules, this *Second FNPRM* 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 (1) list all persons attending or otherwise participating in the meeting at which the *ex parte* presentation was made, and (2) summarize all data presented and arguments made during the presentation. 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 § 1.1206(b). In proceedings governed by § 1.49(f) 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.

Initial Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *Notice of Proposed Rulemaking* (*NPRM)* released in October 2015 in this proceeding. A Final Regulatory Flexibility Analysis (FRFA) was incorporated in the *Report and Order and Further Notice of Proposed Rulemaking (R&O/FNPRM)* released in July 2016 in this proceeding. The Commission sought written public comment on the proposals in *NPRM,* including comments on the IRFA. No comments were filed addressing the IRFA. This present Supplemental Final Regulatory Flexibility Analysis

(Supplemental FRFA) supplements the FRFA in the *R&O/FNPRM* and conforms to the RFA.

Paperwork Reduction Act

The *Second FNPRM* contains proposed information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. OMB, the general public, and other Federal agencies are invited to comment on the proposed information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506(c)(4), the Commission seeks specific comment on how it might further reduce the information collection burden for small business concerns with fewer than 25 employees

Synopsis

A. FSS Use of 24.75–25.25 GHz Band

1. The Commission proposes to license FSS earth stations in this band on a co-primary basis under the provisions in § 25.136(d), as revised in the *Second R&O* for the 47.2–48.2 GHz band by adding the 24.75–25.25 GHz band to this rule. This means that the 24.75–25.25 GHz band would only be available for individually-licensed FSS earth stations that meet specific requirements applicable to earth stations in other bands shared with UMFUS (*e.g.,* limitations on population covered, number of earth station locations in a PEA, and a prohibition on earth stations in places where they would preclude terrestrial service to people or equipment that are in transit or are present at mass gatherings). As a consequence of this change, the Commission proposes conforming modifications to various earth station application requirements specified in §§ 25.115(e) and 25.130(b), and deleting as obsolete the licensing requirements for the 25.05–25.25 GHz band specified in § 25.203(l). The Commission is also seeking comment on adding a U.S. Table of Allocations footnote specifying the relative interference protection obligations of FSS and UMFUS stations in the 24.75–25.25 GHz band. The Commission is also proposing to add a U.S. Table of Allocations footnote specifying the relative interference protection obligations of FSS and UMFUS stations in the 24.75–25.25 GHz band. It appears that allowing broader FSS use in the 24.75–25.25 GHz band may be appropriate, and to provide for more flexible FSS use of the band, the Commission proposes to eliminate footnote NG535. This would make the 24.75–25.25 GHz band available for general FSS uplink operations, without restricting these operations to, or affording priority for, the provision of feeder links for the 17/24 GHz BSS space stations. Given the very light use of the 24.75–25.25 GHz band for BSS feeder links, the earth station two-degree spacing rules that would protect BSS feeder links from other FSS earth stations in the band, and the power limits placed on BSS feeder link earth stations, it does not appear necessary to give BSS feeder link earth station transmissions priority over other uses of the FSS for earth stations located within the United States, or to preclude other FSS stations from claiming protection from feeder link earth station transmissions located within the United States. To accommodate more diverse FSS operations in the band and to further increase flexibility for all FSS uses in this new sharing regime, the Commission also proposes to eliminate the Appendix F orbital-location restrictions for 17/24 GHz BSS space stations specified in § 25.262(a). The Commission seeks comment on these proposals.

2. Though the Commission is proposing to allow broader and more flexible FSS use of the 24.75–25.25 GHz band consistent with the predominant use of the band for terrestrial wireless services, the Commission recognizes that aggregate interference to the satellite receivers from UMFUS operations may be a concern in this band, similar to concerns raised in the context of the 28 GHz and 47 GHz bands. There are currently earth stations and space stations that operate in this band. Should the Commission take any action to address the potential of aggregate interference to impact satellite receivers in this band? How likely is it that such interference will occur? Should the Commission treat such interference to existing satellites, should it occur, differently from satellites deployed in the future? Should the Commission adopt a U.S. Table of Allocations footnote specifying the relative interference protection obligations of FSS and UMFUS stations in the 24.75–25.25 GHz band and what should be the content of such a footnote?

3. Consistent with these proposals, in addition to modifications to § 25.136, the Commission proposes several rule changes to part 25. To harmonize the treatment of BSS feeder links and other FSS transmissions, the Commission proposes first to modify § 25.138 to extend applicability of the Ka-band off-axis EIRP density limits in paragraph (a) to the 24.75–25.25 GHz band. Then the Commission will eliminate the nearly identical BSS feeder link-specific earth station off-axis EIRP density limits for the 24.75–25.25 GHz band in § 25.223(b). The Commission proposes to eliminate the coordination provisions §§ 25.223(c) and (d), and to add the 24.75–25.25 GHz band to the list of frequency bands in its general FSS earth station coordination rules in § 25.220(a). These changes would allow us to remove and reserve § 25.223, because there would be no need for these provisions, which currently provide alternative means of licensing BSS feeder links. As a consequence, the Commission will also eliminate cross references to the rule contained in § 25.209(f). In § 25.204, the Commission proposes to eliminate paragraph (e)(4), which contains rain fade specifications specific to 17/24 GHz BSS feeder link transmissions, and instead to include the 24.75–25.25 GHz band in paragraph (e)(3), which contains nearly identical Ka-band FSS rain fade specifications. The Commission also proposes to modify the interference-showing requirements for FSS applicants in § 25.140(a)(3) to make clear its applicability to FSS (Earth-to-space) transmissions to 17/24 GHz BSS space stations. In addition, the Commission proposes to add a new subparagraph (iv) requiring applicants for space stations receiving uplinks in the 24.75–25.25 GHz band to certify, among other things, that the earth stations transmitting to such space stations will not exceed the off-axis EIRP density limits in § 25.138(a). As a result, the Commission also proposes consequential modifications to the definitions of ''routine processing or licensing'' and ''two-degree compliant space station'' contained in § 25.103. The Commission seeks comment on these proposals.

4. In addition, the Commission proposes to eliminate the operational requirements associated with the Appendix F orbital-location constraints in § 25.262 by deleting paragraphs (a) and (d), and modifying paragraphs (b) and (e). The Commission further proposes to modify §§ 25.140(b), (c) and (d) to reflect changes in the interference showing required by 17/24 GHz BSS applicants, which is currently defined in part by the applicant's orbital position relative to Appendix F locations, and to eliminate an operational requirement made moot by deleting § 25.262(b). Similarly, the Commission proposes to delete Appendix F specific requirements contained in § 25.114(d)(17), and to eliminate a reference in § 25.114(d)(7) to a deleted subparagraph in § 25.140(b). Finally, to provide for consistent

treatment of 17/24 GHz feeder uplinks with other FSS transmissions in the 24.75–25.25 GHz band, the Commission proposes to modify the cross-polarization isolation requirement in § 25.210(i) to make clear that it applies only to 17/24 GHz BSS space-to-Earth transmissions.

B. Performance Requirements—Geographic Area Metric

5. In the *FNPRM,* the Commission sought comment on adopting a performance metric tailored to Internet of Things-type deployments or other innovative services that may not be a good fit for traditional metrics. Because the record on this issue was not sufficiently detailed, we decline to adopt any additional metric today and seek comment on additional proposals discussed below.

6. The Commission recognizes the difficulty of crafting an IoT-specific metric, especially while the relevant technologies and use cases are still being developed. The Commission instead seeks additional comment on whether to adopt a more traditional or other metric that may nevertheless accommodate these types of services. For example, a performance metric based on geographic area coverage (or presence) could allow for networks that provide meaningful service but deploy along lines other than residential population. Such a metric could be easier to implement than any of the novel metrics proposed in the record, which could reduce uncertainty among licensees wishing to deploy innovative services and thereby encourage such deployment.

7. The Commission seeks comment on the following metric as an option for UMFUS licensees to fulfill their buildout requirements: Geographic area coverage of 25% of the license area. The Commission also seeks comment on an alternative requirement of presence in 25% of subset units of the license area, such as census tracts, counties, or some other area. The latter standard could accommodate deployments, such as sensor networks, that are not designed to provide mobile or point-to-multipoint area coverage, and for whom calculating ''coverage of 25% of the area'' would therefore not be a meaningful standard. Equipment or deployments relied on to demonstrate compliance with this metric would be required, as with the Commission's previously-adopted metrics, to be part of a network that is actually providing service, either to external customers or for internal uses.

8. Specifically, the Commission seeks input on whether 25% would be the appropriate level of coverage for a geographic area metric in the mmW bands. The Commission suggests this level as an attempt to maintain parity between the requirements of this metric and the requirements of our previously-established metric based on population coverage. The physical characteristics of the mmW bands, particularly shorter propagation distances and the consequent smaller coverage area, are also important considerations. The Commission seeks comment on this coverage level, including any suggestions of alternative levels of coverage that might be more appropriate.

9. The Commission also seeks comment more generally on whether geographic area coverage is the most appropriate metric for accommodating innovative services in the mmW bands, or whether some other metric might be more appropriate. The Commission welcomes any alternative suggestions for metrics that might better accommodate innovative services, without raising artificial regulatory barriers to particular use cases. For example, have there been any technological or industry developments that would better enable us to craft a meaningful usage-based metric? Are there additional options that have not yet been mentioned in the record? The Commission particularly seeks comment from entities who believe that its mobile and fixed metrics would not be adequate to measure deployment of services they might seek to provide in UMFUS bands. The Commission asks that these commenters identify additional types of performance metrics that may be better suited to measuring deployment of services that they might seek to provide in UMFUS bands.

10. The Commission emphasize that any metric the Commission adopts to accommodate IoT services would, like the existing population coverage and fixed link metrics, be available to any UMFUS licensee. While the Commission suggests an additional metric in order to facilitate the deployment of IoT and other innovative services, there would be no requirement that a licensee build a particular type of network or provide a particular type of service in order to use whatever metric the Commission ultimately adopts.

11. The Commission strongly encourages stakeholders to fully develop a record on this issue. Under the Commission's current part 30 rules, licensees have limited options for fulfilling buildout requirements: Fixed links, population-based area coverage, or some combination thereof. Part 30 does not use a ''substantial service'' framework; if a licensee does not meet the requirements specifically set out in the rules, it cannot demonstrate buildout in some other way. If the Commission does not adopt any other metrics, services with non-traditional network structures may be effectively barred from mmW bands by inappropriate and inapplicable buildout requirements. This is especially important given the changes to the definition of ''fixed link'' that the Commission adopts. Without an additional metric, any low-power deployments that do not use mobile or point-to-multipoint network architecture will not be able to qualify for license renewal.

C. Mobile Spectrum Holdings

12. For many of the reasons that the Commission declined to adopt a pre-auction limit for the 24 GHz and 47 GHz bands in the *Second R&O,* the Commission proposes to eliminate the pre-auction limit of 1250 megahertz that the *R&O* had adopted for the 28 GHz, 37 GHz and 39 GHz bands. Given the nascent stage of technological development in these mmW bands and the fact that the Co are continuing to make additional mmW spectrum available through this proceeding, retaining a pre-auction limit for the 28 GHz, 37 GHz, and 39 GHz bands may be unnecessary. Moreover, given the technical similarity between all five bands and the Commission's decision in the *Second R&O* to group these five bands for purposes of secondary market transactions review, the Commission finds that it would be inconsistent to retain the pre-auction limit for the 28 GHz, 37 GHz, and 39 GHz bands. The Commission seeks comment on this proposal. To the extent that commenters advocate the retention of this pre-auction limit, commenters should discuss how the limit should be implemented and the likely effects of having two different policy frameworks applicable to mmW spectrum acquired at auction.

13. The Commission also seeks comment on whether, in the absence of pre-auction limits for mmW spectrum, there is a need to apply a case-by-case review of mmW spectrum holdings to post-auction applications for initial mmW licenses. Prior to the articulation of a different policy in the *Mobile Spectrum Holdings Order* adopted in 2014, the Commission applied a case-by-case review to the initial licensing of spectrum post-auction, and similarly allowed for divestiture of licenses to address potential competitive harms identified in that review. Is it necessary and appropriate to apply such a review to the initial licensing of mmW

spectrum post-auction? To the extent that commenters support a post-auction case-by-case review of spectrum acquired at auction, commenters should discuss how the review should be implemented, including what the Commission should consider when undertaking such a review, how an entity's mmW spectrum holdings should be calculated, and potential remedies to ameliorate any potential competitive concerns identified in the review.

D. Operability in 24 GHz

14. The Commission historically has sought to promote greater operability of equipment, allowing smaller providers to benefit from the scale generated by equipment capable of operating across an entire band or adjacent bands. In the *R&O,* the Commission adopted an operability requirement for the 28 GHz band, and for the 37 and 39 GHz bands. This requirement specifies that any mobile or transportable equipment capable of operating in any portion of the 28 GHz band must be capable of operating across the entire 28 GHz band (from 27.5 to 28.35 GHz), and similarly that any such equipment capable of operating in the 37 GHz or 39 GHz bands must be capable of operating across the entirety of both of those bands (from 37 GHz to 40 GHz).

15. The Commission today adopts rules adding the 24 GHz band (24.25–24.45 GHz and 24.75–25.25 GHz) to UMFUS. Given the segmented nature of the band, the Commission wants to ensure that all portions of the band are available for development and deployment of services as a practical matter, and in particular that the lower segment of the band does not suffer from a lack of available equipment. The operability rule the Commission adopted in the *R&O* is specific to the 28 GHz band and the 37/39 GHz bands, and does not currently apply to UMFUS generally, or to the 24 GHz band. The Commission therefore proposes to add an operability requirement for the 24 GHz band. Specifically, the Commission proposes to require that any equipment capable of operating anywhere within the 24 GHz band must be capable of operating across the entire 24 GHz band, on all frequencies in both band segments. The Commission seeks comment on this proposal.

E. Other Millimeter Wave (mmW) Bands

16. The Commission reiterates that the mmW bands that were in the prior *NPRM/FNPRM* or raised in the record, but which the Commission has not yet made available for flexible terrestrial wireless use, are still under consideration by the Commission. The proceeding on these bands is ongoing and they will be considered in future Commission items, and the Commission invites comment on any new studies or quantitative data that the Commission should consider. The Commission notes that does not preclude the Commission from moving forward to adopt new provisions where the Commission has reached agreement with the Executive Branch on sharing or interference protections and have a developed record. To the extent that there are additional mmW bands that the Commission should consider for flexible terrestrial wireless use, which have not been raised in the proceeding thus far, the Commission invites interested parties to file comments on these frequencies.

F. Initial Regulatory Flexibility Analysis

17. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared this present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on a substantial number of small entities by the policies and rules proposed in the attached *Further Notice of Proposed Rulemaking (FNPRM).* Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines specified in the *FNPRM* for comments. 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**.

1. Need for, and Objectives of, the Proposed Rules

18. In the *Second Further Notice of Proposed Rulemaking,* the Commission proposes to authorize FSS use of the 24.75–25.25 GHz band for individually licensed earth stations. The Commission also proposes to create a buildout standard for Upper Microwave Flexible Use Service (UMFUS) licensees based on geographic area coverage that would be an alternative to the current population coverage standard in the current rules. The Commission also seeks comment on establishing an operability requirement throughout the 24 GHz band. Finally, the Commission seeks comment on what other mmW bands may be appropriate for UMFUS use.

19. Under the current rules, BSS feeder links have priority over other FSS uses in the 24.75–25.25 GHz band. Given the very light use of the 24.75–25.25 GHz band for BSS feeder links, the existence of the Commission's earth station two-degree spacing rules that can protect BSS feeder links from other FSS earth stations in the band, and the power limits placed on BSS feeder link earth stations, it appears there is no need to give BSS feeder link earth stations priority over other uses of the FSS for earth stations located within the United States, or to preclude other FSS earth stations from claiming protection from feeder link earth stations located within the United States.

20. A performance metric based on geographic area coverage (or presence) would allow for networks that provide meaningful service but deploy along other lines than residential population. Such a metric could be useful for sensor-based networks, particularly for uses in rural areas. The Commission proposes to adopt the following metric as an option for UMFUS licensees to fulfill their buildout requirements: Geographic area coverage of 25% of the license area. The Commission also seeks comment on an alternative requirement of presence in 25% of subset units of the license area, such as census tracts, counties, or some other area. The latter standard could accommodate deployments, such as sensor networks, that are not designed to provide mobile or point-to-multipoint area coverage, and for whom calculating ''coverage of 25% of the area'' would therefore not be a meaningful standard.

21. The *FNPRM* proposes an operability requirement such that any device designed to operate within the 24 GHz bands must be capable of operating on all frequencies within those bands. This operability requirement will ensure that devices developed for the 24 GHz band operate throughout the band, making it easier for smaller businesses with fewer resources to find equipment that can operate across the entire band.

22. Finally, to the extent that there are additional mmW bands that the Commission should consider for flexible terrestrial wireless use, which have not been raised in the proceeding thus far, the Commission invites interested parties to file comments on these frequencies. To the extent additional spectrum can be made available for UMFUS use, that additional spectrum will make it easier for small businesses to obtain the spectrum they need to provide service.

2. Legal Basis

23. The proposed action is authorized pursuant to sections 1, 2, 3, 4, 5, 7, 301, 302, 302a, 303, 304, 307, 309, and 310 of the Communications Act of 1934, 47

U.S.C. 151, 152, 153, 154, 155, 157, 301, 302, 302a, 303, 304, 307, 309, and 310, section 706 of the Telecommunications Act of 1996, as amended, 47 U.S.C. 1302.

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

24. *Wireless Telecommunications Carriers (except Satellite).* This industry comprises establishments engaged in operating and maintaining switching and transmission facilities to provide communications via the airwaves. Establishments in this industry have spectrum licenses and provide services using that spectrum, 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, U.S. Census Bureau data for 2012 show that there were 967 firms that operated for the entire year. Of this total, 955 firms had employment of 999 or fewer employees and 12 had employment of 1,000 employees or more. Thus, under this category and the associated size standard, the Commission estimates that the majority of wireless telecommunications carriers (except satellite) are small entities.

25. *Fixed Microwave Services.* Microwave services include common carrier, private-operational fixed, and broadcast auxiliary radio services. They also include the Upper Microwave Flexible Use Service and the mmW Service where licensees can choose between common carrier and non-common carrier status. At present, there are approximately 66,680 common carrier fixed licensees, 69,360 private and public safety operational-fixed licensees, 20,150 broadcast auxiliary radio licensees, 411 LMDS licenses, 33 24 GHz DEMS licenses, 777 39 GHz licenses, and five 24 GHz licensees, and 467 mmW licenses in the microwave services. The Commission has not yet defined a small business with respect to microwave services. The closest applicable SBA category is Wireless Telecommunications Carriers (except Satellite) and the appropriate size standard for this category under SBA rules is that such a business is small if it has 1,500 or fewer employees. For this industry, U.S. Census Bureau data for 2012 shows that there were 967 firms that operated for the entire year. Of this total, 955 had employment of 999 or fewer, and 12 firms had employment of 1,000 employees or more. Thus, under this SBA category and the associated standard, the Commission estimates that the majority of fixed microwave service licensees can be considered small.

26. The Commission does not have data specifying the number of these licensees that have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of fixed microwave service licensees that would qualify as small business concerns under the SBA's small business size standard. Consequently, the Commission estimates that there are up to 36,708 common carrier fixed licensees and up to 59,291 private operational-fixed licensees and broadcast auxiliary radio licensees in the microwave services that may be small and may be affected by the rules and policies adopted herein. The Commission notes, however, that both the common carrier microwave fixed and the private operational microwave fixed licensee categories includes some large entities.

27. *Satellite Telecommunications and All Other Telecommunications.* This category comprises firms ''primarily engaged in providing telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' The category has a small business size standard of $32.5 million or less in average annual receipts, under SBA rules. For this category, U.S. Census Bureau data for 2012 shows that there were a total of 333 firms that operated for the entire year. Of this total, 299 firms had annual receipts of less than $25 million. Consequently, the Commission estimates that the majority of satellite telecommunications providers are small entities.

28. *All Other Telecommunications.* The ''All Other Telecommunications'' category is comprised of establishments 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, U.S. Census Bureau data for 2012 shows that there were a total of 1442 firms that operated for the entire year. Of these firms, a total of 1400 firms had gross annual receipts of under $25 million and 42 firms had gross annual receipts of $25 million to $49,999,999. Thus, the Commission estimates that a majority of ''All Other Telecommunications'' firms potentially affected by its actions can be considered small.

29. *Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing.* This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has established a size standard for this industry of 1,250 employees or less. U.S. Census Bureau data for 2012 shows that 841 establishments operated in this industry in that year. Of that number, 828 establishments operated with fewer than 1,000 employees, 7 establishments operated with between 1,000 and 2,499 employees and 6 establishments operated with 2,500 or more employees. Based on this data, the Commission concludes that a majority of manufacturers in this industry is small.

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

30. The projected reporting, recordkeeping, and other compliance requirements proposed in the *Second FNPRM* will apply to all entities in the same manner. The revisions the Commission adopts should benefit small entities by giving them more information, more flexibility, and more options for gaining access to wireless spectrum.

31. Small entities and other applicants in the Upper Microwave Flexible Use Service will be required to meet buildout requirements at the end of their initial license terms. In doing so, they will be required to provide information to the Commission on the facilities they have constructed, the nature of the service they are providing, and the extent to which they are providing coverage in their license area.

32. Because the Commission has already adopted performance requirements for UMFUS licensees, the proposal in the *Second FNPRM* will not change the recordkeeping and compliance requirements for small entities and other UMFUS licensees. The *Second FNPRM* proposes to give small entities and other UMFUS licensees another means of meeting those requirements. The Commission expects that the filing, recordkeeping and reporting requirements associated with the demands described above, will require small entities as well as other entities that intend to utilize these new UMFUS licenses, to use professional, accounting, engineering or survey services to meet these requirements. As noted below, the Commission seeks comment on any steps that could be taken to minimize any significant economic impact on small businesses.

5. Steps Taken To Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

33. The RFA requires an agency to describe any significant alternatives for small businesses that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (1) The establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rule for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities. Accordingly, the Commission seeks comment on whether any of burdens associated the filing, recordkeeping and reporting requirements described above can be minimized for small businesses. In particular, the Commission seeks comment on whether any of the costs associated with its construction or performance requirements in these bands can be alleviated for small businesses.

34. As noted above, the buildout requirements and information reported to the Commission will be the same for small and large businesses in the Upper Microwave Flexible Use Service. To the extent applying the rules equally to all entities results in the cost of complying with these burdens being relatively greater for smaller businesses than for large ones, these costs are necessary to effectuate the purpose of the Communications Act, namely to ensure that spectrum is being put into use. Moreover, while small and large businesses must equally comply with these rules and requirements, the proposed rule changes would grant additional flexibility to all licensees, including small businesses. Specifically, opening 24.75–25.25 GHz for general FSS use will provide small satellite entities with access to additional spectrum which they can use in connection with individually licensed earth stations. Creating a geographic area buildout metric for UMFUS licensees will give those licensees, including small businesses, an option for providing service that does not cover a large population.

35. To assist the Commission's evaluation of the economic impact on small entities, as a result of actions that have been proposed in the *Second FNPRM,* and to better explore options and alternatives, the Commission has sought comment from the parties. The Commission seeks comment on whether any of the burdens associated the filing, recordkeeping and reporting requirements described above can be minimized for small businesses. In addition, the *Second FNPRM* seeks comment on whether any of the costs associated with its construction or performance requirements in these bands can be alleviated for small businesses. The Commission expects to more fully consider the economic impact and alternatives for small entities following the review of comments filed in response to the *Second FNPRM.*

6. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

36. None.

List of Subjects in 47 CFR Parts 2, 25, 30

Communications common carriers, Reporting and recordkeeping requirements, Communications equipment.

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 parts 2, 25, and 30 as follows:

PART 2—FREQUENCY ALLOCATIONS AND RADIO TREATY MATTERS; GENERAL RULES AND REGULATIONS

■ 1. The authority citation for part 2 continues to read as follows:

Authority: 47 U.S.C. 154, 302a, 303, and 336, unless otherwise noted.

■ 2. In § 2.106, the Table of Frequency Allocations is amended as follows:
■ a. Page 54 is revised.
■ b. In the list of non-Federal Government (NG) Footnotes, footnote NG535 is removed.

The revisions read as follows:

§ 2.106 Table of Frequency Allocations.

* * * * *

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24-24.05 AMATEUR AMATEUR-SATELLITE 5.150			24-24.05 5.150 US211	24-24.05 AMATEUR AMATEUR-SATELLITE 5.150 US211	ISM Equipment (18) Amateur Radio (97)
24.05-24.25 RADIOLOCATION Amateur Earth exploration-satellite (active) 5.150			24.05-24.25 RADIOLOCATION G59 Earth exploration-satellite (active) 5.150	24.05-24.25 Amateur Earth exploration-satellite (active) Radiolocation 5.150	RF Devices (15) ISM Equipment (18) Private Land Mobile (90) Amateur Radio (97)
24.25-24.45 FIXED	24.25-24.45 RADIONAVIGATION	24.25-24.45 FIXED MOBILE RADIONAVIGATION	24.25-24.45	24.25-24.45 FIXED MOBILE	RF Devices (15) Upper Microwave Flexible Use (30)
24.45-24.65 FIXED INTER-SATELLITE	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533	24.45-24.65 FIXED INTER-SATELLITE MOBILE RADIONAVIGATION 5.533	24.45-24.65 INTER-SATELLITE RADIONAVIGATION 5.533		RF Devices (15) Satellite Communications (25)
24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)	24.65-24.75 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B INTER-SATELLITE MOBILE	24.65-24.75 INTER-SATELLITE RADIOLOCATION-SATELLITE (Earth-to-space)		

		5.533			
24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.532B	24.75-25.25 FIXED-SATELLITE (Earth-to-space) 5.535	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) 5.535 MOBILE	24.75-25.25	24.75-25.25 FIXED FIXED-SATELLITE (Earth-to-space) MOBILE	RF Devices (15) Satellite Communications (25) Upper Microwave Flexible Use (30)
25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)			25.25-25.5 FIXED INTER-SATELLITE 5.536 MOBILE Standard frequency and time signal-satellite (Earth-to-space)	25.25-25.5 Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space)	RF Devices (15)
25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) 5.536B FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) 5.536C Standard frequency and time signal-satellite (Earth-to-space)			25.5-27 EARTH EXPLORATION-SATELLITE (space-to-Earth) FIXED INTER-SATELLITE 5.536 MOBILE SPACE RESEARCH (space-to-Earth) Standard frequency and time signal-satellite (Earth-to-space)	25.5-27 SPACE RESEARCH (space-to-Earth) Inter-satellite 5.536 Standard frequency and time signal-satellite (Earth-to-space)	
5.536A			5.536A US258	5.536A US258	Page 54

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PART 25—SATELLITE COMMUNICATIONS

■ 3. The authority citation for part 25 is revised to read as follows:

Authority: 47 U.S.C. 154, 301, 302, 303, 307, 309, 310, 319, 332, 605, and 721, unless otherwise noted.

■ 4. Amend § 25.103 by revising the definitions of ''Routine processing or licensing'' and ''Two-degree-compliant space station'' to read as follows:

§ 25.103 Definitions.

* * * * *

Routine processing or licensing. Expedited processing of unopposed applications for earth stations in the FSS communicating with GSO space stations, except for earth stations licensed pursuant to § 25.136, that satisfy the criteria in §§ 25.138(a), 25.211(d), 25.212(c), 25.212(d), 25.212(e), 25.212(f), and 25.218, include all required information, are consistent with all Commission rules, and do not raise any policy issues. Some, but not all, routine earth station applications are eligible for an autogrant procedure under § 25.115(a)(3).

* * * * *

Two-degree-compliant space station. A GSO FSS space station operating in the conventional or extended C-bands, the conventional or extended Ku-bands, the 24.75–25.25 GHz band, or the conventional Ka-band within the limits on downlink EIRP density or PFD specified in § 25.140(a)(3) and communicating only with earth stations operating in conformance with routine uplink parameters specified in §§ 25.138(a), 25.211(d), 25.212(c), (d), or (f), §§ 25.218, 25.221(a)(1) or (a)(3), and § 25.222(a)(1) or (a)(3), § 25.226(a)(1) or (a)(3), or § 25.227(a)(1) or (a)(3).

* * * * *

■ 5. Amend § 25.114 by revising paragraph (d)(7) and removing and reserving paragraph (d)(17) as follows:

§ 25.114 Applications for space station authorizations.

* * * * *

(d) * * *

(7) Applicants for authorizations for space stations in the Fixed-Satellite Service must also include the information specified in § 25.140(a). Applicants for authorizations for space stations in the 17/24 GHz Broadcasting-Satellite Service must also include the information specified in § 25.140(b);

* * * * *

■ 6. Amend § 25.115 by revising paragraphs (e)(1) and (g)(1)(vii) to read as follows:

§ 25.115 Applications for earth station authorizations.

* * * * *

(e) * * *

(1) An application for a GSO FSS earth station license in the 17.8–19.4 GHz, 19.6–20.2 GHz, 24.75–25.25 GHz, 27.5–29.1 GHz, or 29.25–30 GHz bands not filed on FCC Form 312EZ pursuant to paragraph (a)(2) of this section must be filed on FCC Form 312, Main Form and Schedule B, and must include any information required by paragraph (g) or (j) of this section or by § 25.130.

* * * * *

(g) * * *

(1) * * *

(vii) The relevant off-axis EIRP density envelopes in §§ 25.138, 25.218, 25.221, 25.222, 25.226, or § 25.227 must be superimposed on plots submitted pursuant to paragraphs (g)(1)(i) through (vi) of this section.

* * * * *

■ 7. Amend § 25.136 by revising the section heading and paragraphs (d) and (e) to read as follows:

§ 25.136 Earth Stations in the 24.75–25.25 GHz, 27.5–28.35 GHz, 37.5–40 GHz and 47.2–48.2 GHz bands.

* * * * *

(d) Notwithstanding that FSS is co-primary with the Upper Microwave Flexible Use Service in the 24.75–25.25 GHz and 47.2–48.2 GHz bands, earth stations in those bands shall be limited to individually licensed earth stations. An applicant for a license for a transmitting earth station in the 24.75–25.25 GHz or 47.2–48.2 GHz band must meet one of the following criteria to be authorized to operate without providing any additional interference protection to stations in the Upper Microwave Flexible Use Service:

(1) The FSS licensee also holds the relevant Upper Microwave Flexible Use Service license(s) for the area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz; or

(2) The earth station in the 47.2–48.2 GHz band was authorized prior to [effective date of second R&O] or the earth station in the 24.75–25.25 GHz band was authorized prior to [effective date of this rule]; or

(3) The application for the earth station in the 47.2–48.2 GHz band was filed prior to [effective date for second R&O] or the application for the earth station in the 24.75–25.25 GHz band was filed prior to [effective date of this rule]; or

(4) The applicant demonstrates compliance with all of the following criteria in its application:

(i) There are no more than two other authorized earth stations operating in the same band within the county where the proposed earth station is located that meet the criteria contained in either paragraphs (d)(1) (d)(2), (d)(3) or (d)(4) of this section, and there are no more than 14 other authorized earth stations operating in the same band within the PEA where the proposed earth station is located that meet the criteria contained in paragraphs (d)(1) (d)(2), (d)(3) or (d)(4) of this. For purposes of this requirement, multiple earth stations that are collocated with or at a location contiguous to each other shall be considered as one earth station;

(ii) The area in which the earth station generates a PFD, at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz, together with the similar area of any other earth station authorized pursuant to paragraph (d) of this, does not cover, in the aggregate, more than the amount of population of the PEA within which the earth station is located as noted in Table 1 to this paragraph:

TABLE 1 TO PARAGRAPH (d)(4)(ii)

Population within partial economic area (PEA) where earth station is located	Maximum permitted aggregate population within −77.6 dBm/m²/MHz PFD contour of earth stations
Greater than 2,250,000	0.1 percent of population in PEA.
Between 60,000 and 2,250,000	2,250 people.
Fewer than 60,000	3.75 percent of population in PEA.

(iii) The area in which the earth station generates a PFD) at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz does not contain any major event venue, any highway classified by the U.S.

Department of Transportation under the categories Interstate, Other Freeways and Expressways, or Other Principal Arterial, or an urban mass transit route, passenger railroad, or cruise ship port; and;

(iv) The applicant has successfully completed frequency coordination with the UMFUS licensees within the area in which the earth station generates a power flux density (PFD), at 10 meters above ground level, of greater than or equal to −77.6 dBm/m²/MHz with respect to existing facilities constructed and in operation by the UMFUS licensee. In coordinating with UMFUS licensees, the applicant shall use the applicable processes contained in § 101.103(d) of this chapter.

(e) If an earth station applicant or licensee in the 24.75–25.25 GHz, 27.5–28.35 GHz, 37.5–40 GHz and/or 47.2–48.2 GHz bands enters into an agreement with an UMFUS licensee, their operations shall be governed by that agreement, except to the extent that the agreement is inconsistent with the Commission's rules or the Communications Act.

* * * * *

■ 8. Amend § 25.138 by revising the section heading and paragraph (a) introductory text to read as follows:

§ 25.138 Licensing requirements for GSO FSS earth stations in the conventional Ka-band and the 24.75–25.25 GHz band.

(a) Applications for earth station licenses in the GSO FSS in the conventional Ka-band or the 24.75–25.25 GHz band that indicate that the following requirements will be met and include the information required by relevant provisions in §§ 25.115 and 25.130 may be routinely processed:

* * * * *

■ 9. Amend § 25.140 by revising paragraphs (a)(2), (a)(3) introductory text, (a)(3)(iii) through (v), adding paragraph (a)(3)(vi), revising paragraph (b) introductory text, (b)(3) through (b)(5), removing paragraph (b)(6), removing and reserving paragraph (c), and revising paragraph (d) introductory text to read as follows:

§ 25.140 Further requirements for license applications for GSO space station operation in the FSS and the 17/24 GHz BSS.

(a) * * *

(2) In addition to the information required by § 25.114, an applicant for GSO FSS space station operation, including applicants proposing feeder links for space stations operating in the 17/24 GHz BSS, that will be located at an orbital location less than two degrees from the assigned location of an authorized co-frequency GSO space station, must either certify that the proposed operation has been coordinated with the operator of the co-frequency space station or submit an interference analysis demonstrating the compatibility of the proposed system with the co-frequency space station. Such an analysis must include, for each type of radio frequency carrier, the link noise budget, modulation parameters, and overall link performance analysis. (See Appendices B and C to Licensing of Space Stations in the Domestic Fixed-Satellite Service, FCC 83–184, and the following public notices, copies of which are available in the Commission's EDOCS database: DA 03–3863 and DA 04–1708.) The provisions in this paragraph do not apply to proposed analog video operation, which is subject to the requirement in paragraph (a)(1) of this section.

(3) In addition to the information required by § 25.114, an applicant for a GSO FSS space station, including applicants proposing feeder links for space stations operating in the 17/24 GHz BSS, must provide the following for operation other than analog video operation:

* * * * *

(iii) With respect to proposed operation in the conventional Ka-band, a certification that the proposed space station will not generate power flux-density at the Earth's surface in excess of −118 dBW/m²/MHz and that associated uplink operation will not exceed applicable EIRP density envelopes in § 25.138(a) unless the non-routine uplink and/or downlink operation is coordinated with operators of authorized co-frequency space stations at assigned locations within 6 degrees of the orbital location and except as provided in paragraph (d) of this section.

(iv) With respect to proposed operation in the 24.75–25.25 GHz band (Earth-to-space), a certification that the proposed space station will not generate a power flux density at the Earth's surface in excess of the applicable limits in this part and that the associated uplink operation will not exceed applicable EIRP density envelopes in § 25.138(a) unless the non-routine uplink and/or downlink operation is coordinated with operators of authorized co-frequency space stations at assigned locations within six degrees of the orbital location and except as provided in paragraph (d) of this section.

(v) With respect to proposed operation in the 4500–4800 MHz (space-to-Earth), 6725–7025 MHz (Earth-to-space), 10.70–10.95 GHz (space-to-Earth), 11.20–11.45 GHz (space-to-Earth), and/or 12.75–13.25 GHz (Earth-to-space) bands, a statement that the proposed operation will take into account the applicable requirements of Appendix 30B of the ITU Radio Regulations (incorporated by reference, *see* § 25.108) and a demonstration that it is compatible with other U.S. ITU filings under Appendix 30B.

(vi) With respect to proposed operation in other FSS bands, an interference analysis demonstrating compatibility with any previously authorized co-frequency space station at a location two degrees away or a certification that the proposed operation has been coordinated with the operator(s) of the previously authorized space station(s). If there is no previously authorized space station at a location two degrees away, the applicant must submit an interference analysis demonstrating compatibility with a hypothetical co-frequency space station two degrees away with the same receiving and transmitting characteristics as the proposed space station.

(b) Each applicant for a license to operate a space station transmitting in the 17.3–17.8 GHz band must provide the following information, in addition to that required by § 25.114:

* * * * *

(3) An applicant for a license to operate a space station transmitting in the 17.3–17.8 GHz band must certify that the downlink power flux density on the Earth's surface will not exceed the values specified in § 25.208(c) and/or (w), or must provide the certification specified in § 25.114(d)(15)(ii).

(4) An applicant for a license to operate a space station transmitting in the 17.3–17.8 GHz band to be located less than four degrees from a previously licensed or proposed space station transmitting in the 17.3–17.8 GHz band, must provide an interference analysis of the kind described in paragraph (a) of this, except that the applicant must demonstrate that its proposed network will not cause more interference to the adjacent space station transmitting in the 17.3–17.8 GHz band operating in compliance with the technical requirements of this part, than if the applicant were locate at an orbital separation of four degrees from the previously licensed or proposed space station.

(5) In addition to the requirements of paragraphs (b)(3) and (b)(4) of this section, the link budget for any satellite in the 17.3–17.8 GHz band (space-to-Earth) must take into account

longitudinal stationkeeping tolerances. Any applicant for a space station transmitting in the 17.3–17.8 GHz band that has reached a coordination agreement with an operator of another space station to allow that operator to exceed the pfd levels specified in the rules for this service, must use those higher pfd levels for the purpose of this showing.

(c) [Reserved]

(d) An operator of a GSO FSS space station in the conventional or extended C-bands, conventional or extended Ku-bands, 24.75–25.25 GHz band (Earth-to-space), or conventional Ka-band may notify the Commission of its non-routine transmission levels and be relieved of the obligation to coordinate such levels with later applicants and petitioners.

* * * * *

§ 25.203 [Amended]

■ 10. Amend § 25.203 by removing and reserving paragraph (l).

■ 11. Amend § 25.204 by removing paragraph (e)(4) and revising paragraphs (e) introductory text, (e)(1) and (3) to read as follows:

§ 25.204 Power limits for earth stations.

* * * * *

(e) To the extent specified in paragraphs (e)(1) through (e)(3) of this section, earth stations in the Fixed-Satellite Service may employ uplink adaptive power control or other methods of fade compensation to facilitate transmission of uplinks at power levels required for desired link performance while minimizing interference between networks.

(1) Except when paragraphs (e)(2) through (e)(3) of this section apply, transmissions from FSS earth stations in frequencies above 10 GHz may exceed the uplink EIRP and EIRP density limits specified in the station authorization under conditions of uplink fading due to precipitation by an amount not to exceed 1 dB above the actual amount of monitored excess attenuation over clear sky propagation conditions. EIRP levels must be returned to normal as soon as the attenuating weather pattern subsides.

* * * * *

(3) FSS earth stations transmitting to geostationary space stations in the 24.75–25.25 GHz, 28.35–28.6 GHz, and/or 29.25–30.0 GHz bands may employ uplink adaptive power control or other methods of fade compensation. For stations employing uplink power control, the values in paragraphs (a)(1), (a)(2), and (a)(4) of § 25.138 of this part may be exceeded by up to 20 dB under conditions of uplink fading due to precipitation. The amount of such increase in excess of the actual amount of monitored excess attenuation over clear sky propagation conditions must not exceed 1.5 dB or 15 percent of the actual amount of monitored excess attenuation in dB, whichever is larger, with a confidence level of 90 percent except over transient periods accounting for no more than 0.5 percent of the time during which the excess is no more than 4.0 dB.

* * * * *

■ 12. Amend § 25.209 by revising paragraph (f) to read as follows:

§ 25.209 Earth station antenna performance standards.

* * * * *

(f) A GSO FSS earth station with an antenna that does not conform to the applicable standards in paragraphs (a) and (b) of this section will be authorized only if the applicant demonstrates that the antenna will not cause unacceptable interference. This demonstration must comply with the requirements in §§ 25.138, 25.218, 25.220, 25.221, 25.222, 25.226, or § 25.227, as appropriate.

* * * * *

■ 13. Amend § 25.210 by revising paragraph (i) to read as follows:

* * * * *

(i) 17/24 GHz BSS space station antennas transmitting in the 17.3–17.8 GHz band must be designed to provide a cross-polarization isolation such that the ratio of the on axis co-polar gain to the cross-polar gain of the antenna in the assigned frequency band is at least 25 dB within its primary coverage area.

* * * * *

■ 14. Amend § 25.220 by revising paragraph (a) to read as follows:

§ 25.220 Non-routine transmit/receive earth station operations.

(a) The requirements in this apply to applications for, and operation of, earth stations transmitting in the conventional or extended C-bands, the conventional or extended Ku-bands, the 24.75–25.25 GHz band, or the conventional Ka-band that do not qualify for routine licensing under relevant criteria in §§ 25.138, 25.211, 25.212, 25.218, 25.221(a)(1) or (a)(3), § 25.222(a)(1) or (a)(3), § 25.226(a)(1) or (a)(3), or § 25.227(a)(1) or (a)(3).

* * * * *

§ 25.223 [Removed and Reserved].

■ 15. Remove and reserve § 25.223.

■ 16. Revise § 25.262 to read as follows:

§ 25.262 Licensing and domestic coordination requirements for 17/24 GHz BSS space stations.

(a) An applicant may be authorized to operate a space station transmitting in the 17.3–17.8 GHz band at the maximum power flux density limits defined in § 25.208(c) and/or § 25.208(w) of this part, without coordinating its power flux density levels with adjacent licensed or permitted operators, only if there is no licensed space station, or prior-filed application for a space station transmitting in the 17.3–17.8 GHz band at a location less than four degrees from the orbital location at which the applicant proposes to operate.

(b) Any U.S. licensee or permittee authorized to transmit in the 17.3–17.8 GHz band that does not comply with the power flux-density limits set forth in § 25.208(c) and/or § 25.208(w) of this part shall bear the burden of coordinating with any future co-frequency licensees and permittees of a space station transmitting in the 17.3–17.8 GHz band under the following circumstances:

(1) If the operator's space-to-Earth power flux-density levels exceed the power flux-density limits set forth in § 25.208(c) and/or § 25.208(w) of this part by 3 dB or less, the operator shall bear the burden of coordinating with any future operators proposing a space station transmitting in the 17.3–17.8 GHz band in compliance with power flux-density limits set forth in § 25.208(c) and/or § 25.208(w) of this part and located within ±6 degrees of the operator's 17/24 GHz BSS space station.

(2) If the operator's space-to-Earth power flux-density levels exceed the power flux-density limits set forth in § 25.208(c) and/or § 25.208(w) of this part by more than 3 dB, the operator shall bear the burden of coordinating with any future operators proposing a space station transmitting in the 17.3–17.8 GHz band in compliance with power flux-density limits set forth in § 25.208(c) and/or § 25.208(w) of this part and located within ±10 degrees of the operator's space station.

(3) If no good faith agreement can be reached, the operator of the space station transmitting in the 17.3–17.8 GHz band that does not comply with § 25.208(c) and/or § 25.208(w) of this part shall reduce its space-to-Earth power flux-density levels to be compliant with those specified in § 25.208(c) and/or § 25.208(w) of this part.

(c) Any U.S. licensee or permittee using a space station transmitting in the 17.3–17.8 GHz band that is required to

provide information in its application pursuant to § 25.140(b)(4) of this part must accept any increased interference that may result from adjacent space stations transmitting in the 17.3–17.8 GHz band that are operating in compliance with the rules for such space stations.

(d)(1) Notwithstanding the provisions of this, licensees and permittees will be allowed to apply for a license or authorization for a replacement satellite that will be operated at the same power level and interference protection as the satellite to be replaced.

(2) In addition, applicants for licenses or authority for a satellite to be operated at an orbit location that was made available after a previous license for a space station transmitting in the 17.3–17.8 GHz band was cancelled or surrendered will be permitted to apply for authority to operate a satellite at the same power level and interference protection as the previous licensee at that orbit location, to the extent that their proposed operations are consistent with the provisions of this part. Such applications will be considered pursuant to the first-come, first-served procedures set forth in § 25.158 of this part.

PART 30—UPPER MICROWAVE FLEXIBLE USE SERVICE

■ 17. The authority citation for part 30 continues to read as follows:

Authority: 47 U.S.C. 151, 152, 153, 154, 301, 303, 304, 307, 309, 310, 316, 332, 1302.

■ 18. Amend § 30.104 by redesignating paragraphs (b) through (e) as paragraphs (c) through (f), adding new paragraph (b), and revising newly redesignated paragraphs (c), (e), and (f) to read as follows:

§ 30.104 Performance Requirements.

* * * * *

(b) In the alternative, a licensee may make its buildout showing on the basis of geographic area coverage. To satisfy the requirements of this using this metric, licensees relying on mobile or point-to-multipoint service must show that they are providing reliable signal coverage and service to at least 25% of the geographic area of the license. The geographic area of the license shall be determined by the total land area of the county or counties covered by the license. Licensees relying on fixed point-to-point links or other, low-power point-to-point connections must show that they have deployed at least one transmitter or receiver in at least 25% of the census tracts within the license area. All equipment relied upon in the showing, whatever type of service or connection it provides, must be operational and providing service, either to customers or for internal use, as of the date of the filing.

(c) Showings that rely on a combination of multiple types of service will be evaluated on a case-by-case basis. Licensees may not combine population-based showings with geographic area-based showings.

* * * * *

(e) Failure to meet this requirement will result in automatic cancellation of the license. In bands licensed on a Partial Economic Area basis, licensees will have the option of partitioning a license on a county basis in order to reduce the population or land area within the license area to a level where the licensee's buildout would meet one of the applicable performance metrics.

(f) Existing 24 GHz, 28 GHz and 39 GHz licensees shall be required to make a showing pursuant to this rule by June 1, 2024.

■ 19. Revise § 30.208 to read as follows:

§ 30.208 Operability.

Mobile and transportable stations that operate on any portion of frequencies within the 27.5–28.35 GHz or the 37–40 GHz bands must be capable of operating on all frequencies within those particular bands. Mobile and transportable stations that operate on any portion of either the 24.25–24.45 GHz or 24.75–25.25 GHz bands must be capable of operating on all frequencies within both of these bands.

[FR Doc. 2017–27438 Filed 12–29–17; 8:45 am]

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Notices

Federal Register
Vol. 83, No. 1
Tuesday, January 2, 2018

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[B–57–2017]

Foreign-Trade Zone (FTZ) 35—Philadelphia, Pennsylvania; Authorization of Production Activity; Estee Lauder Inc.; (Skin Care, Fragrance, and Cosmetic Products); Bristol and Trevose, Pennsylvania

On August 29, 2017, Estee Lauder Inc. submitted a notification of proposed production activity to the FTZ Board for its facility within FTZ 35, in Bristol and Trevose, Pennsylvania.

The notification was processed in accordance with the regulations of the FTZ Board (15 CFR part 400), including notice in the **Federal Register** inviting public comment (82 FR 44159, September 21, 2017). On December 27, 2017, the applicant was notified of the FTZ Board's decision that no further review of the activity is warranted at this time. The production activity described in the notification was authorized, subject to the FTZ Act and the FTZ Board's regulations, including Section 400.14.

Dated: December 27, 2017.

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2017–28270 Filed 12–29–17; 8:45 am]

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DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

FOR FURTHER INFORMATION CONTACT: Brenda E. Brown, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230, telephone: (202) 482–4735.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspended investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with 19 CFR 351.213, that the Department of Commerce (Commerce) conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

All deadlines for the submission of comments or actions by Commerce discussed below refer to the number of calendar days from the applicable starting date.

Respondent Selection

In the event Commerce limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports during the period of review. We intend to release the CBP data under Administrative Protective Order (APO) to all parties having an APO within five days of publication of the initiation notice and to make our decision regarding respondent selection within 21 days of publication of the initiation **Federal Register** notice. Therefore, we encourage all parties interested in commenting on respondent selection to submit their APO applications on the date of publication of the initiation notice, or as soon thereafter as possible. Commerce invites comments regarding the CBP data and respondent selection within five days of placement of the CBP data on the record of the review.

In the event Commerce decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, Commerce finds that determinations concerning whether particular companies should be ''collapsed'' (*i.e.,* treated as a single entity for purposes of calculating antidumping duty rates) require a substantial amount of detailed information and analysis, which often require follow-up questions and analysis. Accordingly, Commerce will not conduct collapsing analyses at the respondent selection phase of a review and will not collapse companies at the respondent selection phase unless there has been a determination to collapse certain companies in a previous segment of this antidumping proceeding (*i.e.,* investigation, administrative review, new shipper review or changed circumstances review). For any company subject to a review, if Commerce determined, or continued to treat, that company as collapsed with others, Commerce will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, Commerce will not collapse companies for purposes of respondent selection. Parties are requested to (a) identify which companies subject to review previously were collapsed, and (b) provide a citation to the proceeding in which they were collapsed. Further, if companies are requested to complete a Quantity and Value Questionnaire for purposes of respondent selection, in general each company must report volume and value data separately for itself. Parties should not include data for any other party, even if they believe they should be treated as a single entity with that other party. If a company was collapsed with another company or companies in the most recently completed segment of a proceeding where Commerce considered collapsing that entity, complete quantity and value data for that collapsed entity must be submitted.

Deadline for Withdrawal of Request for Administrative Review

Pursuant to 19 CFR 351.213(d)(1), a party that requests a review may withdraw that request within 90 days of the date of publication of the notice of initiation of the requested review. The regulation provides that Commerce may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when Commerce will exercise its discretion to extend this 90-day deadline, interested parties are advised that, with regard to

reviews requested on the basis of anniversary months on or after January 2018, Commerce does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance prevented it from submitting a timely withdrawal request. Determinations by Commerce to extend the 90-day deadline will be made on a case-by-case basis.

Commerce is providing this notice on its website, as well as in its ''Opportunity to Request Administrative Review'' notices, so that interested parties will be aware of the manner in which Commerce intends to exercise its discretion in the future.

Opportunity to Request a Review: Not later than the last day of January 2018,[1] interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in January for the following periods:

	Period of review
Antidumping Duty Proceedings	
Brazil: Prestressed Concrete Steel Wire Strand, A–351–837	1/1/17–12/31/17
India: Prestressed Concrete Steel Wire Strand, A–533–828	1/1/17–12/31/17
Mexico: Prestressed Concrete Steel Wire Strand, A–201–831	1/1/17–12/31/17
Republic of Korea: Prestressed Concrete Steel Wire Strand, A–580–852	1/1/17–12/31/17
South Africa: Ferrovanadium, A–791–815	1/1/17–12/31/17
Thailand: Prestressed Concrete Steel Wire Strand, A–549–820	1/1/17–12/31/17
The People's Republic of China: Calcium Hypochlorite, A–570–008	1/1/17–12/31/17
The People's Republic of China: Carbon and Certain Alloy Steel Wire Rod, A–570–012	1/1/17–12/31/17
The People's Republic of China: Crepe Paper Products, A–570–895	1/1/17–12/31/17
The People's Republic of China: Ferrovanadium, A–570- 873	1/1/17–12/31/17
The People's Republic of China: Folding Gift Boxes, A–570- 866	1/1/17–12/31/17
The People's Republic of China: Potassium Permanganate, A–570–863	1/1/17–12/31/17
The People's Republic of China: Wooden Bedroom Furniture, A–570–890	1/1/17–12/31/17
Countervailing Duty Proceedings	
The People's Republic of China: Calcium Hypochlorite, C–570–009	1/1/17–12/31/17
The People's Republic of China: Carbon and Certain Alloy Steel Wire Rod, C–570–013	1/1/17–12/31/17
The People's Republic of China: Certain Oil Country Tubular Goods, C–570–944	1/1/17–12/31/17
The People's Republic of China: Circular Welded Carbon Quality Steel Line Pipe, C–570–936	1/1/17–12/31/17
Suspension Agreements	
Russia: Certain Cut-to-Length Carbon Steel, A–821–808	1/1/17–12/31/17

In accordance with 19 CFR 351.213(b), an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review. In addition, a domestic interested party or an interested party described in section 771(9)(B) of the Act must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which was produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Note that, for any party Commerce was unable to locate in prior segments, Commerce will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), and *Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011), Commerce clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders.[2]

Commerce no longer considers the non-market economy (NME) entity as an exporter conditionally subject to an antidumping duty administrative reviews.[3] Accordingly, the NME entity will not be under review unless Commerce specifically receives a request for, or self-initiates, a review of the NME entity.[4] In administrative reviews of antidumping duty orders on merchandise from NME countries where a review of the NME entity has not been initiated, but where an individual exporter for which a review was initiated does not qualify for a separate rate, Commerce will issue a final decision indicating that the company in question is part of the NME entity. However, in that situation, because no review of the NME entity was

[1] Or the next business day, if the deadline falls on a weekend, federal holiday or any other day when the Department is closed.

[2] *See also* the Enforcement and Compliance website at *http://trade.gov/enforcement/.*

[3] *See Antidumping Proceedings: Announcement of Change in Department Practice for Respondent Selection in Antidumping Duty Proceedings and Conditional Review of the Nonmarket Economy Entity in NME Antidumping Duty Proceedings,* 78 FR 65963 (November 4, 2013).

[4] In accordance with 19 CFR 351.213(b)(1), parties should specify that they are requesting a review of entries from exporters comprising the entity, and to the extent possible, include the names of such exporters in their request.

conducted, the NME entity's entries were not subject to the review and the rate for the NME entity is not subject to change as a result of that review (although the rate for the individual exporter may change as a function of the finding that the exporter is part of the NME entity). Following initiation of an antidumping administrative review when there is no review requested of the NME entity, Commerce will instruct CBP to liquidate entries for all exporters not named in the initiation notice, including those that were suspended at the NME entity rate.

All requests must be filed electronically in Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS) on Enforcement and Compliance's ACCESS website at *http://access.trade.gov.*[5] Further, in accordance with 19 CFR 351.303(f)(l)(i), a copy of each request must be served on the petitioner and each exporter or producer specified in the request.

Commerce will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of January 2018. If Commerce does not receive, by the last day of January 2018, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, Commerce will instruct CBP to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

For the first administrative review of any order, there will be no assessment of antidumping or countervailing duties on entries of subject merchandise entered, or withdrawn from warehouse, for consumption during the relevant provisional-measures ''gap'' period of the order, if such a gap period is applicable to the period of review.

This notice is not required by statute but is published as a service to the international trading community.

Dated: December 22, 2017.

James Maeder,

Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–28260 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Five-Year (Sunset) Reviews

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: In accordance with the Tariff Act of 1930, as amended (the Act), the Department of Commerce (Commerce) is automatically initiating the five-year reviews (Sunset Reviews) of the antidumping and countervailing duty (AD/CVD) order(s) listed below. The International Trade Commission (the Commission) is publishing concurrently with this notice its notice of *Institution of Five-Year Reviews* which covers the same order(s).

DATES: Applicable (January 1, 2018).

FOR FURTHER INFORMATION CONTACT: Commerce official identified in the *Initiation of Review* section below at AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington, DC 20230. For information from the Commission contact Mary Messer, Office of Investigations, U.S. International Trade Commission at (202) 205–3193.

SUPPLEMENTARY INFORMATION:

Background

Commerce's procedures for the conduct of Sunset Reviews are set forth in its *Procedures for Conducting Five-Year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders,* 63 FR 13516 (March 20, 1998) and 70 FR 62061 (October 28, 2005). Guidance on methodological or analytical issues relevant to Commerce's conduct of Sunset Reviews is set forth in *Antidumping Proceedings: Calculation of the Weighted-Average Dumping Margin and Assessment Rate in Certain Antidumping Duty Proceedings; Final Modification,* 77 FR 8101 (February 14, 2012).

Initiation of Review

In accordance with section 751(c) of the Act and 19 CFR 351.218(c), we are initiating Sunset Reviews of the following antidumping and countervailing duty order(s):

DOC Case No.	ITC Case No.	Country	Product	Department contact
A–570–981	731–TA–1195	China	Utility Scale Wind Towers (1st Review) ...	Robert James, (202) 482–0649.
C–570–982	701–TA–486 ..	China	Utility Scale Wind Towers (1st Review) ...	Matthew Renkey, (202) 482–2312.
A–588–838	731–TA–739 ..	Japan	Clad Steel Plate (4th Review)	Robert James, (202) 482–0649.
A–201–842	731–TA–1200	Mexico	Large Residential Washers (1st Review)	Robert James, (202) 482–0649.
A–580–868	731–TA–1199	Republic of Korea	Large Residential Washers (1st Review)	Robert James, (202) 482–0649.
C–580–869	701–TA–488 ..	Republic of Korea	Large Residential Washers (1st Review)	Jacqueline Arrowsmith, (202) 482–5255.
A–552–812	731–TA–1198	Vietnam	Utility Scale Wind Towers (1st Review) ...	Matthew Renkey, (202) 482–2312.

Filing Information

As a courtesy, we are making information related to sunset proceedings, including copies of the pertinent statute and Commerces's regulations, Commerce's schedule for Sunset Reviews, a listing of past revocations and continuations, and current service lists, available to the public on Commerce's website at the following address: *http://enforcement.trade.gov/sunset/.* All submissions in these Sunset Reviews must be filed in accordance with Commerce's regulations regarding format, translation, and service of documents. These rules, including electronic filing requirements via Enforcement and Compliance's Antidumping and Countervailing Duty

[5] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

Centralized Electronic Service System (ACCESS), can be found at 19 CFR 351.303.[1]

Any party submitting factual information in an AD/CVD proceeding must certify to the accuracy and completeness of that information.[2] Parties must use the certification formats provided in 19 CFR 351.303(g).[3] Commerce intends to reject factual submissions if the submitting party does not comply with applicable revised certification requirements.

On April 10, 2013, Commerce modified two regulations related to AD/CVD proceedings: the definition of factual information (19 CFR 351.102(b)(21)), and the time limits for the submission of factual information (19 CFR 351.301).[4] Parties are advised to review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in these segments. To the extent that other regulations govern the submission of factual information in a segment (such as 19 CFR 351.218), these time limits will continue to be applied. Parties are also advised to review the final rule concerning the extension of time limits for submissions in AD/CVD proceedings, available at *http://enforcement.trade.gov/frn/2013/1309frn/2013-22853.txt,* prior to submitting factual information in these segments.[5]

Letters of Appearance and Administrative Protective Orders

Pursuant to 19 CFR 351.103(d), Commerce will maintain and make available a public service list for these proceedings. Parties wishing to participate in any of these five-year reviews must file letters of appearance as discussed at 19 CFR 351.103(d)). To facilitate the timely preparation of the public service list, it is requested that those seeking recognition as interested parties to a proceeding submit an entry of appearance within 10 days of the publication of the Notice of Initiation.

Because deadlines in Sunset Reviews can be very short, we urge interested parties who want access to proprietary information under administrative protective order (APO) to file an APO application immediately following publication in the **Federal Register** of this notice of initiation. Commerce's regulations on submission of proprietary information and eligibility to receive access to business proprietary information under APO can be found at 19 CFR 351.304–306.

Information Required From Interested Parties

Domestic interested parties, as defined in section 771(9)(C), (D), (E), (F), and (G) of the Act and 19 CFR 351.102(b), wishing to participate in a Sunset Review must respond not later than 15 days after the date of publication in the **Federal Register** of this notice of initiation by filing a notice of intent to participate. The required contents of the notice of intent to participate are set forth at 19 CFR 351.218(d)(1)(ii). In accordance with Commerce's regulations, if we do not receive a notice of intent to participate from at least one domestic interested party by the 15-day deadline, Commerce will automatically revoke the order without further review.[6]

If we receive an order-specific notice of intent to participate from a domestic interested party, Commerce's regulations provide that *all parties* wishing to participate in a Sunset Review must file complete substantive responses not later than 30 days after the date of publication in the **Federal Register** of this notice of initiation. The required contents of a substantive response, on an order-specific basis, are set forth at 19 CFR 351.218(d)(3). Note that certain information requirements differ for respondent and domestic parties. Also, note that the Department's information requirements are distinct from the Commission's information requirements. Consult Commerce's regulations for information regarding Commerce's conduct of Sunset Reviews. Consult Commerce's regulations at 19 CFR part 351 for definitions of terms and for other general information concerning antidumping and countervailing duty proceedings at Commerce.

This notice of initiation is being published in accordance with section 751(c) of the Act and 19 CFR 351.218(c).

Dated: December 22, 2017.

James Maeder,

Senior Director, performing the duties of Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2017–28261 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See also Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] *See* section 782(b) of the Act.

[3] *See also Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (*Final Rule*). Answers to frequently asked questions regarding the *Final Rule* are available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

[4] *See Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013).

[5] *See Extension of Time Limits,* 78 FR 57790 (September 20, 2013).

[6] *See* 19 CFR 351.218(d)(1)(iii).

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF938

New England Fishery Management Council; Public Meeting

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

ACTION: Notice; public meeting.

SUMMARY: The New England Fishery Management Council (Council) is scheduling a public meeting of its Research Steering Committee to consider actions affecting New England fisheries in the exclusive economic zone (EEZ). Recommendations from this group will be brought to the full Council for formal consideration and action, if appropriate.

DATES: This meeting will be held on Wednesday, January 17, 2018 at 9 a.m.

ADDRESSES:

Meeting address: The meeting will be held at the Hilton Garden Inn, 100 Boardman Street, Boston, MA 02128; telephone: (617) 567–6789.

Council address: New England Fishery Management Council, 50 Water Street, Mill 2, Newburyport, MA 01950.

FOR FURTHER INFORMATION CONTACT: Thomas A. Nies, Executive Director, New England Fishery Management Council; telephone: (978) 465–0492.

SUPPLEMENTARY INFORMATION:

Agenda

The Research Steering Committee will discuss Research priorities and data needs: Develop recommendations for potential improvements to the Council's research priority setting process. They will receive and update from the Northeast Cooperative Research Program and discuss the implementation of program review recommendations, integrating cooperative research across the Northeast Fisheries Science Center, the potential expansion of Study Fleet technologies for fishery reporting, and the longline survey and uses of its data. The Committee will review completed research projects on the topics of: A

seasonal bycatch survey program for the scallop fishery, river herring bycatch avoidance in the herring fishery, and developing methods to assess the effects of fishing on herring aggregations. Address other business as necessary.

Although non-emergency issues not contained on this agenda may come before the Council for discussion, those issues may not be the subject of formal action during this meeting. Council action will be restricted to those issues specifically listed in this notice and any issues arising after the publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Thomas A. Nies, Executive Director, at (978) 465–0492, at least 5 days prior to the meeting date. This meeting will be recorded. Consistent with 16 U.S.C. 1852, a copy of the recording is available upon request.

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

Dated: December 27, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–28289 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF928

Gulf of Mexico Fishery Management Council; Public Meeting

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

ACTION: Notice of a public meeting.

SUMMARY: The Gulf of Mexico Fishery Management Council will hold a one-day meeting of its Ad Hoc Red Snapper Private Angler Advisory Panel.

DATES: The meeting will convene on Thursday, January 18, 2018, from 8:30 a.m. to 5 p.m. EDT.

ADDRESSES: The meeting will take place at the Gulf Council office.

Council address: Gulf of Mexico Fishery Management Council, 2203 N. Lois Avenue, Suite 1100, Tampa, FL 33607; telephone: (813) 348–1630.

FOR FURTHER INFORMATION CONTACT: Dr. John Froeschke, Fishery Biologist—Statistician, Gulf of Mexico Fishery Management Council; *john.froeschke@gulfcouncil.org,* telephone: (813) 348–1630.

SUPPLEMENTARY INFORMATION:

Thursday, January 18, 2018; 8:30 a.m.–5 p.m., EDT

Charge Ad Hoc Red Snapper Private Angler AP: To provide recommendations to the Council on private recreational red snapper management measures which would (1) provide more quality access to the resource in federal waters, (2) reduce discards, and (3) improve fisheries data collection.

I. Agenda and Introduction
II. Approval of the Minutes from May 8–9, 2017 meeting
III. Presentation: Summary Overview of Requested Items from Last Meeting
IV. Discussion: Historical Perspectives of Red Snapper Management
V. Presentation: Red Snapper Stock Assessment Process
VI. Review of Red Snapper State Management
  a. Presentation: Summary of Red Snapper Amendments Considering State Management for the Recreational Red Snapper Component
  b. Red Snapper State Management Decision Support Tool
  c. Panel Feedback and Recommendations
VII. Panel Discussion and Recommendations to Improve Access for Recreational Anglers in the Red Snapper Recreational Component
VIII. Other Business
—Meeting Adjourns—

You may register for Ad Hoc Red Snapper Private Angler Advisory Panel meeting on January 18, 2018 at: *https://attendee.gotowebinar.com/register/7701195332573365763.*

The Agenda is subject to change, and the latest version along with other meeting materials will be posted on the Council's file server. To access the file server, the URL is *https://public.gulfcouncil.org:5001/webman/index.cgi,* or go to the Council's website and click on the FTP link in the lower left of the Council website (*http://www.gulfcouncil.org*). The username and password are both ''gulfguest''. Click on the ''Library Folder'', then scroll down to ''AP Meeting_Ad Hoc Red Snapper Private Angler-2018–01''.

The meeting will be webcast over the internet. A link to the webcast will be available on the Council's website, *http://www.gulfcouncil.org.*

Although other non-emergency issues not on the agenda may come before the Advisory Panel for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal action during this meeting. Actions of the Advisory Panel will be restricted to those issues specifically identified in the agenda and any issues arising after publication of this notice that require emergency action under Section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take action to address the emergency.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kathy Pereira at the Gulf Council Office (see **ADDRESSES**), at least 5 working days prior to the meeting.

Dated: December 27, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–28286 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF935

South Atlantic Fishery Management Council; Public Meetings

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

ACTION: Notice of public hearings.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold a series of public hearings pertaining to Amendment 31 to the Coastal Migratory Pelagics Fishery Management Plan for the Gulf of Mexico and Atlantic Region. The amendment would revise management for Atlantic Migratory Group Cobia.

DATES: The public hearings will be held via listening stations and webinar on January 22, January 23, and January 24, 2018.

ADDRESSES: See **SUPPLEMENTARY INFORMATION** for locations.

Council address: South Atlantic Fishery Management Council, 4055

Faber Place Drive, Suite 201, N Charleston, SC 29405.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, SAFMC; phone: (843) 571–4366 or toll free: (866) SAFMC–10; fax: (843) 769–4520; email: *kim.iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: The public hearings will be conducted via webinar with assigned listening stations. The public hearings will begin at 6 p.m. Registration for the webinars is required. Registration information will be posted on the Council's website at *www.safmc.net* as it becomes available. Listening stations for each hearing will be available at the following locations:

January 22, 2018 Webinar

1. Port Royal Sound Maritime Center*:* 310 Okatie Hwy, Okatie, SC 29909.
2. North Carolina Division of Marine Fisheries' Central District Office: 5285 Highway 70 West, Morehead City, NC 28557.
3. Georgia Department of Natural Resources Coastal Division*:* One Conservation Way Brunswick, GA 31523.

January 23, 2018 Webinar

Hatteras Community Center: 57689 NC–12, Hatteras, NC 27943.

January 24, 2018 Webinar

Haddrell's Point Tackle: 885 Ben Sawyer Blvd., Mt Pleasant, SC 29464.

Amendment 31 to the Coastal Migratory Pelagics Fishery Management Plan

The draft amendment contains one action to revise the federal management system for Atlantic Migratory Group Cobia. Atlantic cobia are currently managed in federal waters from Georgia to New York. The amendment contains a range of alternatives from complementary management for Atlantic cobia with the Atlantic States Marine Fisheries Commission (ASMFC) to removal of Atlantic cobia from the federal management unit. Amendment 31 is expected to facilitate improved coordination of state and federal management of Atlantic cobia and provide for fair and equitable access to Atlantic cobia harvest opportunities.

During the public hearings, Council staff will present an overview of the amendment and will be available for informal discussions and to answer questions via webinar. Area Council members will be present at each of the Listening Stations. Members of the public will have an opportunity to go on record to record their comments for consideration by the Council.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for auxiliary aids should be directed to the council office (see **ADDRESSES**) 3 days prior to the public hearings.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: December 27, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–28288 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XF934

Fisheries of the South Atlantic; Southeast Data, Assessment, and Review (SEDAR); Stock ID Data Scoping Webinar for Atlantic Cobia (Rachycentron canadum)

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

ACTION: Notice of SEDAR 58 Stock Identification Data Scoping Webinar.

SUMMARY: The SEDAR 58 assessment(s) of the Atlantic stock(s) of cobia will consist of a series of workshops and webinars: Stock ID Workshop; Stock ID Review Workshop; Stock ID Joint Cooperator Technical Review; Data Workshop; Assessment Workshop and/or Webinars; and a Review Workshop.

DATES: The SEDAR 58 Stock ID Data Scoping Webinar will be held on January 22, 2018, from 1 p.m. until 3 p.m.

ADDRESSES: The meeting will be held via webinar. The webinar is open to members of the public. Those interested in participating should contact Julia Byrd at SEDAR (see **FOR FURTHER INFORMATION CONTACT**) to request an invitation providing webinar access information. Please request webinar invitations at least 24 hours in advance of each webinar.

SEDAR address: South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, N. Charleston, SC 29405; *www.sedarweb.org.*

FOR FURTHER INFORMATION CONTACT: Julia Byrd, SEDAR Coordinator, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; phone: (843) 571–4366; email: *julia.byrd@safmc.net.*

SUPPLEMENTARY INFORMATION: The Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils, in conjunction with NOAA Fisheries and the Atlantic and Gulf States Marine Fisheries Commissions, have implemented the Southeast Data, Assessment and Review (SEDAR) process, a multi-step method for determining the status of fish stocks in the Southeast Region. SEDAR is typically a three-step process including: (1) Data Workshop; (2) Assessment Process utilizing workshop and/or webinars; and (3) Review Workshop. The product of the Data Workshop is a data report which compiles and evaluates potential datasets and recommends which datasets are appropriate for assessment analyses. The product of the Assessment Process is a stock assessment report which describes the fisheries, evaluates the status of the stock, estimates biological benchmarks, projects future population conditions, and recommends research and monitoring needs. The assessment is independently peer reviewed at the Review Workshop. The product of the Review Workshop is a Summary documenting panel opinions regarding the strengths and weaknesses of the stock assessment and input data. Participants for SEDAR Workshops are appointed by the Gulf of Mexico, South Atlantic, and Caribbean Fishery Management Councils and NOAA Fisheries Southeast Regional Office, Highly Migratory Species Management Division, and Southeast Fisheries Science Center. Participants include: Data collectors and database managers; stock assessment scientists, biologists, and researchers; constituency representatives including fishermen, environmentalists, and non-governmental organizations (NGOs); international experts; and staff of Councils, Commissions, and state and federal agencies.

The items of discussion at the Stock ID Data Scoping Webinar are as follows:

1. Participants will review the SEDAR 58 Cobia Stock ID process.
2. Participants will identify potential data sources and discuss data needs and treatments in order to prepare for the Stock ID Workshop.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues

arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the intent to take final action to address the emergency.

Special Accommodations

This meeting is accessible to people with disabilities. Requests for auxiliary aids should be directed to the SAFMC office (see **ADDRESSES**) at least 5 business days prior to the meeting.

Note: The times and sequence specified in this agenda are subject to change.

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

Dated: December 27, 2017.

Tracey L. Thompson,

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

[FR Doc. 2017–28287 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Renewal of the Digital Economy Board of Advisors Charter

AGENCY: National Telecommunications and Information Administration (NTIA), U.S. Department of Commerce.

ACTION: Notice of the renewal of the Digital Economy Board of Advisors Charter.

SUMMARY: On December 20, 2017, the U.S. Department of Commerce renewed the Charter for the Digital Economy Board of Advisors. It has been determined that the Committee is necessary and in the public interest.

FOR FURTHER INFORMATION CONTACT: Evelyn Remaley, Designated Federal Officer, National Telecommunications and Information Administration, 1401 Constitution Ave. NW, Washington, DC 20230; Telephone (202) 482–3821; Email: *eremaley@ntia.doc.gov.*

SUPPLEMENTARY INFORMATION: The Digital Economy Board of Advisors was established on December 22, 2015, as a federal advisory committee to provide advice and recommendations to the Secretary of Commerce, through the Assistant Secretary of Commerce for Communications and Information, on a broad range of issues concerning the digital economy and internet policy.

Dated: December 27, 2017.

Kathy D. Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2017–28294 Filed 12–29–17; 8:45 am]

BILLING CODE 3510–16–P

COMMODITY FUTURES TRADING COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Commodity Futures Trading Commission.

ACTION: Notice of a new system of records.

SUMMARY: The Commodity Futures Trading Commission (CFTC or Commission) is establishing a new system of records under the Privacy Act of 1974: CFTC–50, LabCFTC. LabCFTC is the focal point for the CFTC's efforts to promote responsible Financial Technology (FinTech) innovation and fair competition for the benefit of the American public. LabCFTC is designed to make the CFTC more accessible to FinTech innovators and serves as a platform to inform the Commission's understanding of new technologies. LabCFTC allows FinTech innovators to engage with the CFTC, learn about the CFTC's regulatory framework, and obtain feedback and information on the implementation of innovative technology ideas for the market. Further, LabCFTC functions as an information source for the Commission and the CFTC staff on responsible FinTech innovation that may influence policy development. LabCFTC allows FinTech innovators to engage with the CFTC, learn about the CFTC's regulatory framework, and obtain feedback and information on the implementation of innovative technology ideas for the market. New CFTC–50 addresses information collected from individuals who submit requests and other information to CFTC through LabCFTC.

DATES: Comments must be received on or before February 1, 2018. This action will be effective without further notice on February 1, 2018, unless revised pursuant to comments received.

ADDRESSES: You may submit comments identified as pertaining to ''LabCFTC'' by any of the following methods:

- *CFTC website: https://comments.cftc.gov.* Follow the instructions for submitting comments through the Comments Online process on the website.
- *Mail:* Christopher Kirkpatrick, Secretary of the Commission, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.
- *Hand Delivery/Courier:* Same as Mail, above.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Please submit your comments using only one method.

All comments must be submitted in English, or if not, accompanied by an English translation. Comments will be posted as received to *www.cftc.gov.* You should submit only information that you wish to make available publicly. If you wish the Commission to consider information that you believe is exempt from disclosure under the Freedom of Information Act (FOIA), a petition for confidential treatment of the exempt information may be submitted according to the procedures established in § 145.9 of the Commission's regulations, 17 CFR 145.9.

The Commission reserves the right, but shall have no obligation, to review, pre-screen, filter, redact, refuse, or remove any or all of a submission from *www.cftc.gov* that it may deem to be inappropriate for publication, such as obscene language. All submissions that have been redacted or removed that contain comments on the merits of the notice will be retained in the comment file and will be considered as required under all applicable laws, and may be accessible under the FOIA.

FOR FURTHER INFORMATION CONTACT: Chief Privacy Officer, *privacy@cftc.gov,* Office of the Executive Director, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SUPPLEMENTARY INFORMATION:

I. LabCFTC

The purpose of LabCFTC is twofold: First, to encourage responsible FinTech innovation in the markets the CFTC oversees, and second, to help accelerate Commission engagement with FinTech solutions that may enable the CFTC to carry out its mission responsibilities more effectively and efficiently. LabCFTC offers an additional, dedicated point of contact for FinTech innovators to engage with the CFTC, learn about the CFTC's regulatory framework, and obtain feedback on the implementation of innovative ideas for the market. Such feedback may include information that, particularly at an early stage, could help innovators/entities save time and money by helping them understand relevant regulations and the CFTC's oversight approach. LabCFTC also is designed to

foster and increase the CFTC's familiarity with FinTech and its understanding of new technology that may have application within the CFTC's own operations through collaboration with FinTech industry and CFTC market participants. To accomplish CFTC's goals, LabCFTC will facilitate: The monitoring of trends and developments to ensure that CFTC's regulatory framework supports—and does not unduly impede—responsible technological innovation; the promotion of information-sharing about applications of FinTech, including potential use cases, benefits, risks, and solutions; the engagement with academia, students, and professionals on application of FinTech relevant in the CFTC space; and the CFTC's participation in studies and research that promote responsible FinTech innovation. Previously, this information was generally collected under CFTC–2, Commission Correspondence files.

II. The Privacy Act

Under the Privacy Act of 1974, 5 U.S.C. 552a, a ''system of records'' is defined as any group of records under the control of a Federal government agency from which information about individuals is retrieved by name or by some identifying number, symbol, or other identifying particular assigned to the individual. The Privacy Act establishes the means by which government agencies must collect, maintain, and use information about an individual in a government system of records.

Each government agency is required to publish a notice in the **Federal Register** in which the agency identifies and describes each system of records it maintains, the reasons why the agency uses the information therein, the routine uses for which the agency will disclose such information outside the agency, and how individuals may exercise their rights under the Privacy Act.

In accordance with 5 U.S.C. 552a(r), CFTC has provided a report of this system of records to the Office of Management and Budget and to Congress.

SYSTEM NAME AND NUMBER:

LabCFTC; CFTC–50.

SECURITY CLASSIFICATION:

Unclassified.

SYSTEM LOCATION:

This system is located at the Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

SYSTEM MANAGER(S):

General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The collection of this information is authorized under 7 U.S.C. 5(b), and the rules promulgated thereunder.

PURPOSE(S) OF THE SYSTEM:

The information in the system is being collected to assist CFTC in communicating with interested parties to encourage responsible FinTech innovation in the markets CFTC oversees and to help accelerate Commission engagement with FinTech solutions that enable the CFTC to carry out its mission responsibilities more effectively and efficiently. The information collected facilitates communications with FinTech innovators and the CFTC to enable innovators to learn about the CFTC's regulatory framework and to obtain feedback and information on the implementation of technology ideas for the market. This information also may help initiate the adoption of new technology within the CFTC's own mission activities through collaboration with FinTech industry and CFTC market participants.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by this system include individuals submitting requests or inquiries and other information to CFTC through LabCFTC.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records includes information that may contain: Individual's name, physical address, telephone numbers (work, home, mobile), email addresses, employer, job title, relevant work experience, CFTC status (registrant, non-registrant), organization type (S Corporation, Limited Liability Corporation, etc.), and other business, business partner, or technology information that may be linked to an individual.

RECORD SOURCE CATEGORIES:

Information in this system is obtained directly from the individual who is submitting the information.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used:

(a) To disclose information to other financial regulators to facilitate regulatory discussions around technology innovations;

(b) To disclose information to external committees that advise the CFTC on the impact and implications of technological innovations on financial services and the derivatives markets;

(c) For use in conferences or other events consistent within the purpose of 7 U.S.C. 5(b);

(d) To disclose in any administrative proceeding before the Commission, in any injunctive action authorized under the Commodity Exchange Act, or in any other action or proceeding in which the Commission or its staff participates as a party or the Commission participates as amicus curiae;

(e) To disclose to Federal, State, local, territorial, Tribal, or foreign agencies for use in meeting their statutory or regulatory requirements;

(f) To disclose to any ''registered entity,'' as defined in section 1a of the Commodity Exchange Act, 7 U.S.C. 1, *et seq.* (''the Act''), to the extent disclosure is authorized and will assist the registered entity in carrying out its responsibilities under the Act. Information may also be disclosed to any registered futures association registered under section 17 of the Act to assist it in carrying out its self-regulatory responsibilities under the Act, and to any national securities exchange or national securities association registered with the Securities and Exchange Commission to assist those organizations in carrying out their self-regulatory responsibilities under the Securities Exchange Act of 1934, 15 U.S.C. 78a, *et seq.;*

(g) To disclose to anyone during the course of a Commission investigation if Commission staff has reason to believe that the person to whom it is disclosed may have further information about matters relevant to the subject of the investigation;

(h) To disclose in a public report issued by the Commission following an investigation, to the extent that the disclosure is authorized under section 8 of the Commodity Exchange Act, 7 U.S.C. 12;

(i) To disclose to contractors, grantees, volunteers, experts, students, and others performing or working on a contract, service, grant, cooperative agreement, or job for the Federal government when necessary to accomplish an agency function;

(j) To disclose to Congress upon its request, acting within the scope of its jurisdiction, pursuant to the Commodity Exchange Act, 7 U.S.C. 1 *et seq.,* and the rules and regulations promulgated thereunder;

(k) To disclose to appropriate agencies, entities, and persons when (1) the Commission suspects or has

confirmed that there has been a breach of the system of records; (2) the Commission has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, the Commission (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Commission's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm; or

(l) To disclose to another Federal agency or Federal entity, when the Commission determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

The LabCFTC system of records stores records in this system electronically or on paper in secure facilities. Electronic records are stored on the Commission's secure network and other electronic media as needed, such as encrypted hard drives and back-up media.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Certain information covered by this system of records notice may be retrieved by name, email address, physical address, or other unique individual identifiers, and other types of information by keyword search.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

Records for this system will be maintained until the National Archives approves the records disposition schedules for their disposition. After the schedules are approved, the records will be maintained in accordance with the retention periods in the schedules. All approved schedules are available at *www.cftc.gov.*

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Records are protected from unauthorized access and improper use through administrative, technical, and physical security measures. Administrative safeguards include written guidelines on handling LabCFTC information. All CFTC personnel are subject to CFTC agency-wide procedures for safeguarding personally identifiable information and receive annual privacy and security training. Technical security measures within CFTC include restrictions on computer access to authorized individuals who have a legitimate need to know the information; required use of strong passwords that are frequently changed; multi-factor authentication for remote access and access to many CFTC network components; use of encryption for certain data types and transfers; firewalls and intrusion detection applications; and regular review of security procedures and best practices to enhance security. The technology also has a time-out function that requires users to re-access and input information if the time limit expires. Physical safeguards include restrictions on building access to authorized individuals, 24-hour security guard service, and maintenance of records in lockable offices and filing cabinets.

RECORD ACCESS PROCEDURES:

Individuals seeking to determine whether this system of records contains information about themselves or seeking access to records about themselves in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act access request.

CONTESTING RECORD PROCEDURES:

Individuals contesting the content of records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.8 for full details on what to include in a Privacy Act amendment request.

NOTIFICATION PROCEDURES:

Individuals seeking notification of any records about themselves contained in this system of records should address written inquiries to the Office of General Counsel, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street NW, Washington, DC 20581. See 17 CFR 146.3 for full details on what to include in a Privacy Act notification request.

EXEMPTIONS PROMULGATED FOR THE SYSTEM:

None.

HISTORY:

None.

Issued in Washington, DC, on December 27, 2017, by the Commission.

Christopher J. Kirkpatrick,

Secretary of the Commission.

[FR Doc. 2017–28297 Filed 12–29–17; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Air University Board of Visitors' Air Force Institute of Technology

AGENCY: Air University, Department of the Air Force.

ACTION: Notice withdrawal.

SUMMARY: The Department of the Air Force is withdrawing the Meeting notice for the United States Air Force Scientific Advisory Board. The Meeting published November 27, 2017 [FR 2017–2555], document citation: 82 FR 56009.

DATES: This withdrawal is effective December 7, 2017.

SUPPLEMENTARY INFORMATION: The Department of the Air Force is withdrawing the meeting notice of the Air Force Scientific Advisory Board due to an amendment to the original Notice.

Henry Williams,

Acting Air Force Federal Register Liaison Officer.

[FR Doc. 2017–26846 Filed 12–29–17; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Grant Exclusive Patent License; NanoArmor, LLC

AGENCY: Department of the Navy, DoD.

ACTION: Notice of availability for licensing.

SUMMARY: The Department of the Navy hereby gives notice of its intent to grant to NanoArmor, LLC., a revocable, nonassignable, exclusive license to practice in the field of use of ballistic strike plate or armor for wearable body armor, including but not limited to, ballistic and blast resistant panels for vehicles, including but not limited to, ballistic and blast resistant panelized building systems for shelters and buildings in the United States, the Government-owned invention described in U.S. Patent No. 7,722,851: Bulk Synthesis of Carbon Nanotubes from

Metallic and Ethynyl Compounds, Navy Case No. 83,777.// U.S. Patent No. 6,846,345: Synthesis of Metal Nanoparticle Compositions from Metallic and Ethynyl Compounds, Navy Case No. 83,778.// U.S. Patent No. 7,819,938: Highly Aromatic Compounds and Polymers as Percursors to Carbon Nanotube and Metal Nanoparticle Compositions in Shaped Solids, Navy Case No. 96,675.// U.S. Patent No. 9,017,445: Highly Aromatic Compounds and Polymers as Precursors to Carbon Nanotube and Metal Nanoparticle Compositions in Shaped Solids, Navy Case No. 96,675.// U.S. Patent No. 9,085,720: Highly Aromatic Compounds and Polymers as Precursors to Carbon Nanotube and Metal Nanoparticle Compositions in Shaped Solids, Navy Case No. 96,675.// U.S. Patent No. 8,822,023: Refractory Metal Ceramics and Methods of Making Thereof, Navy Case No. 101,502.// U.S Patent No. 9,403,723: Refractory Metal Ceramics and Methods of Making Thereof, Navy Case No. 101,502.// U.S Patent No. 9,611,179: Refractory Metal Ceramics and Methods of Making Thereof, Navy Case No. 101,502.// U.S Patent No. 8,865,301: Refractory Metal Boride Ceramics and Methods of Making Thereof, Navy Case No. 101,684.// U.S. Patent No. 9,469,572: Refractory Metal Boride Ceramics and Methods Thereof, Navy Case No. 101,684.// U.S Patent No. 9,637,416: Refractory Metal Borides Ceramics and Methods of Making Thereof, Navy Case No. 101,684.// U.S Patent No. 8,815,381: Formation of Boron Carbide-Boron Nitride Carbon Compositions, Navy Case No. 101,874.// U.S. Patent No. 9,580,359: Formation of Boron Carbide-Boron Nitride Carbon Compositions, Navy Case No. 101,874.// U.S. Patent Application No. 15/429,767: Formation of Boron Carbide-Boron Nitride Carbon Compositions, Navy Case No. 101,874.// U.S. Patent No 8,778,488: Formation of Silicon Carbide-Silicon Nitride Nanoparticle Carbon Compositions, Navy Case No. 101,921.// U.S. Patent No. 9,045,374: Formation of Silicon Carbide-Silicon Nitride Nanoparticle Carbon Compositions, Navy Case No. 101,921.// U.S Patent No. 8,957,234: Acetylene and Diacetylene Compounds of Transition Metals, Navy Case No. 102,412.// U.S Patent Application No. 15/585,444: Refractory Metal Silicide Nanoparticle Ceramics, Navy Case No. 103,907.// U.S Patent Application No. 62/444,506: Synthesis of Bromophenylditriflate Intermediates as Precursors to Phenylethynyl Benzenes, Navy Case No. 104,262.// Navy Case 106,483: One Step Preparation of Nano-Crystalline Refractory Metal Carbides, Borides or Nitrides with Homogeneously Dispersed Inclusions and Layered Structures Thereof.// Navy Case No. 106,493: Synthesis of Pure Refractory Metal Nitrides and/or Metal Carbides with Nanocrystalline Grain Structure and any continuations, divisionals or re-issues thereof.

DATES: Anyone wishing to object to the grant of this license must file written objections along with supporting evidence, if any, not later than January 17, 2018.

ADDRESSES: Written objections are to be filed with the Naval Research Laboratory, Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320.

FOR FURTHER INFORMATION CONTACT: Amanda Horansky McKinney, Head, Technology Transfer Office, NRL Code 1004, 4555 Overlook Avenue SW, Washington, DC 20375–5320, telephone 202–767–1644. Due to U.S. Postal delays, please fax 202–404–7920, email: *techtran@research.nrl.navy.mil* or use courier delivery to expedite response.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 21, 2017.

E.K. Baldini,

Federal Register Liaison Officer, Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy.

[FR Doc. 2017–28306 Filed 12–29–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Availability of Government-Owned Inventions; Available for Licensing

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DoN) announces the availability of the inventions listed below, assigned to the United States Government, as represented by the Secretary of the Navy, for domestic and foreign licensing by the Department of the Navy.

ADDRESSES: Requests for copies of the patents cited should be directed to Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001.

FOR FURTHER INFORMATION CONTACT: Mr. Christopher Monsey, Naval Surface Warfare Center, Crane Div, Code OOL, Bldg 2, 300 Highway 361, Crane, IN 47522–5001, Email *Christopher.Monsey@navy.mil.*

SUPPLEMENTARY INFORMATION: The following patents are available for licensing: Patent No. 9,826,793 (Navy Case No. 101446): MASK COUPLING APPARATUS.

Authority: 35 U.S.C. 207, 37 CFR part 404.

Dated: December 21, 2017.

E.K. Baldini,

Federal Register Liaison Officer, Lieutenant Commander, Judge Advocate General's Corps, U.S. Navy.

[FR Doc. 2017–28305 Filed 12–29–17; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the

decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for electronic review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202)502–8659.

Docket No.	File date	Presenter or requester
Prohibited		
1. CP17–101–000	12–13–2017	Bill and Pat Webster.
2. CP17–101–000	12–15–2017	LaRue VanZile.
3. CP17–101–000	12–15–2017	Greg Perry.
4. CP17–101–000	12–15–2017	Ralph Bell.
5. CP17–101–000	12–15–2017	Richard Pavlina.
6. CP17–101–000	12–19–2017	Daniel Bavuso.
7. CP17–101–000	12–19–2017	Michael Koneski.
8. CP17–101–000	12–22–2017	Joseph Kirwan.
9. CP17–101–000	12–22–2017	Steven J. Berkoski.
Exempt		
1. CP15–554–000	12–12–2017	U.S. Senator Joe Manchin III.
2. P–2413–000	12–12–2017	U.S. House Representative Jody B. Hice.
3. CP16–357–000	12–13–2017	U.S. Senator Shelley Moore Capito.
4. CP17–409–000	12–14–2017	FERC Staff.[1]
5. P–11175–025	12–19–2017	FERC Staff.[2]
6. CP16–454, CP16–455	12–19–2017	FERC Staff.[3]
7. CP17–101–000	12–22–2017	FERC Staff.[4]

[1] Meeting minutes for teleconference on December 5, 2017 with U.S. Fish and Wildlife Service, PA Field Office.
[2] Memo providing email correspondence from several entities regarding the Crown Mill Hydroelectric Project.
[3] Summary of conference call on December 14, 2017 with Orrick, RG Developers, Ecology and Environment, CH–IV International, and Edge Engineering and Science.
[4] Meeting minutes for teleconference on December 12, 2017 with EPA, NJDEP, NYSDEC, and Transco.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28285 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–536–000]

O.H. Hutchings CT, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of O.H. Hutchings CT, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28281 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14795–002]

Shell Energy North America (US), L.P.; Notice of Application Accepted for Filing and Soliciting Motions To Intervene and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Original major license.

b. *Project No.:* 14795–002.

c. *Date filed:* November 1, 2017.

d. *Applicant:* Shell Energy North America (US), L.P.

e. *Name of Project:* Hydro Battery Pearl Hill Pumped Storage Project.

f. *Location:* On the Columbia River and Rufus Woods Lake, near Bridgeport, Douglas County, Washington. The project would be located on state lands and the lower reservoir and power generation and pumping equipment would be located on Rufus Woods Lake, a reservoir operated by the U.S. Army Corps of Engineers (Corps).

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* Kent Watt, Shell US Hosting Company, Shell Woodcreek Office, 150 North Dairy Ashford, Houston, TX 77079, (832) 337–1160, *kent.watt@shell.com.*

i. *FERC Contact:* Ryan Hansen, 888 1st St. NE, Washington, DC 20426, (202) 502–8074, *ryan.hansen@ferc.gov.*

j. *Deadline for filing motions to intervene and protests:* 60 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file filing motions to intervene and protests using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* 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–14795–002.

The Commission's Rules of Practice and Procedures 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, but is not ready for environmental analysis at this time.

l. The proposed project would utilize the Corps' existing Rufus Woods Lake Reservoir and would consist of the following new facilities: (1) A 300-foot-diameter, 20-foot-tall lined corrugated steel tank upper reservoir with storage capacity of 26.5 acre-feet; (2) a 3-foot-diameter, 3,400-foot-long above-ground carbon steel penstock transitioning to a 3-foot-diameter, 2,700-foot-long buried carbon steel penstock; (3) a 77-foot-long, 77-foot-wide structural steel power platform housing five 2,400 horsepower vertical turbine pumps, one 5-megawatt twin-jet Pelton turbine and synchronous generator, and accompanying electrical equipment; (4) five vertical turbine pump intakes, each fitted with a 27-inch-diameter by 94-inch-long T-style fish screen; (5) a 2,500-foot-long, 24.9-kilovolt buried/affixed transmission line interconnecting to an existing non-project transmission line; (6) approximately 3,847 feet of gravel project access road; and (7) appurtenant facilities. The average annual generation is estimated to be 24 gigawatt-hours.

m. A copy of the application is available for review at the Commission in the Public Reference Room or may be viewed on the Commission's website at *http://www.ferc.gov* using the eLibrary link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. 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 a protest or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, 385.211, and 385.214. In determining the appropriate action to take, the Commission will consider all protests 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 protests or motions to intervene must be received on or before the specified deadline date for the particular application.

When the application is ready for environmental analysis, the Commission will issue a public notice requesting comments, recommendations, terms and conditions, or prescriptions.

All filings must (1) bear in all capital letters the title PROTEST or MOTION TO INTERVENE, NOTICE OF INTENT TO FILE COMPETING APPLICATION, or COMPETING APPLICATION; (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. 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28284 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–538–000]

Sidney, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Sidney, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28283 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–533–000]

Tait Electric Generating Station, LLC; Supplemental Notice that Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Tait Electric Generating Station, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28278 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–535–000]

Yankee Street, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Yankee Street, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28280 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–494–000]

Beech Ridge Energy II Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Beech Ridge Energy II Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28277 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–537–000]

Monument Generating Station, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Monument Generating Station, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28282 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–534–000]

Montpelier Generating Station, LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Montpelier Generating Station, LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket

authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28279 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–491–000]

Hardin Wind Energy LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hardin Wind Energy LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28275 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER18–531–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 305 9th Rev—NITSA with Stillwater Mining to be effective 3/1/2018.
Filed Date: 12/22/17.
Accession Number: 20171222–5253.
Comments Due: 5 p.m. ET 1/12/18.

Docket Numbers: ER18–532–000.
Applicants: NorthWestern Corporation.
Description: § 205(d) Rate Filing: SA 591 6th Rev—NITSA with Benefits Health System to be effective 3/1/2018.
Filed Date: 12/22/17.
Accession Number: 20171222–5254.
Comments Due: 5 p.m. ET 1/12/18.

Docket Numbers: ER18–533–000.
Applicants: Tait Electric Generating Station, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.
Filed Date: 12/26/17.
Accession Number: 20171226–5001.
Comments Due: 5 p.m. ET 1/16/18.

Docket Numbers: ER18–534–000.
Applicants: Montpelier Generating Station, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.
Filed Date: 12/26/17.
Accession Number: 20171226–5002.
Comments Due: 5 p.m. ET 1/16/18.

Docket Numbers: ER18–535–000.
Applicants: Yankee Street, LLC.
Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.
Filed Date: 12/26/17.
Accession Number: 20171226–5003.
Comments Due: 5 p.m. ET 1/16/18.

Docket Numbers: ER18–536–000.

Applicants: O.H. Hutchings CT, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.

Filed Date: 12/26/17.

Accession Number: 20171226–5004.

Comments Due: 5 p.m. ET 1/16/18.

Docket Numbers: ER18–537–000.

Applicants: Monument Generating Station, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.

Filed Date: 12/26/17.

Accession Number: 20171226–5005.

Comments Due: 5 p.m. ET 1/16/18.

Docket Numbers: ER18–538–000.

Applicants: Sidney, LLC.

Description: Baseline eTariff Filing: Application for Market-Based Rate Authorization to be effective 12/31/9998.

Filed Date: 12/26/17.

Accession Number: 20171226–5006.

Comments Due: 5 p.m. ET 1/16/18.

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 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28272 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER18–492–000]

Hardin Wind Energy Holdings LLC; Supplemental Notice That Initial Market-Based Rate Filing Includes Request for Blanket Section 204 Authorization

This is a supplemental notice in the above-referenced proceeding of Hardin Wind Energy Holdings LLC's application for market-based rate authority, with an accompanying rate tariff, noting that such application includes a request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability.

Any person desiring to intervene or to protest should file with the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant.

Notice is hereby given that the deadline for filing protests with regard to the applicant's request for blanket authorization, under 18 CFR part 34, of future issuances of securities and assumptions of liability, is January 15, 2018.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 5 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First Street NE, Washington, DC 20426.

The filings in the above-referenced proceeding are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also 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.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28276 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL18–54–000]

New Jersey Board of Public Utilities v. PJM Interconnection, L.L.C., New York Independent System Operator, Inc., Consolidated Edison Company, New York, Inc., Linden VFT, LLC, Hudson Transmission Partners, LLC, New York Power Authority; Notice of Complaint

Take notice that on December 22, 2017, pursuant to sections 206 and 309 of the Federal Power Act, 16 U.S.C. 824e, 824v and 825e, and Rule 206 of the Federal Energy Regulatory Commission's (Commission) Rules of Practice and Procedure, 18 CFR 385.206, New Jersey Board of Public Utilities (Complainant) filed a formal complaint against PJM Interconnection, L.L.C. (PJM), New York Independent System Operator, Inc. (NYISO), Consolidated Edison Company of New York Inc., Linden VFT, LLC, Hudson Transmission Partners, LLC and New York Power Authority (collectively, Respondents), alleging that New Jersey ratepayers have been, and will continue to be detrimentally affected by current and projected changes to PJM Tariff cost allocations connected to the Bargain-Linden Corridor (BLC), various actions by several merchant transmission facilities regarding the conversion of their Firm Transmissions Withdrawal Rights (FTWRs) to non-FTWRs with the expectation of no cost allocation for BLC Regional transmission Expansion Plan costs, and other actions connected to joint NYISO and PJM agreements that result in unjust and unreasonable rates and charges to New Jersey ratepayers, all as more fully explained in the complaint.

Complainant certifies that copies of the complaint were served on the contacts for the Respondents as listed on the Commission's list of Corporate Officials, or otherwise obtained.

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. The Respondent's answer and all interventions, or protests must be filed on or before the comment date. The Respondent's answer, motions to intervene, and protests must be served on the Complainants.

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 11, 2018.

Dated: December 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28274 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #2

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC18–41–000.

Applicants: AES Ohio Generation, LLC, Kimura Power, LLC.

Description: Application of Kimura Power, LLC et al. for Authorization under Section 203 of the Federal Power Act, Request for Expedited Action and Request for Confidential Treatment.

Filed Date: 12/26/17.

Accession Number: 20171226–5033.

Comments Due: 5 p.m. ET 1/16/18.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER10–1585–011; ER10–1594–011; ER16–733–002; ER10–1617–011; ER10–1619–005; ER10–1620–007; ER16–1148–002; ER10–1625–007; ER12–60–013; ER10–1632–013; ER10–1628–011.

Applicants: Alabama Electric Marketing, LLC, California Electric Marketing, LLC, LQA, LLC, New Mexico Electric Marketing, LLC, Tenaska Alabama Partners, L.P., Tenaska Alabama II Partners, L.P., Tenaska Energía de Mexico, S. de R. L. de, C.V., Tenaska Power Management, LLC, Tenaska Power Services Co., Tenaska Georgia Partners, L.P., Texas Electric Marketing, LLC.

Description: Updated Market Power Analysis in the Southeast Region of the Tenaska MBR Sellers.

Filed Date: 12/22/17.

Accession Number: 20171222–5298.

Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER10–1827–006; ER10–1533–016.

Applicants: Cleco Power LLC, Macquarie Energy LLC.

Description: Updated Market Power Analysis for the Central Region of Cleco Power LLC, et. al.

Filed Date: 12/22/17.

Accession Number: 20171222–5301.

Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER12–162–019; ER13–1266–016; ER11–2044–024; ER15–2211–013.

Applicants: Bishop Hill Energy II LLC, CalEnergy, LLC, MidAmerican Energy Company, MidAmerican Energy Services, LLC.

Description: Central Region Triennial Market Power Analysis and Notice of Change in Status under Market-Based Rate Authority.

Filed Date: 12/21/17.

Accession Number: 20171221–5399.

Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER17–615–003: ER10–2184–027; ER10–2192–032; ER10–2178–032; ER11–2014–025; ER11–2013–025; ER13–1536–016; ER11–2005–025.

Applicants: Albany Green Energy, LLC, CER Generation, LLC, Constellation Energy Commodities Group Maine, LLC, Constellation NewEnergy, Inc., Cow Branch Wind Power, LLC, CR Clearing, LLC, Exelon Generation Company, LLC, Wind Capital Holdings, LLC.

Description: Updated Market Power Analysis for the Southeast Region of the Exelon Southeast Entities.

Filed Date: 12/22/17.

Accession Number: 20171222–5303.

Comments Due: 5 p.m. ET 2/20/18.

Docket Numbers: ER18–539–000.

Applicants: New England Power Pool Participants Committee.

Description: § 205(d) Rate Filing: Jan 2018 Membership Filing to be effective 12/1/2017.

Filed Date: 12/26/17.

Accession Number: 20171226–5059.

Comments Due: 5 p.m. ET 1/16/18.

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 26, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–28273 Filed 12–29–17; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0319; FRL–9971–34]

Agency Information Collection Activities; Proposed Collection (EPA ICR No. 1365.11); Comment Request

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), this document announces that EPA is planning to submit an Information Collection Request (ICR) to the Office of Management and Budget (OMB). The ICR, entitled: ''Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule'' and identified by EPA ICR No. 1365.11 and OMB Control No. 2070–0091, represents the renewal of an existing ICR that is scheduled to expire on August 31, 2018. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on

specific aspects of the proposed information collection that is summarized in this document. The ICR and accompanying material are available in the docket for public review and comment.

DATES: Comments must be received on or before March 5, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0319, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Lea Carmichael, National Program Chemicals Division (7404T), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–4689; email address: *carmichael.lea@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. What information is EPA particularly interested in?

Pursuant to PRA section 3506(c)(2)(A) (44 U.S.C. 3506(c)(2)(A)), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burden of the proposed collection of information, including the validity of the methodology and assumptions used.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. In particular, EPA is requesting comments from very small businesses (those that employ less than 25) on examples of specific additional efforts that EPA could make to reduce the paperwork burden for very small businesses affected by this collection.

II. What information collection activity or ICR does this action apply to?

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule.

ICR number: EPA ICR No. 1365.11.

OMB control number: OMB Control No. 2070–0091.

ICR status: This ICR is currently scheduled to expire on August 31, 2018. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the Code of Federal Regulations (CFR), after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers for certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires local education agencies (LEAs) to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires states to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on states and training providers related to the model accreditation plan rule.

Responses to the collection of information are mandatory (see 40 CFR parts 763, Subpart E). Respondents may claim all or part of a document confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

Burden statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 19.3 hours per response for schools, 140 hours per response for states, and 5.5 hours per response for training providers. Burden is defined in 5 CFR 1320.3(b).

The ICR, which is available in the docket along with other related materials, provides a detailed explanation of the collection activities and the burden estimate that is only briefly summarized here:

Respondents/Affected Entities: Entities potentially affected by this ICR are local education agencies (LEAs, *e.g.,* elementary or secondary public school districts or a private school or school system); asbestos training providers to schools and educational systems; state education departments or commissions; or state public health departments or commissions.

Estimated total number of potential respondents: 133,214.

Frequency of response: On occasion.

Estimated total average number of responses for each respondent: 1.0.

Estimated total annual burden hours: 2,554,913 hours.

Estimated total annual costs: $ 97,276,877. This includes an estimated burden cost of $ 97,276,877 and an estimated cost of $ 0 for capital investment or maintenance and operational costs.

III. Are there changes in the estimates from the last approval?

There is an increase of 67,509 hours in the total estimated respondent burden compared with that identified in the ICR currently approved by OMB. This increase reflects a change in the methodology to calculate the number of schools with friable asbestos-containing materials (ACM); a revision to the life span of schools using average functional age to determine the remaining life of school buildings; and a change in the rate of removal of friable ACM. See the Supporting Statement for details. This change is an adjustment.

IV. What is the next step in the process for this ICR?

EPA will consider the comments received and amend the ICR as

appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** document pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

Authority: 44 U.S.C. 3501 *et seq.*

Dated: December 5, 2017.

Charlotte Bertrand,

Acting Principal Deputy Assistant Administrator, Office of Chemical Safety and Pollution Prevention.

[FR Doc. 2017–28316 Filed 12–29–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2017–0410; FRL–9971–47]

Certain New Chemicals; Receipt and Status Information for October 2017

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is required under the Toxic Substances Control Act (TSCA) to publish in the **Federal Register** a notice of receipt of a premanufacture notice (PMN); an application for a test marketing exemption (TME), both pending and/or expired; and a periodic status report on any new chemicals under EPA review and the receipt of notices of commencement (NOC) to manufacture those chemicals. This document covers the period from October 2, 2017 to October 31, 2017.

DATES: Comments identified by the specific case number provided in this document, must be received on or before February 1, 2018.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPPT–2017–0410, and the specific PMN number or TME number for the chemical related to your comment, by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.
- *Mail:* Document Control Office (7407M), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001.
- *Hand Delivery:* To make special arrangements for hand delivery or delivery of boxed information, please follow the instructions at *http://www.epa.gov/dockets/contacts.html.*

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

FOR FURTHER INFORMATION CONTACT:

For technical information contact: Jim Rahai, IMD 7407M, Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8593; email address: *rahai.jim@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

This action is directed to the public in general. As such, the Agency has not attempted to describe the specific entities that this action may apply to. Although others may be affected, this action applies directly to the submitters of the actions addressed in this document.

B. What should I consider as I prepare my comments for EPA?

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all of the information that you claim to be CBI. For CBI information in a disk or CD–ROM that you mail to EPA, mark the outside of the disk or CD–ROM as CBI and then identify electronically within the disk or CD–ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR parts 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at *http://www.epa.gov/dockets/comments.html.*

II. What action is the Agency taking?

This document provides receipt and status reports, which cover the period from October 2, 2017 to October 31, 2017, and consists of the PMNs and TMEs both pending and/or expired, and the NOCs to manufacture a new chemical that the Agency has received under TSCA section 5 during this time period.

III. What is the Agency's authority for taking this action?

Under TSCA, 15 U.S.C. 2601 *et seq.,* EPA classifies a chemical substance as either an ''existing'' chemical or a ''new'' chemical. Any chemical substance that is not on EPA's TSCA Inventory is classified as a ''new chemical,'' while those that are on the TSCA Inventory are classified as an ''existing chemical.'' For more information about the TSCA Inventory, please go to: *http://www.epa.gov/opptintr/newchems/pubs/inventory.htm.*

Anyone who plans to manufacture or import a new chemical substance for a non-exempt commercial purpose is required by TSCA section 5 to provide EPA with a PMN, before initiating the activity. Section 5(h)(1) of TSCA authorizes EPA to allow persons, upon application, to manufacture (includes import) or process a new chemical substance, or a chemical substance subject to a significant new use rule (SNUR) issued under TSCA section 5(a), for ''test marketing'' purposes, which is referred to as a test marketing exemption, or TME. For more information about the requirements applicable to a new chemical go to: *http://www.epa.gov/oppt/newchems.*

Under TSCA sections 5(d)(2) and 5(d)(3), EPA is required to publish in the **Federal Register** a notice of receipt of a PMN or an application for a TME and to publish in the **Federal Register** periodic reports on the status of new chemicals under review and the receipt of NOCs to manufacture those chemicals.

IV. Receipt and Status Reports

As used in each of the tables in this unit, (S) indicates that the information in the table is the specific information provided by the submitter, and (G) indicates that the information in the table is generic information because the specific information provided by the submitter was claimed as CBI.

For the 51 PMNs received by EPA during this period, Table 1 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the

PMN; the date the PMN was received by EPA; the projected end date for EPA's review of the PMN; the submitting manufacturer/importer; the potential uses identified by the manufacturer/importer in the PMN; and the chemical identity.

TABLE 1—PMNs RECEIVED FROM OCTOBER 2, 2017 TO OCTOBER 31, 2017

Case No.	Received date	Projected notice end date	Manufacturer/importer	Use	Chemical
P–17–0008	10/14/2017	1/12/2018	CBI	(S) Intermediate for use in the manufacture of polymers.	(G) Modified 1,3-isobenzofurandione, polymer with 1,2-ethanediol, 2-ethyl-2-(alkoxyalkyl)-1,3-propanediol and 1,3-isobenzofurandione, alkanoate.
P–17–0009	10/14/2017	1/12/2018	CBI	(S) Intermediate for use in the manufacture of polymers.	(G) Depolymerized waste plastics.
P–17–0176	10/6/2017	1/4/2018	CBI	(G) Battery ingredient	(G) Carbonic acid, alkyl carbomonocyclic ester.
P–17–0200	10/17/2017	1/15/2018	CBI	(S) Monomer for use to manufacture of a high performance polymer.	(G) 1,3-bis(substitutedbenzoyl)benzene.
P–17–0204	10/17/2017	1/15/2018	CBI	(S) Monomer for high performance polymer.	(G) 1,4-bis(substitutedbenzoyl)benzene.
P–17–0205	10/17/2017	1/15/2018	CBI	(G) Process reagent	(G) Bis(fluorobenzoyl)benzene.
P–17–0205	10/17/2017	1/15/2018	CBI	(S) Monomer for high performance polymer.	(G) Bis(fluorobenzoyl)benzene.
P–17–0226	10/3/2017	1/1/2018	Nease Corporation ...	(G) Bleach Catalyst ..	(S) Manganese(2+), bis(octahydro-1,4,7-trimethyl-1h-1,4,7-triazonine-.kappa.N1,Kappa.N4,kappa.N7)tri-.mu.-oxodi-,hexafluorophosphate(1-) (1:2).
P–17–0255	10/2/2017	12/31/2017	Kao Specialties Americas LLC.	(G) Additive in toner	(G) Carbomonocyclic dicarboxylic acid, polymer with carbomonocyclic dicarboxylic acid, alkanedioic acid, alkenedioic acid, substituted dioxo-heteropolycyclic, substituted dioxo-heteropolycyclic, alkanedioic acid, alkoxylated alkylidene dicarbomonocycle and alkoxylated alkylidene dicarbomonocycle, ester.
P–17–0256	10/10/2017	1/8/2018	Kao Specialties Americas LLC.	(G) Support resin	(G) Carbopolycyclic dicarboxylic acid, dialkyl ester, polymer with dialkyl carbomonocyclic diester, dialkyl substituted carbomonocyclic diester alkali metal salt and alkanediol.
P–17–0334	10/10/2017	1/8/2018	CBI	(G) Chemical precursor.	(G) Halogenated alkyl monocyclicamide.
P–17–0336	10/4/2017	1/2/2018	CBI	(S) Cathode material for lithium ion battery.	(S) Aluminum cobalt lithium nickel oxide.
P–17–0337	10/4/2017	1/2/2018	CBI	(S) Cathode material for lithium ion batteries.	(S) Aluminum boron cobalt lithium nickel oxide.
P–17–0338	10/4/2017	1/2/2018	CBI	(S) Cathode material for lithium ion batteries.	(S) Aluminum boron cobalt lithium magnesium nickel oxide.
P–17–0353	10/12/2017	1/10/2018	CBI	(G) Additive in resin manufacture.	(G) Heteromonocycle, 2-[(bicarbomonocycle-2-substituted)alkyl]-.
P–17–0354	10/20/2017	1/18/2018	CBI	(G) Function as a solvent in electrolyte solution in batteries which will improve the performance of the batteries in consumer electronics and automotive applications.	(G) (substituted-dialkyl(c=1~7)silyl)alkanenitrile.
P–17–0385	10/23/2017	1/21/2018	Al-Fares Corporation	(S) Cleaning product for detailing vehicles. Industrial use emollient.	(S) Carbonic acid, bis(2-ethylhexyl) ester.

TABLE 1—PMNS RECEIVED FROM OCTOBER 2, 2017 TO OCTOBER 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–17–0400	10/25/2017	1/23/2018	CBI	(G) rubber products	(G) Terpolymer of vinylidene fluoride, tetrafluoroehylene and 2,3,3,3-tetrafluoropropene.
P–17–0405	10/2/2017	12/31/2017	CBI	(G) Oil and gas well performance.	(G) Halogentated benzoic acid ethyl ester.
P–17–0406	10/2/2017	12/31/2017	CBI	(G) Oil and gas well performance.	(G) Halogenated benzoic acid ethyl ester.
P–18–0001	10/5/2017	1/3/2018	Nexus Fuels	(G) Additive	(G) Carbon compound (compd) derived from plastic depolymerization.
P–18–0002	10/2/2017	12/31/2017	CBI	(S) Chemical intermediate.	(G) Phosphinic acid, *p,p*-alkyl-, salt.
P–18–0004	10/10/2017	1/8/2018	CBI	(G) Dispersant	(G) Alkoxy phosphate compd with alkylamine.
P–18–0005	10/11/2017	1/9/2018	CBI	(G) Component for tire.	(G) Buta-1,3-diene reaction product with alkyl aluminum and alkyl silyl substances.
P–18–0006	10/3/2017	1/1/2018	CBI	(S) Intermediate	(S) 2-propenenitrile, trimer.
P–18–0007	10/4/2017	1/2/2018	CBI	(S) Used as a plasticizer/stabilizer for flexible PVC.	(S) Glycerides, soya mono- and di-, epoxidized, acetates.
P–18–0008	10/4/2017	1/2/2018	CBI	(S) Used as a plasticizer/stabilizer for flexible PVC.	(S) Glycerides, C_{16-18} and C_{18}-unsaturated mono- and di-, epoxidized, acetates.
P–18–0009	10/4/2017	1/2/2018	CBI	(G) Lubricant additive	(G) Phosphonic acid, dimethyl ester, polymer with alkyl diols.
P–18–0010	10/11/2017	1/9/2018	CBI	(S) Polyurethane catalyst.	(G) Aminoalkylated imidazole, n-me derivs.
P–18–0011	10/5/2017	1/3/2018	Dioxide Materials	(S) It is used to add amine function to a polymer.	(S) 1,2,4,5-tetramethylimidazole.
P–18–0012	10/6/2017	1/4/2018	CBI	(G) Adhesives	(G) Polyester polyol.
P–18–0013	10/7/2017	1/5/2018	Shin-Etsu Microsi	(G) Microlithography for electronic device manufacturing.	(G) Substituted-triphenylsulfonium, inner salt.
P–18–0014	10/7/2017	1/5/2018	Shin-Etsu Microsi	(G) Microlithography for electronic device manufacturing.	(G) Sulfonium, triphenyl-, salt with disubstituted-heterocyclic compound (1:1).
P–18–0016	10/11/2017	1/9/2018	CBI	(G) Additives used in Semiconductor chip manufacturing.	(G) Aromatic sulfonium tricyclo fluoroalkyl sulfonic acid salt.
P–18–0017	10/18/2017	1/16/2018	Allnex USA Inc	(S) Corrosion protection.	(G) Substituted carbomonocycle, polymer with substituted heteromonocycle and substituted polyalkylene glycol.
P–18–0019	10/13/2017	1/11/2018	Cabot Corporation	(S) Dispersive pigment.	(G) Substituted benzene, 4-[2-[2-hydroxy-3-[[(3-nitrophenyl)amino]carbonyl]-1-naphthalenyl]diazenyl]-, sodium salt (1:1).
P–18–0020	10/16/2017	1/14/2018	CBI	(G) Composites (G) Industrial Coating	(S) Butanediolic acid, polyol with 2-ethyl-2-(hydroxymethyl)-1,3-propanediol, 2,5-furandione and 1,3-propanediol, 3a,4,5,6,7,7a-hexahydro-4,7-methano-1h-inden-5(or 6)-yl ester.
P–18–0021	10/17/2017	1/15/2018	CBI	(G) paint	(G) Dicarboxylic acids, polymers with substituted poly(substituted alkendiyl) ,3-hydroxy-2-(hydroxyalkyl)-2-alkylalkenoic acid, 5-substituted-1-(substituted alkyl)-1,3,3-trialkyl carbomonocyle, alkanediol, alkane-triol, alcohol blocked compounds with aminoalcohol.
P–18–0022	10/16/2017	1/14/2018	Allnex USA Inc	(S) Corrosion protection.	(G) Substituted carbomonocycle, polymer with halo substituted heteromonocycle and polyoxyalkylene polymer with alkylenebis[isocyanatocarbomonocycle] bis (carbomonocycle-dicarboxylate), reaction products with alkylamines, hydrolyzed.
P–18–0023	10/16/2017	1/14/2018	CBI	(S) Epoxy hardner/ curative.	(G) Propanediol phosphate.
P–18–0025	10/17/2017	1/15/2018	CBI	(G) Oil Additive	(G) Phosphoric acid, dialkyl ester, transition metal salt.

TABLE 1—PMNS RECEIVED FROM OCTOBER 2, 2017 TO OCTOBER 31, 2017—Continued

Case No.	Received date	Projected notice end date	Manufacturer/ importer	Use	Chemical
P–18–0026	10/23/2017	1/21/2018	Hybrid Plastics, Inc ..	(G) oil additive	(S) Silsesquioxanes, 2,4,4-trimethylpentyl, hydroxy-terminated.
P–18–0027	10/19/2017	1/17/2018	CBI	(G) The polymer will be used as an additive in coatings.	(G) 2-propenoic acid, 2-alkyl-, 2-(dialkylamino)alkyl ester, polymer with alpha-(2-alkyl-1-oxo-2-alken-1-yl)-omega-methoxypoly(oxy-1,2-alkanediyl).
P–18–0028	10/18/2017	1/16/2018	CBI	(G) Blending stock ...	(G) Branched cyclic and linear hydrocarbons from plastic depolymerization.
P–18–0029	10/20/2017	1/18/2018	CBI	(G) Industrial use in Oilfield.	(G) Fatty acids and fatty acid unsaturated, reaction products with ethyleneamines and maleic anhydride.
P–18–0030	10/23/2017	1/21/2018	Miwon North America, Inc.	(S) Resins for Industrial coating.	(G) Poly[oxy(methyl-alkylendiyl)],alpha,alpha',alpha''-1,2,3-alkanetriyltris[omega-hydroxy-, polymer with 1,1′-alkylenebis[4-isocyanatocarbomonocycle], 2-substituted ethyl acrylate- and 2-substituted ethyl metacrylate-blocked.
P–18–0031	10/25/2017	1/23/2018	CBI	(G) Ingredient for industrial coating.	(G) Substituted dicarboxylic acid, polymer with various alkanediols.
P–18–0032	10/27/2017	1/25/2018	US Paint Corp	(G) Component of coating.	(G) Alkyl alkenoic acid, alkyl ester, polymer with alkyl alkenoate, dialkyl alkanediol, substituted carbomonocycle, disubstituted heteromonocycle, disubstituted heteropolycyclic, alkanediol, substituted alkyl alkyl alkenoate and substituted heteromonocycle, dialkyl peroxide initiated.
P–18–0033	10/30/2017	01/28/2018	CBI	(S) Epoxy curing agent.	(G) 2-propenenitrile, reaction products with alkylamine, hydrogenated, acids.
P–18–0034	10/30/2017	1/28/2018	CBI	(S) Polyetheramine carboxylate salt used as a dispersing agent for pigments in industrial paints and coatings.	(G) Polyetheramine carboxylate salt.
P–18–0037	10/30/2017	01/28/2018	SHIN–ETSU Microsi	(G) Microlithography for electronic device manufacturing.	(G) Sulfonium, triphenyl-, salt with 2,4,5-trisubstituted-benzenesulfonate (1:1).

For the 22 NOCs received by EPA during this period, Table 2 provides the following information (to the extent that such information is not claimed as CBI): The EPA case number assigned to the NOC; the date the NOC was received by EPA; the projected date of commencement provided by the submitter in the NOC; and the chemical identity.

TABLE 2—NOCS RECEIVED FROM OCTOBER 2, 2017 TO OCTOBER 31, 2017

Case No.	Received date	Commencement notice end date	Chemical
P–99–0649	10/9/2017	1/25/2001	(G) Ethylene terpolymer.
P–04–0773	10/12/2017	10/2/2017	(S) Siloxanes and silicones, 3-[3-(diethylmethylammonio)-2- hydroxypropoxy]propyl me, di-me, chlorides.
P–05–0415	10/2/2017	9/6/2016	(G) Acrylic polymer with styrene, peroxy-initiated.
P–08–0058	10/6/2017	9/21/2017	(S) Nonadecane, 9-methylene-, mixed with 1-decene, dimers and trimers, hydrogenated.
P–08–0724	10/2/2017	8/23/2016	(G) Cycloaliphatic anhydride, polymer with hydroxy alkyl diol, alkyl ester.
P–12–0241	10/11/2017	10/11/2017	(G) [2-propenoic acid, 2-methyl-, 2-hydroxyethyl esters, telomers with C_{18-26}-alkyl acrylate, 1-dodecanethiol, *N*-(hydroxymethyl)-2-methyl-2-propenamide, 3,3,4,4,5,5,6,6,7,7,8,8,8-tridecaflourooctyl methacrylate, 2,2-[1,2 diazenedylbis(1-methylethylidene)]bis[4,5-dihydro-1*H*- imidazole]hydrochloride (1:2)-initiated].
P–12–0513	10/2/2017	7/16/2016	(G) Aromatic dicarboxylic acid, polymer with dialkyl alkanediol, alkyl-(hydroxyalkyl)-alkanediol, dicarboxylic acid, heteropolcyclic anhydride, alkanetriol, hydroxy-[(oxoalkyl)oxy]alkyl ester.

TABLE 2—NOCS RECEIVED FROM OCTOBER 2, 2017 TO OCTOBER 31, 2017—Continued

Case No.	Received date	Commencement notice end date	Chemical
P–13–0754	10/20/2017	10/23/2013	(G) Alkylphenol.
P–14–0112	10/24/2017	10/13/2017	(G) Amides, from polyethylenepolyamines and tall-oil fatty acids, reaction products with alkyl monopolyisobutylene derivs.
P–14–0758	10/11/2017	9/27/2017	(S) 2-propenenitrile, polymer with methanamine, hydrogenated, 3-aminopropyl-terminated, ethoxylated, propoxylated.
P–14–0869	10/4/2017	9/23/2017	(G) Hexanedioic acid, polymer with alkyldiol, 1,6-hexanediol, dicarboxylic acid anhydride, 1,1′-methylenebis[isocyanatobenzene], alkylene oxides and .alpha., .alpha.′, .alpha.″-1,2,3-propanetriyltris[.omega.-hydroxypoly[oxy(methyl-1,2-ethanediyl)]].
P–15–0322	10/19/2017	9/26/2016	(G) Poly[oxy(alkanediyl)],.alpha.,.alpha.′,.alpha.″-1,2,3-propanetriyltris[.omega.-(2-hydroxy-3-mercaptopropoxy)-.
P–15–0753	10/13/2017	8/29/2016	(G) Polyester amine adduct.
P–16–0042	10/3/2017	6/16/2016	(G) Polyammonium salt of a fatty acid.
P–16–0246	10/23/2017	10/17/2017	(S) 2-pyridinecarboxylic acid, 6-(4-chloro-2-fluoro-3-methoxyphenyl)-4,5-difluoro-, phenylmethyl ester.
P–16–0322	10/10/2017	10/2/2017	(G) Manganese cyclic (tri)amine chloride complex.
P–16–0466	10/2/2017	11/30/2016	(G) 2,5-furandione, telomer with ethenylbenzene and (1-methylethyl)benzene, amides with polyethylene-polypropylene glycol aminoalkyl me ether, alkali salts.
P–16–0493	10/25/2017	10/16/2017	(G) Dicarboxylic acids, polymers with alkyl prop-2-enoate, alkyl 2-methylprop-2-enoate, alkyl[(alkenyl)alkyl]alkanediol, alkanediol, alkanedioic acid, alkyl 2-methylprop-2-enoate,alkyl prop-2-enoic acid,alkylene [isocyanatocarbomonocyle] and alkanediol, alkanolamine-blocked, compds with 2·(alkylamino)alkanol.
P–16–0590	10/18/2017	9/20/2017	(S) Silica gel, reaction products with chromium oxide (cro3) and ethoxydiethylaluminum.
P–17–0019	10/2/2017	2/8/2017	(G) Hydroxyl alkyl acrylate ester, polymer with acrylates, aromatic vinyl monomer, cycloaliphatic lactone, and alkyl carboxylic acid, peroxide initiated.
P–17–0227	10/3/2017	6/23/2017	(G) 2-propenoic acid, alkyl-, alkyl ester, polymer with alkyl 2-propenoate and alpha-(2-alkyl-1-oxo-2-propen-1-yl-omega-methoxypoly(oxy-1,2-alkanediyl), ester with alpha-2-propen-1-yl-omega-hydroxypoly(oxy-1,2-ethanediyl).
P–17–0236	10/6/2017	10/6/2017	(G) Formaldehyde, polymer with (chloromethyl) oxirane and substituted aromatic compounds.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 12, 2017.

Pamela Myrick,

Director, Information Management Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–28315 Filed 12–29–17; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPPT–2013–0677; FRL–9972–16]

Receipt of Information Under the Toxic Substances Control Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA is announcing its receipt of information submitted pursuant to a rule, order, or consent agreement issued under the Toxic Substances Control Act (TSCA). As required by TSCA, this document identifies each chemical substance and/or mixture for which information has been received; the uses or intended uses of such chemical substance and/or mixture; and describes the nature of the information received. Each chemical substance and/or mixture related to this announcement is identified in Unit I. under **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT:

For technical information contact: John Schaeffer, Chemical Control Division (7405M), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460–0001; telephone number: (202) 564–8173; email address: *schaeffer.john@epa.gov.*

For general information contact: The TSCA-Hotline, ABVI-Goodwill, 422 South Clinton Ave., Rochester, NY 14620; telephone number: (202) 554–1404; email address: *TSCA-Hotline@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Chemical Substances and/or Mixtures

Information received about the following chemical substance(s) and/or mixture(s) is provided in Unit IV.: *Benzene, 1-chloro-4-(trifluoromethyl)-* (*CASRN 98–56–6*).

II. Authority

Section 4(d) of TSCA (15 U.S.C. 2603(d)) requires EPA to publish a notice in the **Federal Register** reporting the receipt of information submitted pursuant to a rule, order, or consent agreement promulgated under TSCA section 4 (15 U.S.C. 2603).

III. Docket Information

A docket, identified by the docket identification (ID) number EPA–HQ–OPPT–2013–0677, has been established for this **Federal Register** document, which announces the receipt of the information. Upon EPA's completion of its quality assurance review, the information received will be added to the docket identified in Unit IV., which represents the docket used for the TSCA section 4 rule, order, and/or consent agreement. In addition, once completed, EPA reviews of the information received will be added to the same docket. Use the docket ID number provided in Unit IV. to access the information received and any available EPA review.

EPA's dockets are available electronically at *http://www.regulations.gov* or in person at the Office of Pollution Prevention and Toxics Docket (OPPT Docket), Environmental Protection Agency Docket Center (EPA/DC), West William Jefferson Clinton Bldg., Rm. 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 legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the OPPT Docket is (202) 566–0280. Please review the visitor instructions and additional information about the docket available at *http://www.epa.gov/dockets.*

IV. Information Received

As specified by TSCA section 4(d), this unit identifies the information received by EPA: *Benzene, 1-chloro-4-(trifluoromethyl)-(CASRN 98–56–6).*

1. *Chemical Uses:* Benzene, 1-chloro-4-(trifluoromethyl)- is used as a solvent for industrial cleaning, in aerosols, adhesives, coatings, inks, and electronic application. It is also used as a 1,1,1-trichloroethane alternative; dye intermediate; dielectric fluid; dinitroaniline herbicide intermediate; and as an ingredient in home maintenance products.

2. *Applicable Rule, Order, or Consent Agreement:* Chemical testing requirements for third group of high production volume chemicals (HPV3), 40 CFR 799.5089.

3. *Information Received:* EPA received the following information:

- Request for exemption from testing requirements.

The docket ID number assigned to this information is EPA–HQ–OPPT–2009–0112.

Authority: 15 U.S.C. 2601 *et seq.*

Dated: December 14, 2017.

Maria J. Doa,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

[FR Doc. 2017–28314 Filed 12–29–17; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1186]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Nicole Ongele, FCC, via email *PRA@fcc.gov* and to *Nicole.Ongele@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Nicole Ongele at (202) 418–2991. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1186.

Title: Rural Call Completion Recordkeeping and Reporting Requirements, WC Docket No. 13–39.

Form Number: FCC Form 480.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 60 respondents; 280 responses.

Estimated Time per Response: 26 hours per quarter (on average).

Frequency of Response: Quarterly reporting requirement and recordkeeping requirement.

Obligation to Respond: Required to obtain or retain benefits. Statutory authority for this information collection is contained in sections 201, 202, 217, 218, 220(a), and 403 of the Communications Act of 1934, as amended.

Total Annual Burden: 6,240 hours.

Total Annual Cost: $550,000.

Privacy Act Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: The Commission is not requesting respondents to submit confidential information. Any respondent that submits information to the Commission that they believe is confidential may request confidential treatment of such information under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The recordkeeping and reporting requirements as adopted apply to long-distance service providers and other covered providers that make

the initial long-distance call path choice for more than 100,000 retail long-distance subscribers lines. Based on the Commission's experience to date with these rules, we estimate approximately 60 wireline, wireless, and wholesale providers will be required to file an electronic report with the FCC. We note that the number of providers this estimate replaces, 225, was also an approximation.

The Commission believes that rural call completion is a continuing problem and that continued Commission focus on the issue is warranted. Given the approaching deadline to renew OMB approval for this information collection, and the fact that the rules underlying this information collection are still in effect and will remain so while Commission action on this matter is pending, we request an extension of the current approval. We expect that the Commission's proposals to modify these rules will be resolved within the time frame of the extension, at which point the Commission would seek any necessary modification to the current collection.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–28301 Filed 12–29–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[OMB 3060–1030]

Information Collection Being Submitted for Review and Approval to the Office of Management and Budget

AGENCY: Federal Communications Commission.

ACTION: Notice and request for comments.

SUMMARY: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995, the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

The Commission may not conduct or sponsor a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid OMB control number.

DATES: Written comments should be submitted on or before February 1, 2018. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contacts listed below as soon as possible.

ADDRESSES: Direct all PRA comments to Nicholas A. Fraser, OMB, via email *Nicholas_A._Fraser@omb.eop.gov;* and to Cathy Williams, FCC, via email *PRA@fcc.gov* and to *Cathy.Williams@fcc.gov.* Include in the comments the OMB control number as shown in the **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection, contact Cathy Williams at (202) 418–2918. To view a copy of this information collection request (ICR) submitted to OMB: (1) Go to the web page *http://www.reginfo.gov/public/do/PRAMain*, (2) look for the section of the web page called ''Currently Under Review,'' (3) click on the downward-pointing arrow in the ''Select Agency'' box below the ''Currently Under Review'' heading, (4) select ''Federal Communications Commission'' from the list of agencies presented in the ''Select Agency'' box, (5) click the ''Submit'' button to the right of the ''Select Agency'' box, (6) when the list of FCC ICRs currently under review appears, look for the OMB control number of this ICR and then click on the ICR Reference Number. A copy of the FCC submission to OMB will be displayed.

SUPPLEMENTARY INFORMATION: As part of its continuing effort to reduce paperwork burdens, and as required by the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3520), the Federal Communications Commission (FCC or the Commission) invites the general public and other Federal agencies to take this opportunity to comment on the following information collection. Comments are requested concerning: Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; the accuracy of the Commission's burden estimate; ways to enhance the quality, utility, and clarity of the information collected; ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology; and ways to further reduce the information collection burden on small business concerns with fewer than 25 employees.

OMB Control Number: 3060–1030.

Title: Service Rules for Advanced Wireless Services (AWS) in the 1.7 GHz and 2.1 GHz Bands.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities; state, local, or tribal government; Federal Government and not for profit institutions.

Number of Respondents: 254 respondents; 7,798 responses.

Estimated Time per Response: 0.25 to 5 hours.

Frequency of Response: Annual, semi-annual, one time, and on occasion reporting requirements, recordkeeping requirement, third-party disclosure requirements, and every ten years reporting requirements.

Obligation to Respond: Required to obtain or retain benefits. The statutory authority for this collection is contained in sections 1, 2, 4(i), 201, 301, 302, 303, 307, 308, 309, 310, 316, 319, 324, 332, and 333 of the Communications Act of 1934, as amended, and sections 6003, 6004, and 6401 of the Middle Class Tax Relief Act of 2012, Public Law 112–96, 126 Stat. 156, 47 U.S.C. 151, 152, 154(i), 201, 301, 302(a), 303, 307, 308, 309, 310, 316, 319, 324, 332, 333, 1403, 1404, and 1451.

Total Annual Burden: 14,358 hours.

Total Annual Cost: $767,785.

Privacy Impact Assessment: No impact(s).

Nature and Extent of Confidentiality: There is no need for confidentiality with this collection of information.

Needs and Uses: The Commission will submit this information collection to the Office of Management and Budget (''OMB'') to obtain the full three-year clearance. The Commission has not changed the reporting, recordkeeping and/or third-party disclosure requirements. We are adjusting estimates of the currently approved information collection to more accurately reflect our current estimates

by decreasing some estimates and adding estimates for previously reported, periodic collections that will be active during the three-year approval period.

The currently approved information collections under Control No. 3060–1030 relate to three groups of Advanced Wireless Service (''AWS'') spectrum, commonly referred to as AWS–1, AWS–3, and AWS–4. The FCC's policies and rules apply to application, licensing, operating and technical rules for this spectrum. The respondents are AWS licensees, incumbent Fixed Microwave Service (FS) and Broadband Radio Service (BRS) licensees that relocate out of the AWS bands, and AWS Clearinghouses that keep track of cost sharing obligations. AWS licensees also have coordination requirements with certain Federal Government incumbents.

The information collection requirements are used by incumbent licensees and new entrants to negotiate relocation agreements and to coordinate operations to avoid interference. The information also will be used by the clearinghouses to maintain a national database, determine reimbursement obligations of entrants pursuant to the Commission's rules, and notify such entrants of their reimbursement obligations. Additionally, the information will be used to facilitate dispute resolution and for FCC oversight of the clearinghouses and the cost-sharing plan.

Federal Communications Commission.

Marlene H. Dortch,

Secretary, Office of the Secretary.

[FR Doc. 2017–28300 Filed 12–29–17; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than January 17, 2018.

A. *Federal Reserve Bank of Minneapolis* (Brendan S. Murrin, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Alexandra Bosshard, Washington, DC;* to both retain and acquire additional shares of Bosshard Banco, Ltd., La Crosse, Wisconsin, and thereby indirectly retain and acquire additional shares of First National Bank of Bangor, Bangor, Wisconsin, and Intercity State Bank, Schofield, Wisconsin, as a member of the Bosshard Family Group that controls Bosshard Banco, Ltd.

B. *Federal Reserve Bank of Dallas* (Robert L. Triplett III, Senior Vice President) 2200 North Pearl Street, Dallas, Texas 75201–2272:

1. *Roy Thomas Pitcock, Jr., Graham, Texas; Medora Jacqueline Pitcock Eubank, Fort Worth, Texas; the Melissa Pitcock Trust, Graham, Texas; and Angela Allison Pitcock Adams, Aledo, Texas (together, the Pitcock Family Group);* as a group acting in concert to both retain and acquire additional shares of Graham Savings Financial Corp., and thereby indirectly retain and acquire additional shares of Graham Savings and Loan SSB, both in Graham, Texas.

C. *Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Michael D. Werner, as trustee of the Michael D. Werner Revocable Trust, Key West, Florida; and Judith Werner, Waupun, Wisconsin;* as a group acting in concert to retain voting shares of National Bancshares, Inc., and thereby indirectly retain voting shares of NBW Bank, both in Waupun, Wisconsin.

Board of Governors of the Federal Reserve System, December 27, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–28293 Filed 12–29–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than January 26, 2018.

A. *Federal Reserve Bank of Kansas City* (Dennis Denney, Assistant Vice President) 1 Memorial Drive, Kansas City, Missouri 64198–0001:

1. *Caldwell County Bancshares, Inc., Hamilton, Missouri;* to acquire Horizon State Bank, Cameron, Missouri.

2. *First State Holding Co., Lincoln, Nebraska;* to acquire Wallco, Inc., and thereby indirectly acquire The Nehawka Bank, both in Nehawka, Nebraska.

B. *Federal Reserve Bank of Richmond* (Adam M. Drimer, Assistant Vice President) 701 East Byrd Street, Richmond, Virginia 23261–4528. Comments can also be sent electronically to *Comments.applications@rich.frb.org:*

1. *Old Point Financial Corporation, Hampton, Virginia;* to acquire Citizens National Bank, Windsor, Virginia.

Board of Governors of the Federal Reserve System, December 27, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–28292 Filed 12–29–17; 8:45 am]

BILLING CODE P

FEDERAL RESERVE SYSTEM

Proposed Agency Information Collection Activities; Comment Request

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Notice, request for comment.

SUMMARY: The Board of Governors of the Federal Reserve System (Board) invites comment on a proposal to extend for three years, with revision, the mandatory Financial Statements for Holding Companies (FR Y–9; OMB No. 7100–0128).

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board authority under the Paperwork Reduction Act (PRA) to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board. In exercising this delegated authority, the Board is directed to take every reasonable step to solicit comment. In determining whether to approve a collection of information, the Board will consider all comments received from the public and other agencies.

DATES: Comments must be submitted on or before March 5, 2018.

ADDRESSES: You may submit comments, identified by *FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, or FR Y–9CS,* by any of the following methods:

- *Agency website: http://www.federalreserve.gov.* Follow the instructions for submitting comments at *http://www.federalreserve.gov/apps/foia/proposedregs.aspx* .
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Email: regs.comments@federalreserve.gov.* Include OMB number in the subject line of the message.
- *Fax:* (202) 452–3819 or (202) 452–3102.
- *Mail:* Ann E. Misback, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue NW, Washington, DC 20551.

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

Additionally, commenters may send a copy of their comments to the OMB Desk Officer—Shagufta Ahmed—Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 10235, 725 17th Street NW, Washington, DC 20503 or by fax to (202) 395–6974.

FOR FURTHER INFORMATION CONTACT: A copy of the PRA OMB submission, including the proposed reporting form and instructions, supporting statement, and other documentation will be placed into OMB's public docket files, once approved. These documents will also be made available on the Federal Reserve Board's public website at: *http://www.federalreserve.gov/apps/reportforms/review.aspx* or may be requested from the agency clearance officer, whose name appears below.

Federal Reserve Board Clearance Officer—Nuha Elmaghrabi—Office of the Chief Data Officer, Board of Governors of the Federal Reserve System, Washington, DC 20551 (202) 452–3829. Telecommunications Device for the Deaf (TDD) users may contact (202) 263–4869, Board of Governors of the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION:

Request for Comment on Information Collection Proposal

The Board invites public comment on the following information collection, which is being reviewed under authority delegated by the OMB under the PRA. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed 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;

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

e. Estimates of capital or startup costs and costs of operation, maintenance, and purchase of services to provide information.

At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the Federal Reserve should modify the proposal prior to giving final approval.

Proposal To Approve Under OMB Delegated Authority the Extension for Three Years, With Revision, of the Following Report

Consolidated Financial Statements for Holding Companies, Parent Company Only Financial Statements for Large Holding Companies, Parent Company Only Financial Statements for Small Holding Companies, Financial Statement for Employee Stock Ownership Plan Holding Companies, and the Supplement to the Consolidated Financial Statements for Holding Companies.

Agency form number: FR Y–9C, FR Y–9LP, FR Y–9SP, FR Y–9ES, and FR Y–9CS.

OMB control number: 7100–0128.

Frequency: Quarterly and semiannually.

Reporters: Bank holding companies (BHCs), savings and loan holding companies (SLHCs), securities holding companies (SHCs), and U.S. Intermediate Holding Companies (IHCs) (collectively, holding companies (HCs)).

Estimated annual reporting hours: FR Y–9C (non-advanced approaches holding companies): 125,357 hours; FR Y–9C (advanced approached holding companies): 3,556 hours; FR Y–9LP: 16,969 hours; FR Y–9SP: 42,919; FR Y–9ES: 42 hours; FR Y–9CS: 472 hours.

Estimated average hours per response: FR Y–9C (non-advanced approaches holding companies): 48.14 hours; FR Y–9C (advanced approached holding companies HCs): 49.39 hours; FR Y–9LP: 5.27 hours; FR Y–9SP: 5.40 hours FR Y–9ES: 0.50 hours; FR Y–9CS: 0.50 hours.

Number of respondents: FR Y–9C (non-advanced approaches holding companies): 651; FR Y–9C (advanced approached holding companies): 18; FR Y–9LP: 805; FR Y–9SP: 3,974 FR Y–9ES: 84; FR Y–9CS: 236.

General description of report: Pursuant to the Bank Holding Company Act of 1956 (BHC Act), as amended, and the Home Owners' Loan Act (HOLA), the Federal Reserve requires HCs to provide standardized financial statements to fulfill the Federal Reserve's statutory obligation to supervise these organizations. HCs file the FRY–9C and FR Y–9LP quarterly, and the FR Y–9SP semiannually, the FR Y–9ES annually, and the FR Y–9CS on a schedule that is determined when this supplement is used.

Proposed revisions: The Board proposes a number of revisions to the FR Y–9C requirements, most of which are consistent with proposed changes to the Federal Financial Institutions Examination Council (FFIEC) Consolidated Reports of Condition and Income (Call Reports) (FFIEC 031, FFIEC 041, and FFIEC 051; OMB No. 7100–0036). The proposed revisions to the FR Y–9C include deletions and consolidations of existing data items into new data items, reductions in reporting frequency, and new and

revised reporting thresholds for certain data items. The Board also proposes to make changes to the reporting forms and instructions for the FR Y–9C, FR Y–9LP, and FR Y–9SP to implement accounting changes pertaining to equity securities under Accounting Standards update (ASU No. 2016–01, ''Recognition and Measurement of Financial Assets and Financial Liabilities.''). The accounting changes pertaining to equity securities would be effective beginning with the reports reflecting the March 31, 2018, report date and June 30, 2018 for all other changes. The proposed changes include:

- Deleting and combining of certain data items pertaining to (1) Goodwill and Other intangible assets from Schedule HC, Balance Sheet; (2) U.S. Government agency obligations and structured financial products from Schedule HC–B, Securities; (3) Structured financial products and certain loans and the unpaid principal balance of such loans on Schedule HC–D, Trading Assets; (4) Certain over-the counter derivatives on Schedule HC–L, Derivatives and Off-Balance sheet items, and (5) Purchased credit card relationships and nonmortgage servicing assets from Schedule HC–M, Memoranda;
- Deleting two preprinted captions for other noninterest income on Schedule HI, Income Statement and certain data items on Schedule HC–D, Trading Assets and Liabilities;
- Deleting Column B (Domestic Office) from Schedule HC–D, Trading Assets and Liabilities
- Reducing the reporting frequency from quarterly to semiannual and from quarterly to annual for certain data items on the FR Y–9C report
- Increasing and adding reporting thresholds for certain data items in four FR Y–9C schedules
- Revising the reporting forms and instructions to implement the reporting of equity securities under ASU–2016–01 and
- Moving ''Goodwill'' from Schedule HC to Schedule HC–M, Memoranda.

Legal authorization and confidentiality: The Board's Legal Division has determined that the FR Y–9 family of reports is authorized by section 5(c) of the Bank Holding Company Act (12 U.S.C. 1844(c)), section 10 of Home Owners' Loan Act (12 U.S.C. 1467a(b) and 1850a(c)(1)), section 165 of the Dodd-Frank Act (12 U.S.C. 5365), and section 252.153(b)(2) of Regulation YY (12 CFR 252.153(b)(2)). The obligation of covered HCs to report this information is mandatory. In general, the Board does not consider the financial data in these reports to be confidential. However, a respondent may request confidential treatment pursuant to sections (b)(4), (b)(6), and (b)(8) of the Freedom of Information Act (5 U.S.C. 552(b)(4), (b)(6), and (b)(8)). The applicability of these exemptions would need to be reviewed on a case by case basis.

Board of Governors of the Federal Reserve System, December 27, 2017.

Ann E. Misback,

Secretary of the Board.

[FR Doc. 2017–28290 Filed 12–29–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–0809]

Issuance of Priority Review Voucher; Rare Pediatric Disease Product

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the issuance of a priority review voucher to the sponsor of a rare pediatric disease product application. The Federal Food, Drug, and Cosmetic Act (FD&C Act), as amended by the Food and Drug Administration Safety and Innovation Act (FDASIA), authorizes FDA to award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria. FDA is required to publish notice of the award of the priority review voucher. FDA has determined that LUXTURNA (voretigene neparvovec), manufactured by Spark Therapeutics, Inc., meets the criteria for a priority review voucher.

FOR FURTHER INFORMATION CONTACT: Gretchen Opper, Center for Biologics Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 71, Rm. 7301, Silver Spring, MD 20993–0002, 240–402–7911.

SUPPLEMENTARY INFORMATION: FDA is announcing the issuance of a priority review voucher to the sponsor of an approved rare pediatric disease product application. Under section 529 of the FD&C Act (21 U.S.C. 360ff), which was added by FDASIA, FDA will award priority review vouchers to sponsors of approved rare pediatric disease product applications that meet certain criteria upon approval of those applications. FDA has determined that LUXTURNA (voretigene neparvovec), manufactured by Spark Therapeutics, Inc., meets the criteria for a priority review voucher. LUXTURNA (voretigene neparvovec) is an adeno-associated virus vector-based gene therapy indicated for the treatment of patients with confirmed biallelic RPE65 mutation-associated retinal dystrophy. Patients must have viable retinal cells as determined by the treating physician(s).

For further information about the Rare Pediatric Disease Priority Review Voucher Program and for a link to the full text of section 529 of the FD&C Act, go to *https://www.fda.gov/ForIndustry/DevelopingProductsforRareDiseasesConditions/RarePediatricDiseasePriorityVoucherProgram/default.htm.* For further information about LUXTURNA (voretigene neparvovec), go to the Center for Biologics Evaluation and Research cellular and gene therapy products website at *https://www.fda.gov/BiologicsBloodVaccines/CellularGeneTherapyProducts/ApprovedProducts/default.htm.*

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28256 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6928]

Pediatric Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Pediatric Advisory Committee (PAC). The general function of the committee is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comments.

DATES: The meeting will be held on March 23, 2018, from 8:30 a.m. to 3:05 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Building 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. 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.*

FDA is establishing a docket for public comment on this document. The docket number is Docket No. FDA–2017–N–6928. The docket will close on March 26, 2018. Submit either electronic or written comments on this public meeting by that date. Please note that late, untimely comments will not be considered. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of March 26, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before March 9, 2018, will be provided to the committee. Comments received after that date will be taken into consideration by FDA.

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 make 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–6928 for ''Pediatric Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' FDA 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: Marieann Brill, Office of the Commissioner, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 32, Rm. 5154, Silver Spring, MD 20993, 240–402–3838, *marieann.brill@fda.hhs.gov,* 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 FDA's website at *https://www.fda.gov/AdvisoryCommittees/default.htm.* 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: The PAC will meet to discuss pediatric-focused safety reviews, as mandated by the Best Pharmaceuticals for Children Act (Pub. L. 107–109) and the Pediatric Research Equity Act of 2003 (Pub. L. 108–155). Comments about the upcoming advisory committee meeting should be submitted to Docket No. FDA–2017–N–6928.

The PAC will meet to discuss the following products (listed by FDA Center):

(1) Center for Drug Evaluation and Research
   a. BANZEL
   b. INTUNIV
   c. LEXAPRO
(2) Center for Devices and Radiological Health
   a. FLOURISH (Humanitarian Device Exemption (HDE))
   b. ACTIVA (HDE)
   c. LIPOSORBER (HDE)
   d. IMPELLA RP SYSTEM

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 March 16, 2018. Oral presentations from the public will be scheduled between approximately 9 a.m. and 10 a.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 March 8, 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 March 9, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA 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 Marieann Brill 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 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28259 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6753]

Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice, establishment of a public docket; request for comments.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming public advisory committee meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee. The general function of the committees is to provide advice and recommendations to FDA on regulatory issues. The meeting will be open to the public. FDA is establishing a docket for public comment on this document.

DATES: The meeting will be held on February 14, 2018, from 8 a.m. to 12:30 p.m.

ADDRESSES: FDA White Oak Campus, 10903 New Hampshire Ave., Bldg. 31 Conference Center, the Great Room (Rm. 1503), Silver Spring, MD 20993–0002. 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*.

FDA is establishing a docket for public comment on this meeting. The docket number is FDA–2017–N–6753. The docket will close on February 13, 2018. Submit either electronic or written comments on this public meeting by February 13, 2018. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before February 13, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of February 13, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Comments received on or before January 31, 2018, will be provided to the committees. Comments received after that date will be taken into consideration by FDA.

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–6753 for ''Joint Meeting of the Anesthetic and Analgesic Drug Products Advisory Committee and the Drug Safety and Risk Management Advisory Committee; Notice of Meeting; Establishment of a Public Docket; Request for Comments.'' Received comments, those filed in a timely manner (see **ADDRESSSES**), 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.'' FDA 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 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 the 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: Moon Hee V. Choi, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 31, Rm. 2417, Silver Spring, MD 20993–0002, 301–796–9001, Fax: 301–847–8533, email: *AADPAC@fda.hhs.gov,* 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 FDA'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: The committees will be asked to discuss new drug application (NDA) 209257, proposed tradename, HYDEXOR, a fixed-dose combination oral tablet, submitted by Charleston Laboratories, Inc., that contains hydrocodone, acetaminophen, and promethazine, for the short-term management of acute pain severe enough to require an opioid analgesic while preventing and reducing opioid-induced nausea and vomiting. The committees will also be asked to discuss the abuse potential of this non-abuse-deterrent product and whether it should be approved.

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 committees. Written submissions may be made to the contact person on or before January 31, 2018. Oral presentations from the public will be scheduled between approximately 10:15 a.m. and 11:15 a.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 23, 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 24, 2018.

Persons attending FDA's advisory committee meetings are advised that FDA is not responsible for providing access to electrical outlets.

For press inquiries, please contact the Office of Media Affairs at *fdaoma@fda.hhs.gov* or 301–796–4540.

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 Moon Hee V. Choi 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 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28250 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–6852]

Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc. et al.; Withdrawal of Approval of 111 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is withdrawing approval of 111 abbreviated new drug applications (ANDAs) from multiple applicants. The holders of the applications notified the Agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

DATES: Approval is withdrawn as of February 1, 2018.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1671, Silver Spring,

MD 20993–0002, 240–402–7945, *Trang.Tran@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: The holders of the applications listed in table 1 have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications under the process in § 314.150(c) (21 CFR 314.150(c)). The applicants have also, by their requests, waived their opportunity for a hearing. Withdrawal of approval of an application or abbreviated application under § 314.150(c) is without prejudice to refiling.

TABLE 1

Application No.	Drug	Applicant
ANDA 040008	Heparin Sodium Injection USP, 1000 units/milliliter (mL)	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 040137	Chlorzoxazone Tablets USP, 500 milligrams (mg)	Do.
ANDA 040410	Methylphenidate Hydrochloride (HCl) Extended-Release Tablets USP, 20 mg.	Do.
ANDA 040456	Amphetamine Aspartate; Amphetamine Sulfate; Dextroamphetamine Saccharate; Dextroamphetamine Sulfate Tablets, 1.25 mg/1.25 mg/1.25 mg/1.25 mg, 2.5 mg/2.5 mg/2.5 mg/2.5 mg, 5 mg/5 mg/5 mg/5 mg, and 7.5 mg/7.5 mg/7.5 mg/7.5 mg.	Actavis Elizabeth, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 040666	A-Hydrocort (hydrocortisone sodium succinate) for Injection USP, Equivalent to (EQ) 100 mg base/vial.	Hospira, Inc., a Pfizer Company, 275 North Field Dr., Bldg. H1, Lake Forest, IL 60045.
ANDA 062520	Kanamycin Sulfate Injection, EQ 1 gram (g) base/3 mL	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 062693	Cephradine for Oral Suspension USP, 125 mg/5 mL and 250 mg/5 mL.	Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 062844	Nafcillin for Injection USP, EQ 500 mg base/vial, EQ 1 g base/vial, EQ 1.5 g base/vial, EQ 2 g base/vial, and EQ 4 g base/vial.	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 062856	Oxacillin for Injection USP, EQ 250 mg base/vial, EQ 500 mg base/vial, EQ 1 g base/vial, EQ 2 g base/vial, and EQ 4 g base/vial.	Do.
ANDA 062984	Oxacillin for Injection USP, EQ 10 g base/vial (Pharmacy Bulk Package).	Do.
ANDA 062991	Penicillin G Potassium for Injection USP, 1 million units/vial, 5 million units/vial, 10 million units/vial, and 20 million units/vial.	Do.
ANDA 063008	Nafcillin for Injection USP, EQ 10 g base/vial (Pharmacy Bulk Package).	Do.
ANDA 063014	Penicillin G Sodium for Injection USP, 5 million units/vial	Do.
ANDA 063106	Gentamicin Injection USP, EQ 40 mg base/mL	Teva Pharmaceuticals USA, Inc.
ANDA 064035	Cefuroxime for Injection USP, EQ 750 mg base/vial and EQ 1.5 g base/vial.	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 065280	Cefazolin for Injection USP, EQ 500 mg base/vial and EQ 1 g base/vial.	Cephazone Pharma, LLC, 250 E. Bonita Ave., Pomona, CA 91767.
ANDA 065294	Ceftriaxone for Injection USP, EQ 250 mg base/vial, EQ 500 mg base/vial, EQ 1 g base/vial, and EQ 2 g base/vial.	Do.
ANDA 065295	Cefazolin for Injection USP, EQ 10 g base/vial (Pharmacy Bulk Package).	Do.
ANDA 065296	Cefazolin for Injection USP, EQ 20 g base/vial (Pharmacy Bulk Package).	Do.
ANDA 070301	Propranolol HCl and Hydrochlorothiazide Tablets USP, 40 mg/25 mg.	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 070305	Propranolol HCl and Hydrochlorothiazide Tablets USP, 80 mg/25 mg.	Do.
ANDA 070468	Verapamil HCl Tablets USP, 120 mg	Actavis Elizabeth, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 070549	Propranolol HCl Tablets USP, 20 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 070703	Methyldopa Tablets USP, 250 mg	Do.
ANDA 070714	Haloperidol Injection USP, EQ 5 mg base/mL	Do.
ANDA 070851	Propranolol HCl and Hydrochlorothiazide Tablets USP, 40 mg/25 mg.	Actavis Elizabeth, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 070852	Propranolol HCl and Hydrochlorothiazide Tablets USP, 80 mg/25 mg.	Do.
ANDA 070855	Verapamil HCl Tablets USP, 80 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 070958	Methyldopa and Hydrochlorothiazide Tablets USP, 250 mg/15 mg.	Do.
ANDA 070959	Methyldopa and Hydrochlorothiazide Tablets USP, 250 mg/25 mg.	Do.
ANDA 070960	Methyldopa and Hydrochlorothiazide Tablets USP, 500 mg/50 mg.	Do.

TABLE 1—Continued

Application No.	Drug	Applicant
ANDA 071069	Methyldopa and Hydrochlorothiazide Tablets USP, 500 mg/30 mg.	Do.
ANDA 071110	Lorazepam Tablets USP, 2 mg	Do.
ANDA 071117	Lorazepam Tablets USP, 0.5 mg	Do.
ANDA 071118	Lorazepam Tablets USP, 1 mg	Do.
ANDA 071485	Doxepin HCl Capsules USP, EQ 10 mg base	Do.
ANDA 071486	Doxepin HCl Capsules USP, EQ 25 mg base	Do.
ANDA 071666	Ibuprofen Tablets, 400 mg	Pliva, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 071792	Propranolol HCl Tablets USP, 90 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 071883	Betamethasone Valerate Lotion USP, EQ 0.1% base	Teva Pharmaceuticals USA, Inc.
ANDA 071919	Nalidixic Acid Tablets USP, 1 g	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 071936	Nalidixic Acid Tablets USP, 250 mg	Do.
ANDA 072061	Nalidixic Acid Tablets USP, 500 mg	Do.
ANDA 072164	Maprotiline HCl Tablets USP, 75 mg	Do.
ANDA 072795	Metaproterenol Sulfate Tablets USP, 20 mg	Do.
ANDA 072824	Baclofen Tablets USP, 10 mg	Do.
ANDA 073373	Morphine Sulfate Injection USP, 1 mg/2 mL (Ampule)	Do.
ANDA 073374	Morphine Sulfate Injection USP, 10 mg/10 mL (Ampule)	Do.
ANDA 073375	Morphine Sulfate Injection USP, 5 mg/10 mL (Vial)	Do.
ANDA 073376	Morphine Sulfate Injection USP, 10 mg/10 mL (Vial)	Do.
ANDA 073443	Meperidine HCl Injection USP, 10 mg/mL (Preservative Free)	Do.
ANDA 073444	Meperidine HCl Injection USP, 50 mg/mL	Do.
ANDA 073529	Doxapram HCl Injection USP, 20 mg/mL	Do.
ANDA 074032	Metoprolol Tartrate Injection USP, 1 mg/mL	Do.
ANDA 074195	Naproxen Sodium Tablets USP, EQ 250 mg base and EQ 500 mg base.	Do.
ANDA 074276	Lorazepam Injection USP, 2 mg/mL and 4 mg/mL	Do.
ANDA 074279	Dobutamine Injection USP, EQ 12.5 mg base/mL	Do.
ANDA 074393	Isoflurane USP, 99.9%	Do.
ANDA 074457	Naproxen Tablets USP, 250 mg, 375 mg, and 500 mg	Do.
ANDA 074598	Hydromorphone HCl Injection USP, 10 mg/mL	Hospira, Inc.
ANDA 074864	Ranitidine Tablets USP, EQ 150 mg base and EQ 300 mg base.	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 074906	Acyclovir Capsules USP, 200 mg	Actavis Elizabeth, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 075253	Ticlopidine HCl Tablets, 250 mg	Do.
ANDA 075650	Famotidine Tablets USP, 20 mg and 40 mg	Do.
ANDA 075672	Bisoprolol Fumarate and Hydrochlorothiazide Tablets, 2.5 mg/6.25 mg, 5 mg/6.25 mg, and 10 mg/6.25 mg.	Do.
ANDA 075843	Oxaprozin Tablets, 600 mg	Do.
ANDA 075901	Fluvoxamine Maleate Tablets, 25 mg, 50 mg, and 100 mg	Do.
ANDA 075960	Tramadol HCl Tablets, 50 mg	Do.
ANDA 076689	Mirtazapine Orally Disintegrating Tablets USP, 15 mg, 30 mg, and 45 mg.	Do.
ANDA 077174	Foscarnet Sodium Injection, 2.4 g/100 mL	Hospira, Inc.
ANDA 077963	Granisetron HCl Injection, EQ 1 mg base/mL	Teva Pharmaceuticals USA, Inc.
ANDA 080615	Dimenhydrinate Injection, 50 mg/mL	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 080713	Tripelennamine HCl Tablets USP, 50 mg	Do.
ANDA 081150	Hydroxyzine HCl Tablets USP, 25 mg	Do.
ANDA 081151	Hydroxyzine HCl Tablets USP, 50 mg	Do.
ANDA 083287	Procainamide HCl Capsules USP, 250 mg	Do.
ANDA 084280	Procainamide HCl Capsules USP, 500 mg	Do.
ANDA 084403	Procainamide HCl Capsules USP, 375 mg	Do.
ANDA 084467	Reserpine and Hydrochlorothiazide Tablets USP, 0.125 mg/50 mg.	Do.
ANDA 085083	Diphenhydramine HCl Capsules USP, 50 mg	Do.
ANDA 085140	Quinidine Sulfate Tablets USP, 200 mg	Do.
ANDA 085173	Chlorothiazide Tablets USP, 250 mg	Do.
ANDA 085180	Methocarbamol Tablets USP, 500 mg	Do.
ANDA 085192	Methocarbamol Tablets USP, 750 mg	Do.
ANDA 085597	Methylprednisolone Acetate Injectable Suspension USP, 20 mg/mL.	Do.
ANDA 086013	Statobex (phendimetrazine tartrate) Tablets USP, 35 mg	Teva Pharmaceuticals USA, Inc.
ANDA 086029	Testosterone Cypionate Injection USP, 100 mg/mL	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 086031	Isosorbide Dinitrate Sublingual Tablets USP, 5 mg	Do.

TABLE 1—Continued

Application No.	Drug	Applicant
ANDA 086034	Isosorbide Dinitrate Tablets USP, 5 mg	Do.
ANDA 086188	Gerimal (ergoloid mesylates) Sublingual Tablets, 1 mg	Do.
ANDA 086385	Nandrolone Decanoate Injection, 50 mg/mL	Do.
ANDA 086562	Wigraine (ergotamine tartrate and caffeine) Tablets USP, 1 mg/100 mg.	Organon USA, Inc., Subsidiary of Merck & Co., Inc., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
ANDA 086742	Choledyl SA (oxtriphylline) Extended-Release Tablets, 600 mg	Warner Chilcott Co., LLC, Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 086863	Chlorpromazine HCl Oral Concentrate USP, 100 mg/mL	Actavis Mid Atlantic, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044.
ANDA 087233	Ergoloid Mesylates Sublingual Tablets USP, 0.5 mg	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 087244	Ergoloid Mesylates Tablets USP, 1 mg	Do.
ANDA 087318..	Tolbutamide Tablets USP, 500 mg	Do.
ANDA 087727	Aminophylline Oral Solution USP, 105 mg/5 mL (Dye Free)	Actavis Mid Atlantic, LLC, Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 088128	Nandrolone Decanoate Injection, 200 mg/mL	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 088337	Ergostat (ergotamine tartrate) Sublingual Tablets USP, 2 mg	Do.
ANDA 088477	Thioridazine HCl Tablets USP, 15 mg	Do.
ANDA 088561	Thioridazine HCl Tablets USP, 10 mg	Do.
ANDA 088564	Thioridazine HCl Tablets USP, 100 mg	Do.
ANDA 088724	Methyclothiazide Tablets USP, 5 mg	Do.
ANDA 088734	Meclizine HCl Tablets, 25 mg	Pliva, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 088769	Mepivacaine HCl Injection USP, 1%	Watson Laboratories, Inc., Subsidiary of Teva Pharmaceuticals USA, Inc.
ANDA 088770	Mepivacaine HCl Injection USP, 2%	Do.
ANDA 088872	Thioridazine HCl Tablets USP, 200 mg	Do.
ANDA 089026	Procainamide HCl Extended-Release Tablets USP, 250 mg	Do.
ANDA 089027	Procainamide HCl Extended-Release Tablets USP, 500 mg	Do.
ANDA 089530	Prochlorperazine Edisylate Injection USP, EQ 5 mg base/mL	Do.

Therefore, approval of the applications listed in table 1, and all amendments and supplements thereto, is hereby withdrawn as of February 1, 2018. Introduction or delivery for introduction into interstate commerce of products without approved new drug applications violates section 301(a) and (d) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 331(a) and (d)). Drug products that are listed in table 1 that are in inventory on the date that this notice becomes effective (see **DATES**) may continue to be dispensed until the inventories have been depleted or the drug products have reached their expiration dates or otherwise become violative, whichever occurs first.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28254 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–N–5715]

Watson Laboratories, Inc., and Barr Laboratories, Inc., Subsidiaries of Teva Pharmaceuticals USA, Inc.; Withdrawal of Approval of 54 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of October 24, 2017. The document announced the withdrawal of approval of 54 abbreviated new drug applications (ANDAs) from two applicants, effective November 24, 2017. The notice inadvertently announced the withdrawal of approval for ANDA 087296 for Chlorthalidone Tablets USP, 25 milligrams, held by Watson Laboratories, Inc., a subsidiary of Teva Pharmaceuticals USA, Inc., 425 Privet Rd., Horsham, PA 19044. FDA confirms that the approval of ANDA 087296 is still in effect.

FOR FURTHER INFORMATION CONTACT: Trang Tran, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 75, Rm. 1671, Silver Spring, MD 20993–0002, 240–402–7945.

SUPPLEMENTARY INFORMATION: In FR Doc. 2017–23046, appearing on page 49214 in the **Federal Register** of Tuesday, October 24, 2017, the following correction is made:

1. On page 49215, in table 1, the entry for ANDA 087296 is removed.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28253 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2017–D–1846]

Labeling for Combined Hormonal Contraceptives; Draft Guidance for Industry; Availability

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice of availability.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing the availability of a draft guidance for industry entitled ''Labeling for Combined Hormonal Contraceptives.'' This draft guidance provides recommendations on information that should be included in the prescribing information for combined hormonal contraceptives (CHCs), which contain estrogen and progestin. CHC products include combined oral contraceptives (COCs), as well as non-oral products such as transdermal systems and vaginal rings. Many of the labeling recommendations in this draft guidance represent class labeling that should be included in all CHC prescribing information. The draft guidance reflects many of the modifications to prescribing information mandated by the physician labeling rule (PLR) and the pregnancy and lactation labeling rule (PLLR). General advice is provided where modifications to the prescribing information for specific products are needed.

DATES: Submit either electronic or written comments on the draft guidance by March 5, 2018 to ensure that the Agency considers your comment on this draft guidance before it begins work on the final version of the guidance.

ADDRESSES: You may submit comments on any guidance at any time as follows:

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov*. Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov*.
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2017–D–1846 for ''Labeling for Combined Hormonal Contraceptives; Draft Guidance for Industry.'' Received comments will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov*. Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf*.

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

You may submit comments on any guidance at any time (see 21 CFR 10.115(g)(5)).

Submit written requests for single copies of the draft guidance to the Division of Drug Information, Center for Drug Evaluation and Research, Food and Drug Administration, 10001 New Hampshire Ave., Hillandale Building, 4th Floor, Silver Spring, MD 20993–0002. Send one self-addressed adhesive label to assist that office in processing your requests. See the **SUPPLEMENTARY INFORMATION** section for electronic access to the draft guidance document.

FOR FURTHER INFORMATION CONTACT: Jennifer Dao, Center for Drug Evaluation and Research, Food and Drug Administration, 10903 New Hampshire Ave., Bldg. 22, Rm. 5333, Silver Spring, MD 20993–0002, 301–796–8189.

SUPPLEMENTARY INFORMATION:

I. Background

FDA is announcing the availability of a draft guidance for industry entitled ''Labeling for Combined Hormonal Contraceptives.'' This draft guidance provides recommendations on information that should be included in the prescribing information for CHCs, which contain estrogen and a progestin. Such products include COCs, as well as non-oral products such as transdermal systems and vaginal rings. Many of the labeling recommendations in this draft guidance represent class labeling that should be included in all CHC prescribing information. The draft guidance reflects many of the modifications to prescribing information mandated by the PLR [1] and the PLLR.[2]

[1] See the final rule ''Requirements on Content and Format of Labeling for Human Prescription Drug and Biological Products'' (71 FR 3922, January 24, 2006) (21 CFR 201.56(d)(1) and 201.57(c)(9)(i) through (iii)); see also the guidance for industry entitled ''Labeling for Human Prescription Drug and Biological Products—Implementing the PLR Content and Format Requirements'' available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM075082.pdf*.

[2] See the final rule ''Content and Format of Labeling for Human Prescription Drug and Biological Products; Requirements for Pregnancy and Lactation Labeling'' (79 FR 72064, December 4, 2014) (21 CFR 201.56(d) and 201.57); see also the draft guidance for industry entitled ''Pregnancy, Lactation, and Reproductive Potential: Labeling for Human Prescription Drug and Biological Products—Content and Format'' available at *https://www.fda.gov/downloads/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/UCM425398.pdf*. When final, this guidance will represent FDA's current thinking on this topic.

General advice is provided where modifications of the prescribing information for specific products are needed.

FDA previously issued draft guidance on the prescribing information for COCs in March 2004 and invited public comment. That draft guidance was withdrawn in July 2015. However, the development of the current draft guidance took into consideration public comments submitted to the 2004 draft guidance that were science-based and consistent with current PLR and PLLR labeling regulations. This draft guidance has been broadened to incorporate the more general class of CHCs.

FDA invites comments on the content of this draft guidance. In particular, FDA seeks comments on the proposed language under section 7.1 of labeling that identifies a drug interaction with all metabolic enzyme inducers. A variety of metabolic enzyme inducers have been reported to decrease the plasma concentration of the estrogen and/or progestin components of CHCs. FDA seeks comments and data regarding specific enzyme inducers or classes of inducers (*e.g.,* cytochrome p450 3A strong inducers) that interact with CHCs; in particular, comments are requested on whether the CHC labeling should include specific inducers or classes of inducers, or if it should remain broad and essentially cover all possible cytochrome p (CYP) enzyme inducers of any pathway and potency.

This draft guidance is being issued consistent with FDA's good guidance practices regulation (21 CFR 10.115). The draft guidance, when finalized, will represent the current thinking of FDA on labeling for CHCs. It does not establish any rights for any person and is not binding on FDA or the public. You can use an alternative approach if it satisfies the requirements of the applicable statutes and regulations. This guidance is not subject to Executive Order 12866.

II. Paperwork Reduction Act of 1995

This draft guidance refers to previously approved collections of information that 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 201.56 and 201.57 (''Requirements on Content and Format of Labeling for Human Prescription Drug and Biological Products'') are approved under OMB control number 0910–0572. The collections of information from the final rule entitled ''Content and Format of Labeling for Human Prescription Drug and Biological Products; Requirements for Pregnancy and Lactation Labeling'' are approved under OMB control number 0910–0624.

III. Electronic Access

Persons with access to the internet may obtain the draft guidance at either *https://www.fda.gov/Drugs/GuidanceComplianceRegulatoryInformation/Guidances/default.htm* or *https://www.regulations.gov/*.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28252 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2014–N–2347]

Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Cosmetic Export Certificate Application Process

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA or Agency) is announcing an opportunity for public comment on the proposed collection of certain information by the Agency. Under the Paperwork Reduction Act of 1995 (PRA), Federal Agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection provisions associated with export certificate applications for FDA-regulated food and cosmetic products.

DATES: Submit either electronic or written comments on the collection of information by March 5, 2018.

ADDRESSES: You may submit comments as follows. Please note that late, untimely filed comments will not be considered. Electronic comments must be submitted on or before March 5, 2018. The *https://www.regulations.gov* electronic filing system will accept comments until midnight Eastern Time at the end of March 5, 2018. Comments received by mail/hand delivery/courier (for written/paper submissions) will be considered timely if they are postmarked or the delivery service acceptance receipt is on or before that date.

Electronic Submissions

Submit electronic comments in the following way:

- *Federal eRulemaking Portal: https://www.regulations.gov.* Follow the instructions for submitting comments. Comments submitted electronically, including attachments, to *https://www.regulations.gov* will be posted to the docket unchanged. Because your comment will be made public, you are solely responsible for ensuring that your comment does not include any confidential information that you or a third party may not wish to be posted, such as medical information, your or anyone else's Social Security number, or confidential business information, such as a manufacturing process. Please note that if you include your name, contact information, or other information that identifies you in the body of your comments, that information will be posted on *https://www.regulations.gov.*
- If you want to submit a comment with confidential information that you do not wish to be made available to the public, submit the comment as a written/paper submission and in the manner detailed (see ''Written/Paper Submissions'' and ''Instructions'').

Written/Paper Submissions

Submit written/paper submissions as follows:

- *Mail/Hand delivery/Courier (for written/paper submissions):* Dockets Management Staff (HFA–305), Food and Drug Administration, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.
- For written/paper comments submitted to the Dockets Management Staff, FDA will post your comment, as well as any attachments, except for information submitted, marked and identified, as confidential, if submitted as detailed in ''Instructions.''

Instructions: All submissions received must include the Docket No. FDA–2014–N–2347 for ''Agency Information Collection Activities; Proposed Collection; Comment Request; Food and Cosmetic Export Certificate Application Process.'' Received comments, those filed in a timely manner (see **ADDRESSES**), will be placed in the docket and, except for those submitted as ''Confidential Submissions,'' publicly viewable at *https://www.regulations.gov* or at the Dockets Management Staff between 9 a.m. and 4 p.m., Monday through Friday.

- Confidential Submissions—To submit a comment with confidential information that you do not wish to be made publicly available, submit your

comments only as a written/paper submission. You should submit two copies total. One copy will include the information you claim to be confidential with a heading or cover note that states ''THIS DOCUMENT CONTAINS CONFIDENTIAL INFORMATION.'' The Agency will review this copy, including the claimed confidential information, in its consideration of comments. The second copy, which will have the claimed confidential information redacted/blacked out, will be available for public viewing and posted on *https://www.regulations.gov.* Submit both copies to the Dockets Management Staff. If you do not wish your name and contact information to be made publicly available, you can provide this information on the cover sheet and not in the body of your comments and you must identify this information as ''confidential.'' Any information marked as ''confidential'' will not be disclosed except in accordance with 21 CFR 10.20 and other applicable disclosure law. For more information about FDA's posting of comments to public dockets, see 80 FR 56469, September 18, 2015, or access the information at: *https://www.gpo.gov/fdsys/pkg/FR-2015-09-18/pdf/2015-23389.pdf.*

Docket: For access to the docket to read background documents or the electronic and written/paper comments received, go to *https://www.regulations.gov* and insert the docket number, found in brackets in the heading of this document, into the ''Search'' box and follow the prompts and/or go to the Dockets Management Staff, 5630 Fishers Lane, Rm. 1061, Rockville, MD 20852.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Operations, Food and Drug Administration, Three White Flint North, 10A–12M, 11601 Landsdown St., North Bethesda, MD 20852, 301–796–5733, *PRAStaff@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal Agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes Agency requests or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal Agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, FDA is publishing notice of the proposed collection of information set forth in this document.

With respect to the following collection of information, FDA invites comments on these topics: (1) Whether the proposed collection of information is necessary for the proper performance of FDA's functions, including whether the information will have practical utility; (2) the accuracy of FDA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques, when appropriate, and other forms of information technology.

Food and Cosmetic Export Certificate Application Process

OMB Control Number 0910–0793—Revision

Some countries may require manufacturers of FDA-regulated products to provide certificates for products they wish to export to that country. Accordingly, firms exporting products from the United States often ask FDA to provide such a ''certificate.'' In many cases, foreign governments are seeking official assurance that products exported to their countries can be marketed in the United States, or that they meet specific U.S. requirements. In some cases, review of an FDA export certificate may be required as part of the process to register or import a product into another country. An export certificate generally indicates that the particular product is marketed in the United States or otherwise eligible for export and that the particular manufacturer has no unresolved enforcement actions pending before, or taken by, FDA. FDA's Center for Food Safety and Applied Nutrition (CFSAN) issues export certificates for food and cosmetic products. Interested persons may request a certificate electronically via the Certificate Application Process (CAP), a component of the FDA Industry Systems, or by contacting CFSAN for assistance. To facilitate the application process we have eliminated paper-based forms. For food products, we have expanded the electronic options for providing facility and product information. Respondents will now be able to identify facilities based on a food facility registration number, FDA Establishment Identification (FEI) number, or Data Universal Numbering System (DUNS) number. The system uses these identifiers to locate and auto-populate name and address information, eliminating the need for users to manually enter this information and reducing the time to complete the application. Respondents can also upload product information via a spreadsheet, which reduces the time needed to enter product information, particularly for applications that include multiple products. All information is entered using electronic Forms FDA 3613d, 3613e, 3613g, and 3613l and used to evaluate certificate requests.

While burden associated with information collection activities for export certificates issued for other FDA-regulated products is approved under OMB control no. 0910–0498, this collection specifically supports export certificates issued by CFSAN. Also, because we have eliminated paper-based forms, respondents who require assistance with completing export certificate applications online may contact CFSAN directly by email (*CFSANExportCertification@fda.hhs.gov*) or telephone (240–402–2307). Instructions for Form FDA 3613d are available online at *https://www.fda.gov/cosmetics/internationalactivities/exporters/ucm353912.htm* and instructions for Form FDA 3613e are available online at *https://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Exporting/ucm260280.htm.* Draft screenshots of Form FDA 3613g and 3613l are available for comment online at *https://www.fda.gov/Food/GuidanceRegulation/ImportsExports/Exporting/default.htm.*

Description of Respondents: The respondents to this collection of information are firms interested in exporting U.S.-manufactured food and cosmetic products to foreign countries that require export certificates.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

Type of respondent	FDA Form No.[2]	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response (in hours)	Total hours
Cosmetics	FDA 3613d	270	3	810	0.5	405
Food	FDA 3613e, 3613g, 3613l	881	5	4,405	0.5	2,203
Total						2,608

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] All forms are submitted electronically via the Certificate Application Process (CAP).

We have revised the currently approved burden estimate for the information collection to reflect the elimination of paper-based forms. Specifically, and based on our experience with the information collection, we have reduced the estimated time to prepare a submission from 1.5 hours to 0.5 hour. The previous estimate was based on the time necessary to prepare a paper submission, but all firms requesting export certificates now provide submissions electronically via CAP. We believe that the time to prepare an electronic submission is under 0.25 hour, but are estimating 0.5 hour as a conservative approach to address all scenarios. We base our estimates of the total annual responses on our experience with certificate applications received in the past 3 fiscal years.

We expect that most firms requesting export certificates in the next 3 years will choose to take advantage of the option of electronic submission via CAP. If a firm is unable to submit their information via CAP, they may contact CFSAN and request assistance. CFSAN will assist firms in entering their information into the electronic system so that the firm may receive their export certificates in a timely manner. Our burden estimates in Table 1 are based on the expectation of 100 percent participation in the electronic submission process. Providing the opportunity to submit the information in electronic format has reduced our previous estimates for the time to prepare each submission.

Dated: December 26, 2017.

Leslie Kux,

Associate Commissioner for Policy.

[FR Doc. 2017–28258 Filed 12–29–17; 8:45 am]

BILLING CODE 4164–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended, notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Integrative, Functional and Cognitive Neuroscience Integrated Review Group; Neuroendocrinology, Neuroimmunology, Rhythms and Sleep Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: New Orleans Marriott, 555 Canal Street, New Orleans, LA 70130.

Contact Person: Michael Selmanoff, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5164, MSC 7844, Bethesda, MD 20892, 301–435–1119, *mselmanoff@csr.nih.gov*.

Name of Committee: Biological Chemistry and Macromolecular Biophysics Integrated Review Group; Macromolecular Structure and Function A Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Crowne Plaza Dallas Downtown, 1015 Elm Street, Dallas, TX 75202.

Contact Person: David R. Jollie, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4166, MSC 7806, Bethesda, MD 20892, (301)–408–9072, *jollieda@csr.nih.gov*.

Name of Committee: Surgical Sciences, Biomedical Imaging and Bioengineering Integrated Review Group; Medical Imaging Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Catamaran Resort, 3999 Mission Boulevard, San Diego, CA 92109.

Contact Person: Xiang-Ning Li, MD, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5112, MSC 7854, Bethesda, MD 20892, 301–435–1744, *lixiang@csr.nih.gov*.

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Social Sciences and Population Studies A Study Section.

Date: February 1, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marines' Memorial Club & Hotel, 609 Sutter Street, San Francisco, CA 94102.

Contact Person: Suzanne Ryan, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3139, MSC 7770, Bethesda, MD 20892, (301) 435–1712, *ryansj@csr.nih.gov*.

Name of Committee: Vascular and Hematology Integrated Review Group; Atherosclerosis and Inflammation of the Cardiovascular System Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Sheraton Delfina Santa Monica Hotel, 530 West Pico Boulevard, Santa Monica, CA 90405.

Contact Person: Natalia Komissarova, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5207, MSC 7846, Bethesda, MD 20892, 301–435–1206, *komissar@mail.nih.gov*.

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Developmental Therapeutics Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Bayside, 4875 North Harbor Drive, San Diego, CA 92106.

Contact Person: Sharon K. Gubanich, Ph.D., Scientific Review Officer, Center for

Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6214, MSC 7804, Bethesda, MD 20892, (301) 408–9512, *gubanics@csr.nih.gov.*

Name of Committee: Risk, Prevention and Health Behavior Integrated Review Group; Psychosocial Development, Risk and Prevention Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Anna L. Riley, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, 301–435–2889, *rileyann@csr.nih.gov.*

Name of Committee: Bioengineering Sciences & Technologies Integrated Review Group; Biomaterials and Biointerfaces Study Section.

Date: February 1–2, 2018.

Time: 8:00 a.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Capital View, 2850 South Potomac Avenue, Arlington, VA 22202.

Contact Person: Joseph D. Mosca, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5158, MSC 7808, Bethesda, MD 20892, (301) 408–9465, *moscajos@csr.nih.gov.*

Name of Committee: Population Sciences and Epidemiology Integrated Review Group; Kidney, Nutrition, Obesity and Diabetes Study Section.

Date: February 1–2, 2018.

Time: 8:30 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Marriott Wardman Park Washington DC Hotel, 2660 Woodley Road NW, Washington, DC 20008.

Contact Person: Fungai Chanetsa, MPH, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3135, MSC 7770, Bethesda, MD 20892, 301–408–9436, *fungai.chanetsa@nih.hhs.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: December 26, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–28226 Filed 12–29–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Current List of HHS-Certified Laboratories and Instrumented Initial Testing Facilities Which Meet Minimum Standards To Engage in Urine Drug Testing for Federal Agencies

AGENCY: Substance Abuse and Mental Health Services Administration, HHS.

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines).

A notice listing all currently HHS-certified laboratories and IITFs is published in the **Federal Register** during the first week of each month. If any laboratory or IITF certification is suspended or revoked, the laboratory or IITF will be omitted from subsequent lists until such time as it is restored to full certification under the Mandatory Guidelines.

If any laboratory or IITF has withdrawn from the HHS National Laboratory Certification Program (NLCP) during the past month, it will be listed at the end and will be omitted from the monthly listing thereafter.

This notice is also available on the internet at *http://www.samhsa.gov/workplace.*

FOR FURTHER INFORMATION CONTACT: Giselle Hersh, Division of Workplace Programs, SAMHSA/CSAP, 5600 Fishers Lane, Room 16N03A, Rockville, Maryland 20857; 240–276–2600 (voice).

SUPPLEMENTARY INFORMATION: The Department of Health and Human Services (HHS) notifies federal agencies of the laboratories and Instrumented Initial Testing Facilities (IITF) currently certified to meet the standards of the Mandatory Guidelines for Federal Workplace Drug Testing Programs (Mandatory Guidelines). The Mandatory Guidelines were first published in the **Federal Register** on April 11, 1988 (53 FR 11970), and subsequently revised in the **Federal Register** on June 9, 1994 (59 FR 29908); September 30, 1997 (62 FR 51118); April 13, 2004 (69 FR 19644); November 25, 2008 (73 FR 71858); December 10, 2008 (73 FR 75122); April 30, 2010 (75 FR 22809); and on January 23, 2017 (82 FR 7920).

The Mandatory Guidelines were initially developed in accordance with Executive Order 12564 and section 503 of Public Law 100–71. The ''Mandatory Guidelines for Federal Workplace Drug Testing Programs,'' as amended in the revisions listed above, requires strict standards that laboratories and IITFs must meet in order to conduct drug and specimen validity tests on urine specimens for federal agencies.

To become certified, an applicant laboratory or IITF must undergo three rounds of performance testing plus an on-site inspection. To maintain that certification, a laboratory or IITF must participate in a quarterly performance testing program plus undergo periodic, on-site inspections.

Laboratories and IITFs in the applicant stage of certification are not to be considered as meeting the minimum requirements described in the HHS Mandatory Guidelines. A HHS-certified laboratory or IITF must have its letter of certification from HHS/SAMHSA (formerly: HHS/NIDA), which attests that it has met minimum standards.

In accordance with the Mandatory Guidelines dated January 23, 2017 (82 FR 7920), the following HHS-certified laboratories and IITFs meet the minimum standards to conduct drug and specimen validity tests on urine specimens:

HHS-Certified Instrumented Initial Testing Facilities

Dynacare, 6628 50th Street NW, Edmonton, AB Canada T6B 2N7, 780–784–1190 (Formerly: Gamma-Dynacare Medical Laboratories)

HHS-Certified Laboratories

ACM Medical Laboratory, Inc., 160 Elmgrove Park, Rochester, NY 14624, 844–486–9226

Alere Toxicology Services, 1111 Newton St., Gretna, LA 70053, 504–361–8989/800–433–3823 (Formerly: Kroll Laboratory Specialists, Inc., Laboratory Specialists, Inc.)

Alere Toxicology Services, 450 Southlake Blvd., Richmond, VA 23236, 804–378–9130 (Formerly: Kroll Laboratory Specialists, Inc., Scientific Testing Laboratories, Inc.; Kroll Scientific Testing Laboratories, Inc.)

Baptist Medical Center-Toxicology Laboratory, 11401 I–30, Little Rock, AR 72209–7056, 501–202–2783 (Formerly: Forensic Toxicology Laboratory Baptist Medical Center)

Clinical Reference Laboratory, Inc., 8433 Quivira Road, Lenexa, KS 66215–2802, 800–445–6917

DrugScan, Inc., 200 Precision Road, Suite 200, Horsham, PA 19044, 800–235–4890

Dynacare*, 245 Pall Mall Street, London, ONT, Canada N6A 1P4, 519–679–1630 (Formerly: Gamma-Dynacare Medical Laboratories)
ElSohly Laboratories, Inc., 5 Industrial Park Drive, Oxford, MS 38655, 662–236–2609
Laboratory Corporation of America Holdings, 7207 N. Gessner Road, Houston, TX 77040, 713–856–8288/800–800–2387
Laboratory Corporation of America Holdings, 69 First Ave., Raritan, NJ 08869, 908–526–2400/800–437–4986 (Formerly: Roche Biomedical Laboratories, Inc.)
Laboratory Corporation of America Holdings, 1904 TW Alexander Drive, Research Triangle Park, NC 27709, 919–572–6900/800–833–3984 (Formerly: LabCorp Occupational Testing Services, Inc., CompuChem Laboratories, Inc.; CompuChem Laboratories, Inc., A Subsidiary of Roche Biomedical Laboratory; Roche CompuChem Laboratories, Inc., A Member of the Roche Group)
Laboratory Corporation of America Holdings, 1120 Main Street, Southaven, MS 38671, 866–827–8042/800–233–6339 (Formerly: LabCorp Occupational Testing Services, Inc.; MedExpress/National Laboratory Center)
LabOne, Inc. d/b/a Quest Diagnostics, 10101 Renner Blvd., Lenexa, KS 66219, 913–888–3927/800–873–8845 (Formerly: Quest Diagnostics Incorporated; LabOne, Inc.; Center for Laboratory Services, a Division of LabOne, Inc.)
MedTox Laboratories, Inc., 402 W. County Road D, St. Paul, MN 55112, 651–636–7466/800–832–3244
Legacy Laboratory Services—MetroLab, 1225 NE 2nd Ave., Portland, OR 97232, 503–413–5295/800–950–5295
Minneapolis Veterans Affairs Medical Center, Forensic Toxicology Laboratory, 1 Veterans Drive, Minneapolis, MN 55417, 612–725–2088, Testing for Veterans Affairs (VA) Employees Only
National Toxicology Laboratories, Inc., 1100 California Ave., Bakersfield, CA 93304, 661–322–4250/800–350–3515
One Source Toxicology Laboratory, Inc., 1213 Genoa-Red Bluff, Pasadena, TX 77504, 888–747–3774 (Formerly: University of Texas Medical Branch, Clinical Chemistry Division; UTMB Pathology-Toxicology Laboratory)
Pacific Toxicology Laboratories, 9348 DeSoto Ave., Chatsworth, CA 91311, 800–328–6942 (Formerly: Centinela Hospital Airport Toxicology Laboratory)
Pathology Associates Medical Laboratories, 110 West Cliff Dr., Spokane, WA 99204, 509–755–8991/800–541–7891x7
Phamatech, Inc., 15175 Innovation Drive, San Diego, CA 92128, 888–635–5840
Quest Diagnostics Incorporated, 1777 Montreal Circle, Tucker, GA 30084, 800–729–6432 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 400 Egypt Road, Norristown, PA 19403, 610–631–4600/877–642–2216 (Formerly: SmithKline Beecham Clinical Laboratories; SmithKline Bio-Science Laboratories)
Quest Diagnostics Incorporated, 8401 Fallbrook Ave., West Hills, CA 91304, 818–737–6370 (Formerly: SmithKline Beecham Clinical Laboratories)
Redwood Toxicology Laboratory, 3700 Westwind Blvd., Santa Rosa, CA 95403, 800–255–2159
STERLING Reference Laboratories, 2617 East L Street, Tacoma, Washington 98421, 800–442–0438
US Army Forensic Toxicology Drug Testing Laboratory, 2490 Wilson St., Fort George G. Meade, MD 20755–5235, 301–677–7085, Testing for Department of Defense (DoD) Employees Only

* The Standards Council of Canada (SCC) voted to end its Laboratory Accreditation Program for Substance Abuse (LAPSA) effective May 12, 1998. Laboratories certified through that program were accredited to conduct forensic urine drug testing as required by U.S. Department of Transportation (DOT) regulations. As of that date, the certification of those accredited Canadian laboratories will continue under DOT authority. The responsibility for conducting quarterly performance testing plus periodic on-site inspections of those LAPSA-accredited laboratories was transferred to the U.S. HHS, with the HHS' NLCP contractor continuing to have an active role in the performance testing and laboratory inspection processes. Other Canadian laboratories wishing to be considered for the NLCP may apply directly to the NLCP contractor just as U.S. laboratories do.

Upon finding a Canadian laboratory to be qualified, HHS will recommend that DOT certify the laboratory (**Federal Register**, July 16, 1996) as meeting the minimum standards of the Mandatory Guidelines published in the **Federal Register** on January 23, 2017 (82 FR 7920). After receiving DOT certification, the laboratory will be included in the monthly list of HHS-certified laboratories and participate in the NLCP certification maintenance program.

Charles LoDico,

Chemist.

[FR Doc. 2017–28249 Filed 12–29–17; 8:45 am]

BILLING CODE 4160–20–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Final Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: Flood hazard determinations, which may include additions or modifications of Base Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, or regulatory floodways on the Flood Insurance Rate Maps (FIRMs) and where applicable, in the supporting Flood Insurance Study (FIS) reports have been made final for the communities listed in the table below.

The FIRM and FIS report are the basis of the floodplain management measures that a community is required either to adopt or to show evidence of having in effect in order to qualify or remain qualified for participation in the Federal Emergency Management Agency's (FEMA's) National Flood Insurance Program (NFIP). In addition, the FIRM and FIS report are used by insurance agents and others to calculate appropriate flood insurance premium rates for buildings and the contents of those buildings.

DATES: The date of May 15, 2018 has been established for the FIRM and, where applicable, the supporting FIS report showing the new or modified flood hazard information for each community.

ADDRESSES: The FIRM, and if applicable, the FIS report containing the final flood hazard information for each community is available for inspection at the respective Community Map Repository address listed in the tables below and will be available online through the FEMA Map Service Center at *https://msc.fema.gov* by the date indicated above.

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472,

(202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final determinations listed below for the new or modified flood hazard information for each community listed. Notification of these changes has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

This final notice is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4104, and 44 CFR part 67. FEMA has developed criteria for floodplain management in floodprone areas in accordance with 44 CFR part 60.

Interested lessees and owners of real property are encouraged to review the new or revised FIRM and FIS report available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

The flood hazard determinations are made final in the watersheds and/or communities listed in the table below.

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 13, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

Community	Community map repository address
Thurston County, Washington and Incorporated Areas Docket No.: FEMA–B–1659	
City of Lacey	City Hall, 420 College Street Southeast, Lacey, WA 98503.
City of Olympia	City Hall, 601 4th Avenue East, Olympia, WA 98501.
City of Tumwater	City Hall, 555 Israel Road Southwest, Tumwater, WA 98501.
Unincorporated Areas of Thurston County	Thurston County Courthouse, 2000 Lakeridge Drive Southwest, Building 1, Olympia, WA 98502.

[FR Doc. 2017–28184 Filed 12–29–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID FEMA–2017–0002]

Changes in Flood Hazard Determinations

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: New or modified Base (1-percent annual chance) Flood Elevations (BFEs), base flood depths, Special Flood Hazard Area (SFHA) boundaries or zone designations, and/or regulatory floodways (hereinafter referred to as flood hazard determinations) as shown on the indicated Letter of Map Revision (LOMR) for each of the communities listed in the table below are finalized. Each LOMR revises the Flood Insurance Rate Maps (FIRMs), and in some cases the Flood Insurance Study (FIS) reports, currently in effect for the listed communities. The flood hazard determinations modified by each LOMR will be used to calculate flood insurance premium rates for new buildings and their contents.

DATES: Each LOMR was finalized as in the table below.

ADDRESSES: Each LOMR is available for inspection at both the respective Community Map Repository address listed in the table below and online through the FEMA Map Service Center at *https://msc.fema.gov.*

FOR FURTHER INFORMATION CONTACT: Rick Sacbibit, Chief, Engineering Services Branch, Federal Insurance and Mitigation Administration, FEMA, 400 C Street SW, Washington, DC 20472, (202) 646–7659, or (email) *patrick.sacbibit@fema.dhs.gov;* or visit the FEMA Map Information eXchange (FMIX) online at *https://www.floodmaps.fema.gov/fhm/fmx_main.html.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) makes the final flood hazard determinations as shown in the LOMRs for each community listed in the table below. Notice of these modified flood hazard determinations has been published in newspapers of local circulation and 90 days have elapsed since that publication. The Deputy Associate Administrator for Insurance and Mitigation has resolved any appeals resulting from this notification.

The modified flood hazard determinations are made pursuant to section 206 of the Flood Disaster Protection Act of 1973, 42 U.S.C. 4105, and are in accordance with the National Flood Insurance Act of 1968, 42 U.S.C. 4001 *et seq.,* and with 44 CFR part 65.

For rating purposes, the currently effective community number is shown and must be used for all new policies and renewals.

The new or modified flood hazard information is the basis for the floodplain management measures that the community is required either to adopt or to show evidence of being already in effect in order to remain qualified for participation in the National Flood Insurance Program (NFIP).

This new or modified flood hazard information, together with the floodplain management criteria required by 44 CFR 60.3, are the minimum that are required. They should not be construed to mean that the community must change any existing ordinances that are more stringent in their floodplain management requirements. The community may at any time enact stricter requirements of its own or pursuant to policies established by other Federal, State, or regional entities.

This new or modified flood hazard determinations are used to meet the floodplain management requirements of the NFIP and also are used to calculate the appropriate flood insurance premium rates for new buildings, and for the contents in those buildings. The changes in flood hazard determinations are in accordance with 44 CFR 65.4.

Interested lessees and owners of real property are encouraged to review the final flood hazard information available at the address cited below for each community or online through the FEMA Map Service Center at *https://msc.fema.gov.*

(Catalog of Federal Domestic Assistance No. 97.022, ''Flood Insurance.'')

Dated: December 18, 2017.

Roy E. Wright,

Deputy Associate Administrator for Insurance and Mitigation, Department of Homeland Security, Federal Emergency Management Agency.

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Arizona:					
Maricopa (FEMA Docket No.: B–1719).	City of Goodyear (16–09–2737P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering Department, 14455 West Van Buren Street, Suite D–101, Goodyear, AZ 85338.	Jul. 28, 2017	040046
Maricopa (FEMA Docket No.: B–1722).	City of Goodyear (16–09–3153P).	The Honorable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering Department, 14455 West Van Buren Street, Suite D–101, Goodyear, AZ 85338.	Aug. 4, 2017	040046
Maricopa (FEMA Docket No.: B–1722).	City of Goodyear (17–09–0108P).	The Honrable Georgia Lord, Mayor, City of Goodyear, 190 North Litchfield Road, Goodyear, AZ 85338.	Engineering Department, 14455 West Van Buren Street, Suite D–101, Goodyear, AZ 85338.	Aug. 18, 2017	040046
Maricopa (FEMA Docket No.: B–1719).	City of Peoria (16–09–2450P).	The Honorable Cathy Carlat, Mayor, City of Peoria, 8401 West Monroe Street, Peoria, AZ 85345.	City Hall, 8401 West Monroe Street, Peoria, AZ 85345.	Jul. 14, 2017	040050
Maricopa (FEMA Docket No.: B–1722).	Town of Gilbert (17–09–0192P).	The Honorable Jenn Daniels, Mayor, Town of Gilbert, 50 East Civic Center Drive, Gilbert, AZ 85296.	Town Hall, 90 East Civic Center Drive, Gilbert, AZ 85296.	Aug. 4, 2017	040044
Maricopa (FEMA Docket No.: B–1719).	Unincorporated Areas of Maricopa County (16–09–2450P).	The Honorable Denny Barney, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Jul. 14, 2017	040057
Maricopa (FEMA Docket No.: B–1722).	Unincorporated Areas of Maricopa County (16–09–2930P).	The Honorable Denny Barney, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Aug. 11, 2017	040037
Maricopa (FEMA Docket No.: B–1722).	Unincorporated Areas of Maricopa County (17–09–0108P).	The Honorable Denny Barney, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Aug. 18, 2017	040037
Maricopa (FEMA Docket No.: B–1722).	Unincorporated Areas of Maricopa County (17–09–0192P).	The Honorable Denny Barney, Chairman, Board of Supervisors, Maricopa County, 301 West Jefferson Street, 10th Floor, Phoenix, AZ 85003.	Flood Control District of Maricopa County, 2801 West Durango Street, Phoenix, AZ 85009.	Aug. 4, 2017	040037
Pinal (FEMA Docket No.: B–1719).	City of Maricopa (16–09–1250P).	The Honorable Christian Price, Mayor, City of Maricopa, 39700 West Civic Center Plaza, Maricopa, AZ 85138.	City Hall, 45145 West Madison Avenue, Maricopa, AZ 85139.	Jul. 7, 2017	040052
California:					
Alameda (FEMA Docket No.: B–1719).	City of Fremont (16–09–3152P).	The Honorable Lily Mei, Mayor, City of Fremont, 3300 Capitol Avenue, Fremont, CA 94538.	City Hall, 39550 Liberty Street, Fremont, CA 94538.	Jul. 17, 2017	065028
Los Angeles (FEMA Docket No.: B–1722).	Unincorporated Areas of Los Angeles County (16–09–2361P).	The Honorable Mark Ridley-Thomas, Chairman, Board of Supervisors, Los Angeles County, Kenneth Hahn Hall of Administration, 500 West Temple Street Room 358, Los Angeles, CA 90012.	County of Los Angeles Department of Public Works, Annex Building, 900 South Fremont Avenue, 3rd Floor, Alhambra, CA 91803.	Aug. 21, 2017	065043
San Diego (FEMA Docket No.: B–1719).	City of San Diego (15–09–2666P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, 3rd Floor MS 301, San Diego, CA 92101.	Jul. 24, 2017	060295
San Diego (FEMA Docket No.: B–1719).	City of San Diego (16–09–2873P).	The Honorable Kevin L. Faulconer, Mayor, City of San Diego, 202 C Street, 11th Floor, San Diego, CA 92101.	Development Services Department, 1222 1st Avenue, 3rd Floor MS 301, San Diego, CA 92101.	Jul. 7, 2017	060295
Ventura (FEMA Docket No.: B–1722).	Unincorporated Areas of Ventura County (16–09–2752P).	The Honorable Linda Parks, Chair, Board of Supervisors, Ventura County, 625 West Hillcrest Drive, L#5650, Thousand Oaks, CA 91360.	Ventura County Hall of Administration, 800 South Victoria Avenue, Ventura, CA 93009.	Aug. 4, 2017	060413
Hawaii: Hawaii (FEMA Docket No.: B–1722).	Hawaii County (17–09–0654P).	The Honorable Harry Kim, Mayor, County of Hawaii, 25 Aupuni Street, Hilo, HI 96720.	Department of Public Works, 101 Pauahi Street, Suite 7, Hilo, HI 96720.	Aug. 15, 2017	155166
Illinois:					

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Lake (FEMA Docket No.: B–1719).	City of Highland Park (16-05-6565P).	The Honorable Nancy R. Rotering, Mayor, City of Highland Park, 1707 St. Johns Avenue, Highland Park, IL 60035.	Public Services Building, 1150 Half Day Road, Highland Park, IL 60035.	Jul. 28, 2017	170367
Lake (FEMA Docket No.: B–1719).	Village of Deerfield (16-05-6565P).	The Honorable Harriet Rosenthal, Mayor, Village of Deerfield, 850 Waukegan Road, Deerfield, IL 60015.	Village Hall, 850 Waukegan Road, Deerfield, IL 60015.	Jul. 28, 2017	170361
Lake (FEMA Docket No.: B–1719).	Village of Mundelein (16–05–6526P).	The Honorable Steve Lentz, Mayor, Village of Mundelein, 300 Plaza Circle, Mundelein, IL 60060.	Village Hall, 300 Plaza Circle, Mundelein, IL 60060.	Jul. 28, 2017	170382
Will (FEMA Docket No.: B–1719).	City of Joliet (17–05–2357P).	The Honorable Robert O'Dekirk, Mayor, City of Joliet, 150 West Jefferson Street, Joliet, IL 60432.	City Hall, 150 West Jefferson Street, Joliet, IL 60432.	Jul. 13, 2017	170702
Indiana: LaPorte (FEMA Docket No.: B–1722).	City of Michigan City (16–05–4995P).	The Honorable Ron Meer, Mayor, City of Michigan City, City Hall, 100 East Michigan Boulevard, Michigan City, IN 46360.	Planning and Redevelopment Department, Michigan City, City Hall, 100 East Michigan Boulevard, Michigan City, IN 46360.	Aug. 4, 2017	180147
Iowa: Floyd (FEMA Docket No.: B–1722).	City of Charles City (17–07–0802P).	The Honorable Jim E. Erb, Mayor, City of Charles City, 105 Milwaukee Mall, Charles City, IA 50616.	City Hall, 105 Milwaukee Mall, Charles City, IA 50616.	Aug. 14, 2017	190128
Michigan: Macomb (FEMA Docket No.: B–1722).	City of Fraser (16–05–5239P).	The Honorable Joe Nichols, Mayor, City of Fraser, 33000 Garfield Road, Fraser, MI 48026.	City Hall, 33000 Garfield Road, Fraser, MI 48026.	Aug. 10, 2017	260122
Minnesota:					
Roseau (FEMA Docket No.: B–1722).	City of Roseau (17–05–1873P).	The Honorable Jeff Pelowski, Mayor, City of Roseau, City Center, 121 Center Street East Suite 202, Roseau, MN 56751.	City Center, 121 Center Street East, Suite 202, Roseau, MN 56751.	Jul. 31, 2017	270414
Roseau (FEMA Docket No.: B–1722).	Unincorporated Areas of Roseau County (17–05–1873P).	The Honorable Mark Foldesi, Chairman, Roseau County Board of Commissioners, 606 5th Avenue Southwest, Room #131, Roseau, MN 56751.	Roseau County Courthouse, 606 5th Avenue Southwest, Room #130, Roseau, MN 56751.	Jul. 31, 2017	270633
Nevada:					
Clark (FEMA Docket No.: B–1722).	City of Henderson (16–09–2952P).	The Honorable Andy A. Hafen, Mayor, City of Henderson, City Hall, 240 South Water Street, Henderson, NV 89015.	Public Works Department, 240 South Water Street, Henderson, NV 89015.	Aug. 10, 2017	320005
Clark (FEMA Docket No.: B–1722).	Unincorporated Areas of Clark County (16–09–2952P).	The Honorable Steve Sisolak, Chairman, Board of Supervisors, Clark County, 500 South Grand Central Parkway, 6th Floor, Las Vegas, NV 89106.	Office of the Director of Public Works, 500 South Grand Central Parkway, Las Vegas, NV 89155.	Aug. 10, 2017	320003
New Jersey:					
Monmouth (FEMA Docket No.: B–1719).	Borough of Highlands (16–02–2118P).	The Honorable Rick O'Neil, Mayor, Borough of Highlands, 42 Shore Drive, Highlands, NJ 07732.	Highlands Borough Hall, 171 Bay Avenue, Highlands, NJ 07732.	Jul. 19, 2017	345297
Ohio:					
Cuyahoga (FEMA Docket No.: B–1722).	City of Strongsville (16–05–5799P).	The Honorable Thomas P. Perciak, Mayor, City of Strongsville, 16099 Foltz Parkway, Strongsville, OH 44149.	City Hall, 16099 Foltz Parkway, Strongsville, OH 44149.	Aug. 2, 2017	390132
Lorain (FEMA Docket No.: B–1722).	Unincorporated Areas of Lorain County (16–05–5799P).	The Honorable Matt Lundy, President, Lorain County Board of Commissioners, 226 Middle Avenue, Elyria, OH 44035.	Lorain County Administration Building, 226 Middle Avenue, Elyria, OH 44035.	Aug. 2, 2017	390346
Warren (FEMA Docket No.: B–1719).	City of Mason (17–05–1582P).	The Honorable Victor Kidd, Mayor, City of Mason, 6000 Mason-Montgomery Road, Mason, OH 45040.	Municipal Building, 6000 Mason-Montgomery Road, Mason, OH 45040.	Jul. 31, 2017	390559
Oregon:					
Lane (FEMA Docket No.: B–1719).	City of Eugene (17–10–0426P).	The Honorable Lucy Vinis, Mayor, City of Eugene, 125 East 8th Avenue, 2nd Floor, Eugene, OR 97401.	Planning Department, 99 West 10th Avenue, Eugene, OR 97401.	Jul. 31, 2017	410122
Multnomah (FEMA Docket No.: B–1719)..	City of Portland (16–10–0985P).	The Honorable Charlie Hales, Mayor, City of Portland, 1221 Southwest 4th Avenue, Suite 340, Portland, OR 97204.	Bureau of Environmental Services, 1221 Southwest 4th Avenue, Room 230, Portland, OR 97204.	May 23, 2017	410183
Texas:					
Collin (FEMA Docket No.: B–1719).	City of Celina (16–06–2499P).	The Honorable Sean Terry, Mayor, City of Celina, 142 North Ohio Street, Celina, TX 75009.	City Hall, 320 West Walnut Street, Celina, TX 75009.	Jul. 17, 2017	480133

State and county	Location and case No.	Chief executive officer of community	Community map repository	Date of modification	Community No.
Collin (FEMA Docket No.: B–1719).	Unincorporated Areas of Collin County (16–06–2499P).	The Honorable Keith Self, Mayor, Collin County, Collin County Administration Building, 2300 Bloomdale Road Suite 4192, McKinney, TX 75071.	Collin County Department of Public Works, 210 South McDonald Street, McKinney, TX 75069.	Jul. 17, 2017	480130
Dallas (FEMA Docket No.: B–1719).	City of Dallas (16–06–2638P).	The Honorable Michael S. Rawlings, Mayor, City of Dallas, 1500 Marilla Street, Suite 5EN, Dallas, TX 75201.	Department of Public Works, 320 East Jefferson Boulevard, Room 321, Dallas, TX 75203.	Jul. 21, 2017	480171
Dallas (FEMA Docket No.: B–1719).	City of Garland (16–06–2638P).	The Honorable Douglas Athas, Mayor, City of Garland, 200 North 5th Street, Garland, TX 75040.	City Hall, 800 Main Street, Garland, TX 75040.	Jul. 21, 2017	485471
Dallas (FEMA Docket No.: B–1719).	City of Mesquite (16–06–2638P).	The Honorable Stan Pickett, Mayor, City of Mesquite, 757 North Galloway Avenue, Mesquite, TX 75185.	City Engineering Services, 1515 North Galloway Avenue, Mesquite, TX 75185.	Jul. 21, 2017	485490
Dallas (FEMA Docket No.: B–1719).	City of Wilmer (17–06–0411P).	The Honorable Casey Burgess, Mayor, City of Wilmer, 128 North Dallas Avenue, Wilmer, TX 75172.	City Hall, 128 North Dallas Avenue, Wilmer, TX 75172.	Jul. 28, 2017	480190
Dallas (FEMA Docket No.: B–1719).	Unincorporated Areas of Dallas County (17–06–0411P).	The Honorable Clay L. Jenkins, County Judge, Dallas County, 411 Elm Street, Dallas, TX 75202.	Dallas County Records Building, 509 Main Street, Dallas, TX 75202.	Jul. 28, 2017	480165
Virginia: Fairfax (FEMA Docket No.: B–1719).	Unincorporated Areas of Fairfax County (17–03–0842P).	Mr. Edward L. Long, Jr., Fairfax County Executive, 12000 Government Center Parkway, Fairfax, VA 22035.	Community Map Repository/Stormwater Planning, 12000 Government Center Parkway, Suite 449, Fairfax, VA 22035.	Jul. 28, 2017	515525

[FR Doc. 2017–28187 Filed 12–29–17; 8:45 am]

BILLING CODE 9110–12–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R7–ES–2017–N127; FXES11130700000–178–FF07CAFB00]

Endangered and Threatened Wildlife and Plants; Initiation of a 5-Year Status Review of the Alaska-Breeding Population of Steller's Eider

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for information.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), are initiating a 5-year status review of the Alaska-breeding population of Steller's eider under the Endangered Species Act of 1973, as amended (ESA). A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of any new information on the species that has become available since the last review of the species.

DATES: To ensure consideration of your comments in our preparation of this 5-year status review, we must receive your comments and information by March 5, 2018. However, we will accept information about any species at any time.

ADDRESSES: Please submit your information by any one of the following methods:

- *Email: Kate_Martin@fws.gov;* or
- *U.S. mail or hand delivery:* U.S. Fish and Wildlife Service, ATTN: Kate Martin 1011 East Tudor Road, Anchorage, AK 99503.

For more about submitting information, see Request for Information in the **SUPPLEMENTARY INFORMATION** section.

FOR FURTHER INFORMATION CONTACT: Kate Martin, Fairbanks Fish and Wildlife Field Office, by telephone at 907–786–3459 (phone). Individuals who are hearing impaired or speech impaired may call the Federal Relay Service at 800–877–8339 for TTY assistance.

SUPPLEMENTARY INFORMATION: We are initiating a 5-year status review under the ESA for the Alaska-breeding population of Steller's eider. A 5-year status review is based on the best scientific and commercial data available at the time of the review; therefore, we are requesting submission of information that has become available since the last review of the species.

Why do we conduct 5-year reviews?

Under the ESA (16 U.S.C. 1531 *et seq.*), we maintain Lists of Endangered and Threatened Wildlife and Plants (which we collectively refer to as the List) in the Code of Federal Regulations (CFR) at 50 CFR 17.11 (for animals) and 17.12 (for plants). Section 4(c)(2)(A) of the ESA requires us to review each listed species' status at least once every 5 years. Further, our regulations at 50 CFR 424.21 require that we publish a notice in the **Federal Register** announcing those species under active review. For additional information about 5-year reviews, go to *http://www.fws.gov/endangered/what-we-do/recovery-overview.html,* scroll down to ''Learn More about 5-Year Reviews,'' and click on the ''5-Year Reviews'' link.

What information do we consider in our review?

A 5-year review considers all new information available at the time of the review. In conducting these reviews, we consider the best scientific and commercial data that have become available since the listing determination or most recent status review, such as:

(1) The biology of the species, including but not limited to population trends, distribution, abundance, demographics, and genetics;

(2) Habitat conditions, including but not limited to amount, distribution, and suitability;

(3) Conservation measures that have been implemented that benefit the species;

(4) Threat status and trends in relation to the five listing factors (as defined in section 4(a)(1) of the ESA); and

(5) Other new information, data, or corrections, including but not limited to taxonomic or nomenclatural changes, identification of erroneous information contained in the List, and improved analytical methods.

Any new information will be considered during the 5-year review and

will also be useful in evaluating the ongoing recovery programs for the species.

Species Under Review

Entity listed: Steller's eiders (*Polysticta stelleri*).

Where listed: United States (Alaska-breeding population only).

Classification: Threatened.

Date listed (publication date for final listing rule): June 11, 1997.

Federal Register *citation for final listing rule*: 62 FR 31748.

Request for Information

To ensure that a 5-year review is complete and based on the best available scientific and commercial information, we request new information from all sources. For specific criteria, see What information do we consider in our review? If you submit information, please support it with documentation such as maps, bibliographic references, methods used to gather and analyze the data, and/or copies of any pertinent publications, reports, or letters by knowledgeable sources. If you submit purported sightings of the species, please also provide supporting documentation in any form to the extent that it is available.

Public Availability of Comments

Before including your address, phone number, email address, or other personal identifying information in your comments, 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.

Completed and Active Reviews

A list of all completed and currently active 5-year reviews addressing species for which the Alaskan Region of the Service has lead responsibility is available at *http://www.fws.gov/alaska/fisheries/endangered/reviews.htm.*

Authority

This document is published under the authority of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: September 20, 2017.

Gregory Siekaniec,

Regional Director, Alaska Region.

[FR Doc. 2017–28302 Filed 12–29–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

National Park Service

[NPS–WASO–NRNHL–24738; PPWOCRADI0, PCU00RP14.R50000]

National Register of Historic Places; Notification of Pending Nominations and Related Actions

AGENCY: National Park Service, Interior.

ACTION: Notice.

SUMMARY: The National Park Service is soliciting comments on the significance of properties nominated before December 2, 2017, for listing or related actions in the National Register of Historic Places.

DATES: Comments should be submitted by January 17, 2018.

ADDRESSES: Comments may be sent via U.S. Postal Service and all other carriers to the National Register of Historic Places, National Park Service, 1849 C St. NW, MS 7228, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

The properties listed in this notice are being considered for listing or related actions in the National Register of Historic Places. Nominations for their consideration were received by the National Park Service before December 2, 2017. Pursuant to section 60.13 of 36 CFR part 60, written comments are being accepted concerning the significance of the nominated properties under the National Register criteria for evaluation.

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.

Nominations submitted by State Historic Preservation Officers:

ARIZONA

Pima County

Congdon, Stephen and Persis Hart Browne, House, 2928 N. Orlando St., Tucson, SG100001956

Woodrow House

8649 E Woodland, Tucson, SG100001957

MARYLAND

Baltimore Independent City

Union Bros. Furniture Company, 1120 S Hanover St., Baltimore (Independent City), SG100001959

MASSACHUSETTS

Berkshire County

Tyringham Library, 118 Main Rd., Tyringham, SG100001960

Franklin County

Woodward, Robert Strong, House and Studio, 43 Upper St., Buckland, SG100001961

NEW HAMPSHIRE

Merrimack County

Concord Gas Light Company Gasholder House, Gas St., Concord, SG100001962

Strafford County

First Congregational Church, 400 Main St., Farmington, SG100001963

NEW YORK

Albany County

St Casimir's Church Complex, 309–315, 317, 320 & 324 Sheridan Ave., Albany, SG100001964

Erie County

Temple Beth Zion, 805 Delaware Ave., Buffalo, SG100001965

Ziegele—Phoenix Refrigeration House and Office

835 Washington St., Buffalo, SG100001966

Additional documentation has been received for the following resources:

COLORADO

Denver County

Brown Palace Hotel, 17th St. and Tremont Pl., Denver, AD70000157

Authority: 60.13 of 36 CFR part 60.

Dated: December 6, 2017.

J. Paul Loether,

Chief, National Register of Historic Places/National Historic Landmarks Program and Keeper, National Register of Historic Places.

[FR Doc. 2017–28312 Filed 12–29–17; 8:45 am]

BILLING CODE 4312–52–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–486 and 731–TA–1195–1196 (Review)]

Utility Scale Wind Towers From China and Vietnam; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews

pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on utility scale wind towers from China and the antidumping duty orders on utility scale wind towers from China and Vietnam would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted January 2, 2018. To be assured of consideration, the deadline for responses is February 1, 2018. Comments on the adequacy of responses may be filed with the Commission by March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On February 15, 2013, the Department of Commerce issued a countervailing duty order on utility scale wind towers from China and antidumping duty orders on utility scale wind towers from China and Vietnam (78 FR 11146–11148 and 11150–11154). The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, Subparts A and B and 19 CFR part 207, Subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce.

(2) The *Subject Countries* in these reviews are China and Vietnam.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* to include all wind towers as described in Commerce's scope definition.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of the *Domestic Like Product.*

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is February 15, 2013.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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, solely for cybersecurity purposes. All contract personnel will

sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 1, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–402, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in number of towers and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise*

from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in number of towers and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in number of towers and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: December 26, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–28239 Filed 12–29–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation Nos. 701–TA–488 and 731–TA–1199–1200 (Review)]

Certain Large Residential Washers From Korea and Mexico; Institution of Five-Year Reviews

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted reviews pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the countervailing duty order on certain large residential washers from Korea and the antidumping duty orders on certain large residential washers from Korea and Mexico would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted January 2, 2018. To be assured of consideration, the deadline for responses is February 1, 2018. Comments on the adequacy of responses may be filed with the Commission by March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

SUPPLEMENTARY INFORMATION:

Background.—On February 15, 2013, the Department of Commerce issued a countervailing duty order on certain large residential washers from Korea and antidumping duty orders on certain large residential washers from Korea and Mexico (78 FR 11148–11150 and 11154–11155). The Commission is conducting reviews pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the orders would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, Subparts A and B and 19 CFR part 207, Subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct full or expedited reviews. The Commission's determinations in any expedited reviews will be based on the facts available, which may include

information provided in response to this notice.

Definitions.—The following definitions apply to these reviews:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year reviews, as defined by the Department of Commerce (''Commerce'').

(2) The *Subject Countries* in these reviews are Korea and Mexico.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise.* In its original determinations, the Commission defined a single *Domestic Like Product* to include both large residential washers as described in Commerce's scope definition and top-load washers with a capacity of less than 3.7 cubic feet.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determinations, the Commission defined the *Domestic Industry* as all domestic producers of the *Domestic Like Product.*

(5) The *Order Date* is the date that the antidumping and countervailing duty orders under review became effective. In these reviews, the *Order Date* is February 15, 2013.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 1, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct expedited or full reviews. The deadline for filing such comments is March 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–401, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a

complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determinations in the reviews.

Information To Be Provided in Response to This Notice of Institution: If you are a domestic producer, union/worker group, or trade/business association; import/export *Subject Merchandise* from more than one *Subject Country;* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.* As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandi*se, a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping and countervailing duty orders on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in each *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries since the *Order Date.*

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in units and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from any *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in units and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping or countervailing duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from each *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. commercial shipments of *Subject Merchandise* imported from each *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping and/or countervailing duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from each *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in each *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in units and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping or countervailing duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in each *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in each *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject*

Merchandise from each *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in each *Subject Country* since the *Order Date,* and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in each *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of Title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: December 26, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–28238 Filed 12–29–17; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–739 (Fourth Review)]

Clad Steel Plate From Japan; Institution of a Five-Year Review

AGENCY: United States International Trade Commission.

ACTION: Notice.

SUMMARY: The Commission hereby gives notice that it has instituted a review pursuant to the Tariff Act of 1930 (''the Act''), as amended, to determine whether revocation of the antidumping duty order on clad steel plate from Japan would be likely to lead to continuation or recurrence of material injury. Pursuant to the Act, interested parties are requested to respond to this notice by submitting the information specified below to the Commission.

DATES: Instituted January 2, 2018. To be assured of consideration, the deadline for responses is February 1, 2018. Comments on the adequacy of responses may be filed with the Commission by March 16, 2018.

FOR FURTHER INFORMATION CONTACT: Mary Messer (202–205–3193), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (*https://www.usitc.gov*). The public record for this proceeding may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov*.

SUPPLEMENTARY INFORMATION:

Background.—On July 2, 1996, the Department of Commerce (''Commerce'') issued an antidumping duty order on imports of clad steel plate from Japan (61 FR 34421). Following first five-year reviews by Commerce and the Commission, effective November 16, 2001, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (66 FR 57703). Following second five-year reviews by Commerce and the Commission, effective March 22, 2007, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (72 FR 13478). Following the third five-year reviews by Commerce and the Commission, effective February 11, 2013, Commerce issued a continuation of the antidumping duty order on imports of clad steel plate from Japan (78 FR 9676). The Commission is now conducting a fourth review pursuant to section 751(c) of the Act, as amended (19 U.S.C. 1675(c)), to determine whether revocation of the order would be likely to lead to continuation or recurrence of material injury to the domestic industry within a reasonably foreseeable time. Provisions concerning the conduct of this proceeding may be found in the Commission's Rules of Practice and Procedure at 19 CFR parts 201, subparts A and B and 19 CFR part 207, subparts A and F. The Commission will assess the adequacy of interested party responses to this notice of institution to determine whether to conduct a full review or an expedited review. The Commission's determination in any expedited review will be based on the facts available, which may include information provided in response to this notice.

Definitions.—The following definitions apply to this review:

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review, as defined by Commerce.

(2) The *Subject Country* in this review is Japan.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics and uses with, the *Subject Merchandise*. In its original determination, its expedited first and second five-year review determinations, and its full third five-year review determination, the Commission defined the *Domestic Like Product* as all clad steel plate coextensive with Commerce's scope of the investigation, including all clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more.

(4) The *Domestic Industry* is the U.S. producers as a whole of the *Domestic Like Product,* or those producers whose collective output of the *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, its expedited first and second five-year review determinations, and its full third five-year review determination, the Commission defined the *Domestic Industry* as all domestic producers of clad steel plate of a width of 600mm or more and a composite thickness of 4.5mm or more, coextensive with Commerce's scope of the investigation.

(5) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Participation in the proceeding and public service list.—Persons, including industrial users of the *Subject Merchandise* and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the proceeding as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11(b)(4) of the

Commission's rules, no later than 21 days after publication of this notice in the **Federal Register**. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the proceeding.

Former Commission employees who are seeking to appear in Commission five-year reviews are advised that they may appear in a review even if they participated personally and substantially in the corresponding underlying original investigation or an earlier review of the same underlying investigation. The Commission's designated agency ethics official has advised that a five-year review is not the same particular matter as the underlying original investigation, and a five-year review is not the same particular matter as an earlier review of the same underlying investigation for purposes of 18 U.S.C. 207, the post employment statute for Federal employees, and Commission rule 201.15(b) (19 CFR 201.15(b)), 79 FR 3246 (Jan. 17, 2014), 73 FR 24609 (May 5, 2008). Consequently, former employees are not required to seek Commission approval to appear in a review under Commission rule 19 CFR 201.15, even if the corresponding underlying original investigation or an earlier review of the same underlying investigation was pending when they were Commission employees. For further ethics advice on this matter, contact Charles Smith, Deputy Agency Ethics Official, at 202–205–3408.

Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and APO service list.—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI submitted in this proceeding available to authorized applicants under the APO issued in the proceeding, provided that the application is made no later than 21 days after publication of this notice in the **Federal Register**. Authorized applicants must represent interested parties, as defined in 19 U.S.C. 1677(9), who are parties to the proceeding. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Certification.—Pursuant to section 207.3 of the Commission's rules, any person submitting information to the Commission in connection with this proceeding must certify that the information is accurate and complete to the best of the submitter's knowledge. In making the certification, the submitter will acknowledge that information submitted in response to this request for information and throughout this proceeding or other proceeding 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, solely for cybersecurity purposes. All contract personnel will sign appropriate nondisclosure agreements.

Written submissions.—Pursuant to section 207.61 of the Commission's rules, each interested party response to this notice must provide the information specified below. The deadline for filing such responses is February 1, 2018. Pursuant to section 207.62(b) of the Commission's rules, eligible parties (as specified in Commission rule 207.62(b)(1)) may also file comments concerning the adequacy of responses to the notice of institution and whether the Commission should conduct an expedited or full review. The deadline for filing such comments is March 16, 2018. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's Handbook on E-Filing, available on the Commission's website at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the proceeding must be served on all other parties to the proceeding (as identified by either the public or APO service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the proceeding you do not need to serve your response).

No response to this request for information is required if a currently valid Office of Management and Budget (''OMB'') number is not displayed; the OMB number is 3117 0016/USITC No. 17–5–400, expiration date June 30, 2020. Public reporting burden for the request is estimated to average 15 hours per response. Please send comments regarding the accuracy of this burden estimate to the Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436.

Inability to provide requested information.—Pursuant to section 207.61(c) of the Commission's rules, any interested party that cannot furnish the information requested by this notice in the requested form and manner shall notify the Commission at the earliest possible time, provide a full explanation of why it cannot provide the requested information, and indicate alternative forms in which it can provide equivalent information. If an interested party does not provide this notification (or the Commission finds the explanation provided in the notification inadequate) and fails to provide a complete response to this notice, the Commission may take an adverse inference against the party pursuant to section 776(b) of the Act (19 U.S.C. 1677e(b)) in making its determination in the review.

Information To Be Provided in Response to This Notice of Institution: As used below, the term ''firm'' includes any related firms.

(1) The name and address of your firm or entity (including World Wide Web address) and name, telephone number, fax number, and Email address of the certifying official.

(2) A statement indicating whether your firm/entity is an interested party under 19 U.S.C. 1677(9) and if so, how, including whether your firm/entity is a U.S. producer of the *Domestic Like Product,* a U.S. union or worker group, a U.S. importer of the *Subject Merchandise,* a foreign producer or exporter of the *Subject Merchandise,* a U.S. or foreign trade or business association (a majority of whose members are interested parties under the statute), or another interested party (including an explanation). If you are a union/worker group or trade/business association, identify the firms in which your workers are employed or which are members of your association.

(3) A statement indicating whether your firm/entity is willing to participate in this proceeding by providing information requested by the Commission.

(4) A statement of the likely effects of the revocation of the antidumping duty order on the *Domestic Industry* in general and/or your firm/entity specifically. In your response, please discuss the various factors specified in section 752(a) of the Act (19 U.S.C. 1675a(a)) including the likely volume of subject imports, likely price effects of subject imports, and likely impact of imports of *Subject Merchandise* on the *Domestic Industry.*

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.* Identify any

known related parties and the nature of the relationship as defined in section 771(4)(B) of the Act (19 U.S.C. 1677(4)(B)).

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in the *Subject Country* that currently export or have exported *Subject Merchandise* to the United States or other countries after 2011.

(7) A list of 3–5 leading purchasers in the U.S. market for the *Domestic Like Product* and the *Subject Merchandise* (including street address, World Wide Web address, and the name, telephone number, fax number, and Email address of a responsible official at each firm).

(8) A list of known sources of information on national or regional prices for the *Domestic Like Product* or the *Subject Merchandise* in the U.S. or other markets.

(9) If you are a U.S. producer of the *Domestic Like Product,* provide the following information on your firm's operations on that product during calendar year 2017, except as noted (report quantity data in short tons and value data in U.S. dollars, f.o.b. plant). If you are a union/worker group or trade/business association, provide the information, on an aggregate basis, for the firms in which your workers are employed/which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total U.S. production of the *Domestic Like Product* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm to produce the *Domestic Like Product* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix);

(c) the quantity and value of U.S. commercial shipments of the *Domestic Like Product* produced in your U.S. plant(s);

(d) the quantity and value of U.S. internal consumption/company transfers of the *Domestic Like Product* produced in your U.S. plant(s); and

(e) the value of (i) net sales, (ii) cost of goods sold (COGS), (iii) gross profit, (iv) selling, general and administrative (SG&A) expenses, and (v) operating income of the *Domestic Like Product* produced in your U.S. plant(s) (include both U.S. and export commercial sales, internal consumption, and company transfers) for your most recently completed fiscal year (identify the date on which your fiscal year ends).

(10) If you are a U.S. importer or a trade/business association of U.S. importers of the *Subject Merchandise* from the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in short tons and value data in U.S. dollars). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) The quantity and value (landed, duty-paid but not including antidumping duties) of U.S. imports and, if known, an estimate of the percentage of total U.S. imports of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') imports;

(b) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. commercial shipments of *Subject Merchandise* imported from the *Subject Country;* and

(c) the quantity and value (f.o.b. U.S. port, including antidumping duties) of U.S. internal consumption/company transfers of *Subject Merchandise* imported from the *Subject Country.*

(11) If you are a producer, an exporter, or a trade/business association of producers or exporters of the *Subject Merchandise* in the *Subject Country,* provide the following information on your firm's(s') operations on that product during calendar year 2017 (report quantity data in short tons and value data in U.S. dollars, landed and duty-paid at the U.S. port but not including antidumping duties). If you are a trade/business association, provide the information, on an aggregate basis, for the firms which are members of your association.

(a) Production (quantity) and, if known, an estimate of the percentage of total production of *Subject Merchandise* in the *Subject Country* accounted for by your firm's(s') production;

(b) Capacity (quantity) of your firm(s) to produce the *Subject Merchandise* in the *Subject Country* (that is, the level of production that your establishment(s) could reasonably have expected to attain during the year, assuming normal operating conditions (using equipment and machinery in place and ready to operate), normal operating levels (hours per week/weeks per year), time for downtime, maintenance, repair, and cleanup, and a typical or representative product mix); and

(c) the quantity and value of your firm's(s') exports to the United States of *Subject Merchandise* and, if known, an estimate of the percentage of total exports to the United States of *Subject Merchandise* from the *Subject Country* accounted for by your firm's(s') exports.

(12) Identify significant changes, if any, in the supply and demand conditions or business cycle for the *Domestic Like Product* that have occurred in the United States or in the market for the *Subject Merchandise* in the *Subject Country* after 2011, and significant changes, if any, that are likely to occur within a reasonably foreseeable time. Supply conditions to consider include technology; production methods; development efforts; ability to increase production (including the shift of production facilities used for other products and the use, cost, or availability of major inputs into production); and factors related to the ability to shift supply among different national markets (including barriers to importation in foreign markets or changes in market demand abroad). Demand conditions to consider include end uses and applications; the existence and availability of substitute products; and the level of competition among the *Domestic Like Product* produced in the United States, *Subject Merchandise* produced in the *Subject Country,* and such merchandise from other countries.

(13) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Authority: This proceeding is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.61 of the Commission's rules.

By order of the Commission.

Issued: December 26, 2017.

Katherine M. Hiner,

Supervisory Attorney.

[FR Doc. 2017–28237 Filed 12–29–17; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. DEA–392]

Bulk Manufacturer of Controlled Substances Application: Organix, Inc.

ACTION: Notice of application.

DATES: Registered bulk manufacturers of the affected basic classes, and applicants therefore, may file written

comments on or objections to the issuance of the proposed registration on or before March 5, 2018.

ADDRESSES: Written comments should be sent to: Drug Enforcement Administration, Attention: DEA Federal Register Representative/DRW, 8701 Morrissette Drive, Springfield, Virginia 22152.

SUPPLEMENTARY INFORMATION: The Attorney General has delegated his authority under the Controlled Substances Act to the Administrator of the Drug Enforcement Administration (DEA), 28 CFR 0.100(b). Authority to exercise all necessary functions with respect to the promulgation and implementation of 21 CFR part 1301, incident to the registration of manufacturers, distributors, dispensers, importers, and exporters of controlled substances (other than final orders in connection with suspension, denial, or revocation of registration) has been redelegated to the Assistant Administrator of the DEA Diversion Control Division (''Assistant Administrator'') pursuant to section 7 of 28 CFR part 0, appendix to subpart R.

In accordance with 21 CFR 1301.33(a), this is notice that on September 6, 2017, Organix, Inc., 240 Salem Street, Woburn, Massachusetts 01801 applied to be registered as a bulk manufacturer of the following basic classes of controlled substances:

Controlled substance	Drug code	Schedule
Gamma Hydroxybutyric Acid.	2010	I
Lysergic acid diethylamide.	7315	I
Marihuana	7360	I
Tetrahydrocannabinols.	7370	I
Dimethyltryptamine.	7435	I
Psilocybin	7437	I
Psilocyn	7438	I
Heroin	9200	I
Morphine	9300	II

The company plans to manufacture reference standards for distribution to its research and forensic customers. In reference to drug code 7360 (marihuana) and 7370 (THC) the company plans to manufacture these drugs as synthetic. No other activities for these drug codes are authorized for this registration.

Dated: December 26, 2017.

Neil Doherty,

Deputy Assistant Administrator.

[FR Doc. 2017–28269 Filed 12–29–17; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Clean Water Act, Clean Air Act, Emergency Planning and Community Right-To-Know Act, and Resource Conservation and Recovery Act

On December 22, 2017, the Department of Justice filed an amended complaint and lodged a revised proposed consent decree with the United States District Court for the Western District of Pennsylvania in the lawsuit entitled *United States and Territory of American Samoa* v. *StarKist Co. and Starkist Samoa Co.,* Civil Action No. 2:17–cv–01190–DSC. The amended complaint and revised proposed consent decree supersede the complaint and proposed consent decree filed by the Department of Justice in this action on September 12, 2017 and noticed for public comment in 82 FR 43,573 (Sept. 18, 2017).

In addition to the allegations in the original complaint, the amended complaint, which is filed by the United States and the Territory of American Samoa, alleges three new violations of the Clean Water Act (''CWA'') related to unpermitted discharges from Starkist's facility to Pago Pago Harbor. First, the amended complaint alleges that Starkist discharged stormwater associated with industrial activity without a permit between June 2, 2015 and the present. Second, the amended complaint alleges that Starkist discharged a milky-white substance that contained pollutants from its facility through a stormwater outfall on 5 occasions between July 13, 2017 and October 30, 2017. Finally, the amended complaint alleges that Starkist discharged pollutants from a sewage lift station overflow pipe at its facility into the harbor on September 20, 2017. For each of these violations, the amended complaint seeks injunctive relief and civil penalties.

The amended complaint also adds a claim for relief by the Territory for violations of the American Samoa Environmental Quality Act and its implementing regulations based on the same facts underlying the United States' claims for relief. In particular, the amended complaint alleges that Starkist's unauthorized discharges and its discharges that exceeded effluent limitations in its NPDES permit violated the requirement in the American Samoa Environmental Quality Commission Rules that such discharges comply with NPDES rules and regulations. In addition, the amended complaint alleges that each of Starkist's violations of Section 112(r) of the Clean Air Act related to the handling of ammonia, butane, and chlorine at the facility violated the American Samoa Environmental Quality Commission Rules requirement to comply with the federal Clean Air Act. For each of these violations, the Territory seeks civil penalties.

The revised proposed consent decree requires the defendants to perform injunctive relief, and pay an increased civil penalty of $6,500,000 (an increase of $200,000) to resolve the additional CWA violations alleged in the amended complaint, as well as the original alleged violations. Starkist must pay $3,900,000 to the United States and $2,600,000 to the Territory.

The revised proposed consent decree requires the defendants to perform the injunctive relief included in the previously-lodged consent decree, as well as to address the additional CWA violations. It requires Starkist to obtain authorization to discharge stormwater from the facility, to implement best management practices, and prepare a plan to reduce, minimize, and eliminate pollutants in stormwater discharges from the facility. The decree also requires Starkist to identify and eliminate any connections between the facility's industrial processes and its stormwater collection system. Finally, the revised proposed Consent Decree formalizes the role of the Territory in the implementation of the revised Consent Decree. The revised consent decree also replaces the process flow diagram in Appendix C to include an updated diagram.

The publication of this notice opens a period for public comment on the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *StarKist Co. and Starkist Samoa Co.,* D.J. Ref. No. 90–5–1–1–11357. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

To submit comments:	*Send them to:*
By email	*pubcomment-ees.enrd@usdoj.gov.*
By mail	Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department website: *https://www.justice.gov/enrd/consent-decrees.*

A Samoan language summary of the settlement is also available on the website. We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to:

Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $11.25 (25 cents per page reproduction cost) payable to the United States Treasury.

Henry S. Friedman,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2017–28295 Filed 12–29–17; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Certification Process for the Temporary Employment of Aliens in Agriculture in the United States: Adverse Effect Wage Rate for Range Occupations in 2018; Correction

AGENCY: Employment and Training Administration, Department of Labor.

ACTION: Notice: Correction.

SUMMARY: The Employment and Training Administration (ETA) of the Department of Labor (Department) published a notice in the **Federal Register** on December 22, 2017, announcing the 2018 Adverse Effect Wage Rate (AEWR) for the employment of temporary or seasonal nonimmigrant foreign workers (H–2A workers) to perform herding or production of livestock on the range. That notice contained two different figures as the 2018 AEWR, one correct ($1,584.22/month) and the other incorrect. This notice corrects the incorrect figure.

DATES: January 1, 2018.

FOR FURTHER INFORMATION CONTACT: William W. Thompson, II, Administrator, Office of Foreign Labor Certification, Box #12–200, Employment & Training Administration, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210. Telephone number: 202–513–7350 (this is not a toll-free number).

Individuals with hearing or speech impairments may access the telephone number above via TTY by calling the toll-free Federal Information Relay Service at 1–877–889–5627.

Correction

In the **Federal Register** of Friday, December 22, 2017, in FR Doc. 17–27530, on page 60768, in the third column, correct the first paragraph to read:

Thus, the national monthly AEWR rate for all range occupations in the H–2A program in 2018 is calculated by multiplying the full AEWR for calendar year 2017 by the 2018 ECI adjustment ($1544.07 × 1.026 = $1,584.22). Accordingly, any employer certified or seeking certification for range workers must pay each worker a wage that is at least the highest of the monthly AEWR of $1,584.22, the agreed-upon collective bargaining wage, or the applicable minimum wage imposed by Federal or State legislation or judicial action, at the time work is performed on or after the effective date of this notice.

Nancy Rooney,

Deputy Assistant Secretary, Employment and Training Administration.

[FR Doc. 2017–28399 Filed 12–28–17; 4:15 pm]

BILLING CODE 4510–FP–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Certification and Qualification To Examine, Test, Operate Hoists, and To Perform Other Duties

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection request (ICR) titled, ''Certification and Qualification to Examine, Test, Operate Hoists, and to Perform Other Duties,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201708-1219-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor-OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Certification and Qualification to Examine, Test, Operate Hoists, and to Perform Other Duties information collection. More specifically, this ICR pertains to the certification of certain persons to perform specific examinations and tests. This ICR also seeks to extend PRA approval for procedures under which a coalmine operator is required to maintain a list of certified and qualified persons, and to develop an approved training plan for hosting engineers or host operators. A respondent uses the Safety and Health Activity Certification or Hoisting Engineer Qualification Request, Form MSHA–5000–41, in order to comply with the subject information collection requirements. Federal Mine Safety & Health Act of 1977 section 103(h) authorizes this information collection. *See* 30 U.S.C. 813(h).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5

CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1219–0127.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on July 26, 2017 (82 FR 34698).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0127. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Certification and Qualification to Examine, Test, Operate Hoists, and to Perform Other Duties.

OMB Control Number: 1219–0127.

Affected Public: Private Sector—businesses or other for profits.

Total Estimated Number of Respondents: 957.

Total Estimated Number of Responses: 4,590.

Total Estimated Annual Time Burden: 465 hours.

Total Estimated Annual Other Costs Burden: $77.

Authority: 44 U.S.C. 3507(a)(1)(D).

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28263 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Alternative Method of Compliance for Certain Simplified Employee Pensions

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Alternative Method of Compliance for Certain Simplified Employee Pensions,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201709-1210-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Alternative Method of Compliance for Certain Simplified Employee Pensions information collection. The alternative disclosure arrangement established through regulations 29 CFR 2520.104–49 relieves a sponsor of a non-model Simplified Employee Pension (SEP) of most Employee Retirement Income Security Act (ERISA) Title I reporting and disclosure requirements. In addition, disclosure requirements set forth in the regulation ensure an administrator of a non-model SEP provides participants with specific written information concerning the SEP. This information collection requirement generally requires timely written disclosure to employees eligible to participate in a non-model SEP, including specific information concerning: Participation requirements; allocation formulas for employer contributions; designated contact persons for further information; and, for employer recommended Individual Retirement Accounts (IRAs), specific IRA terms—such as rates of return and any restrictions on withdrawals. Moreover, general information is required that provides a clear explanation of the operation of the non-model SEP; participation requirements, and any withdrawal restrictions; and the tax treatment of the SEP-related IRA. Furthermore, statements must be provided to inform participants of: Any other IRAs under the non-model SEP other than that to which employer contributions are made; any options regarding rollovers and contributions to other IRAs; descriptions of U.S. Department of the Treasury, Internal Revenue Service disclosure requirements to participants and information regarding social security integration (if applicable); and timely notification of any amendments to the terms of the non-model SEP. Employee Income Retirement Security Act of 1974 authorizes this information collection. *See* 29 U.S.C. 1030.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA

and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0034.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2017 (82 FR 23303).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0034. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Alternative Method of Compliance for Certain Simplified Employee Pensions.

OMB Control Number: 1210–0034.

Affected Public: Private Sector—Businesses or other for-profits.

Total Estimated Number of Respondents: 35,660.

Total Estimated Number of Responses: 67,930.

Total Estimated Annual Time Burden: 21,227 hours.

Total Estimated Annual Other Costs Burden: $18,556.

Authority: 44 U.S.C. 3507(a)(1)(D).

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28265 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Report of Changes That May Affect Your Black Lung Benefits

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Report of Changes That May Affect Your Black Lung Benefits,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995. Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201710-1240-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: This ICR seeks approval under the PRA for revisions to the Report of Changes That May Affect Your Black Lung Benefits. These forms help determine continuing eligibility of primary beneficiaries receiving black lung benefits. The primary beneficiary is required to verify and update certain information that may affect entitlement to benefits; including changes to income, marital status, receipt of State Worker's Compensation benefits, and dependent status. This information collection has been classified as a revision, because of minor changes to the language on forms CM–929 and CM–929P. Federal Mine Safety and Health Act of 1977 section 426(a) authorizes this information collection. *See* 30 U.S.C. 936(a)

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0028. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. New requirements would only take effect upon OMB approval. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on October 13, 2017 (82 FR 47773).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure

appropriate consideration, comments should mention OMB Control Number 1240–0028.

The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Report of Changes That May Affect Your Black Lung Benefits.

OMB Control Number: 1240–0028.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 26,000.

Total Estimated Number of Responses: 26,000.

Total Estimated Annual Time Burden: 6,089 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28264 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–CK–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Steel Erection Standard

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration's (OSHA) sponsored information collection request (ICR) titled, ''Steel Erection Standard'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201709-1218-005* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail or courier to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Steel Erection Standard information collection requirements codified in regulations 29 CFR part 1926, subpart R. The Standard contains information collection requirements to notify designated parties—especially steel erectors—that building materials, components, steel structures, and fall-protection equipment meet required criteria; and to ensure workers exposed to fall hazards receive specified training in the recognition and control of the hazards. The Occupational Safety and Health Act of 1970 sections 2, 6, and 8 authorizes this information collection. *See* 29 U.S.C. 651, 655, and 657.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0241.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on September 28, 2017 (82 FR 45314).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0241. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Steel Erection Standard.

OMB Control Number: 1218–0241.

Affected Public: Private Sector—Business or other for-profits.

Total Estimated Number of Respondents: 16,748.

Total Estimated Number of Responses: 92,160.

Total Estimated Annual Time Burden: 30,819 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28268 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines

ACTION: Notice of availability; request for comments.

SUMMARY: The Department of Labor (DOL) is submitting the Employment and Training Administration (ETA) sponsored information collection request (ICR) titled, ''Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201711-1205-001* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–ETA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines information collection. The State Quality Service Plan (SQSP) represents an approach to the unemployment insurance (UI) performance management and planning process that allows for an exchange of information between Federal and State partners to enhance the ability of the program to reflect a joint commitment to performance excellence and client-centered services. As part of UI Performs, a comprehensive performance management system for the UI program, the SQSP is the principal vehicle that a State UI program uses to plan, record, and manage improvement efforts. Social Security Act section 302 authorizes this information collection. *See* 42 U.S.C. 503(a)(b).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1205–0132.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on June 8, 2017 (82 FR 26713).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1205–0132. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–ETA.

Title of Collection: Unemployment Insurance State Quality Service Plan Planning and Reporting Guidelines.

OMB Control Number: 1205–0132.

Affected Public: State, Local, and Tribal Governments.

Total Estimated Number of Respondents: 53.

Total Estimated Number of Responses: 773.

Total Estimated Annual Time Burden: 3,304 hours.

Total Estimated Annual Other Costs Burden: $0.

Authority: 44 U.S.C. 3507(a)(1)(D).

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28267 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–FW–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Employee Retirement Income Security Act of 1974 Section 408(a) Prohibited Transaction Provisions Exemption Application Procedure

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Employee Benefits Security Administration (EBSA) sponsored information collection request (ICR) titled, ''Employee Retirement Income Security Act of 1974 Section 408(a) Prohibited Transaction Provisions Exemption Application Procedure,'' to the Office of Management and Budget (OMB) for review and approval for continued use, without change, in accordance with the Paperwork Reduction Act of 1995 (PRA). Public comments on the ICR are invited.

DATES: The OMB will consider all written comments that agency receives on or before February 1, 2018.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained free of charge from the *RegInfo.gov* website at *http://www.reginfo.gov/public/do/PRAViewICR?ref_nbr=201708-1210-003* (this link will only become active on the day following publication of this notice) or by contacting Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request by mail to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–EBSA, Office of Management and Budget, Room 10235, 725 17th Street NW, Washington, DC 20503; by Fax: 202–395–5806 (this is not a toll-free number); or by email: *OIRA_submission@omb.eop.gov.* Commenters are encouraged, but not required, to send a courtesy copy of any comments by mail or courier to the U.S. Department of Labor—OASAM, Office of the Chief Information Officer, Attn: Departmental Information Compliance Management Program, Room N1301, 200 Constitution Avenue NW, Washington, DC 20210; or by email: *DOL_PRA_PUBLIC@dol.gov.*

FOR FURTHER INFORMATION CONTACT: Michel Smyth by telephone at 202–693–4129, TTY 202–693–8064, (these are not toll-free numbers) or by email at *DOL_PRA_PUBLIC@dol.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

SUPPLEMENTARY INFORMATION: This ICR seeks to extend PRA authority for the Employee Retirement Income Security Act of 1974 Section 408(a) Prohibited Transaction Provisions Exemption Application Procedure information collection. This information collection provides the Secretary with information needed to grant an exemption for a transaction ERISA sections 406 and/or 407(a) would otherwise prohibit. Employee Retirement Income Security Act of 1974 authorizes this information collection. *See* 29 U.S.C. 1108.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information that does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1210–0060.

OMB authorization for an ICR cannot be for more than three (3) years without renewal, and the DOL seeks to extend PRA authorization for this information collection for three (3) more years, without any change to existing requirements. The DOL notes that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional substantive information about this ICR, see the related notice published in the **Federal Register** on May 22, 2017 (82 FR 23303).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within thirty (30) days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1210–0060. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Agency: DOL–EBSA.

Title of Collection: Employee Retirement Income Security Act of 1974 Section 408(a) Prohibited Transaction Provisions Exemption Application Procedure.

OMB Control Number: 1210–0060.

Affected Public: Private Sector—businesses or other for profits.

Total Estimated Number of Respondents: 37.

Total Estimated Number of Responses: 17,271.

Total Estimated Annual Time Burden: 1,852 hours.

Total Estimated Annual Other Costs Burden: $1,023,418.

Seleda Perryman,

Assistant Departmental Clearance Officer.

[FR Doc. 2017–28266 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF LABOR

Bureau of Labor Statistics

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Bureau of Labor Statistics (BLS) is soliciting comments concerning the

proposed request for a new OMB control number for the ''Current Population Survey (CPS) Unemployment Insurance (UI) Non-Filer Supplement'' to be conducted in May 2018 and September 2018. A copy of the proposed information collection request (ICR) can be obtained by contacting the individual listed below in the addresses section of this notice.

DATES: Written comments must be submitted to the office listed in the **ADDRESSES** section of this notice on or before March 5, 2018.

ADDRESSES: Send comments to Erin Good, BLS Clearance Officer, Division of Management Systems, Bureau of Labor Statistics, Room 4080, 2 Massachusetts Avenue NE, Washington, DC 20212. Written comments may also be transmitted by fax to 202–691–5111 (This is not a toll free number).

FOR FURTHER INFORMATION CONTACT: Erin Good, BLS Clearance Officer, 202–691–7763. (See **ADDRESSES** section.)

SUPPLEMENTARY INFORMATION:

I. Background

A version of the CPS Unemployment Insurance (UI) Non-Filer Supplement was last collected in 2005 under an interagency agreement between the Department of Labor and the United States Census Bureau.

The UI Non-Filer Supplement will gather information on people who are unemployed but also on a subset of those who are not in the labor force. Information will be collected about UI participation and reasons for not participating. The supplement also contains questions about people's job search experience, such as information about jobs for which they have applied and whether they would accept a job similar to their last job but at lower pay. Additionally, this supplement contains questions about the job search process of unemployed individuals and the difficulties these seekers have in finding new employment.

Because this supplement is part of the CPS, the same detailed demographic information collected in the CPS will be available on respondents to the supplement. Comparisons between UI filers and non-filers will be possible across characteristics such as sex, race and ethnicity, age, and educational attainment.

UI benefits provide temporary financial assistance to the unemployed who meet certain eligibility criteria and can also help protect the economy during economic downturns. Work patterns have changed since the supplement was last collected in 2005, making updated information of paramount importance. Data gathered in this supplement will help measure the effectiveness of current UI programs, identify possible shortcomings in existing UI programs, and assist policy makers in developing more effective policies.

II. Current Action

Office of Management and Budget clearance is being sought for a new OMB control number for the CPS UN Non-Filer Supplement to the CPS.

This collection is needed to provide the Nation with timely information about individuals who do not file for UI benefits and their reasons for not doing so. In addition, data from the supplement will provide a fuller picture about how the unemployed search for jobs and the hardships they face when doing so.

III. Desired Focus of Comments

The Bureau of Labor Statistics is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submissions of responses.

Type of Review: New collection (Request for a new OMB control Number).

Agency: Bureau of Labor Statistics.

Title: CPS UI Non-Filer Supplement.

OMB Number: 1220–NEW.

Affected Public: Households.

Total Respondents: 60,000.

Frequency: Once.

Total Responses: 60,000.

Average Time per Response: 2 minutes.

Estimated Total Burden Hours: 2,000 hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintenance): $0.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

Signed at Washington, DC, this 21st day of December 2017.

Kimberley Hill,

Chief, Division of Management Systems, Bureau of Labor Statistics.

[FR Doc. 2017–28291 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–24–P

DEPARTMENT OF LABOR

Office of Workers' Compensation Programs

Advisory Board on Toxic Substances and Worker Health

AGENCY: Office of Workers' Compensation Programs, Department of Labor.

ACTION: Announcement of telephonic meeting of the Advisory Board on Toxic Substances and Worker Health (Advisory Board) for the Energy Employees Occupational Illness Compensation Program Act (EEOICPA).

SUMMARY: The Advisory Board will meet January 30, 2018, via teleconference, from 1:00 p.m. to 5:00 p.m. Eastern time.

Comments and submissions of materials for the record, and requests for special accommodations: You must submit (postmark, send, transmit) comments, materials, and requests for special accommodations for the meetings by January 23, 2017.

FOR FURTHER INFORMATION CONTACT: For press inquiries: Ms. Amy Louviere, Office of Public Affairs, U.S. Department of Labor, Room S–1028, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 693–4672; email *Louviere.Amy@DOL.GOV.*

SUPPLEMENTARY INFORMATION: The Advisory Board will meet telephonically on January 30, 2018, from 1:00 p.m. to 5:00 p.m. Eastern time. Advisory Board members will attend the meeting by teleconference. The teleconference number and other details for participating remotely will be posted on the Advisory Board's website, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm* 72 hours prior to the commencement of the first meeting date. Advisory Board meetings are open to the public.

The Advisory Board is mandated by Section 3687 of EEOICPA. The Secretary of Labor established the Board under this authority and Executive Order 13699 (June 26, 2015). The purpose of the Advisory Board is to advise the

Secretary with respect to: (1) The Site Exposure Matrices (SEM) of the Department of Labor; (2) medical guidance for claims examiners for claims with the EEOICPA program, with respect to the weighing of the medical evidence of claimants; (3) evidentiary requirements for claims under Part B of EEOICPA related to lung disease; and (4) the work of industrial hygienists and staff physicians and consulting physicians of the Department of Labor and reports of such hygienists and physicians to ensure quality, objectivity, and consistency. The Advisory Board sunsets on December 19, 2024.

The Advisory Board operates in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. 2) and its implementing regulations (41 CFR part 102–3).

Agenda: The tentative agenda for the Advisory Board meeting includes:

- Respond to the recommendation responses and requests for information provided by the program;
- Discuss matters from SEM subcommittee meeting or other subcommittees; and
- Administrative issues raised by Advisory Board functions and future Advisory Board activities.

OWCP transcribes and prepares detailed minutes of Advisory Board meetings. OWCP will post the transcripts and minutes on the Advisory Board web page, *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm,* along with written comments, speaker presentations, and other materials submitted to the Advisory Board or presented at Advisory Board meetings.

Public Participation, Submissions, and Access to the Public Record

Advisory Board meetings: The Advisory Board will meet via teleconference on Tuesday, January 30, 2018, from 1:00 p.m. to 5:00 p.m. Eastern time. All Advisory Board meetings are open to the public. The teleconference number and other details for listening to the meeting will be posted on the Advisory Board's website no later than 72 hours prior to the meeting. This information will be posted at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

Requests for special accommodations: Please submit requests for special accommodations to access the telephonic Advisory Board meeting by email, telephone, or hard copy to Ms. Carrie Rhoads, OWCP, Room S–3524, U.S. Department of Labor, 200 Constitution Ave. NW, Washington, DC 20210; telephone (202) 343–5580; email *EnergyAdvisoryBoard@dol.gov.*

Submission of written comments for the record: You may submit written comments, identified as for the Advisory Board and the meeting date of June 19, 2017, by any of the following methods:

- *Electronically:* Send to: *EnergyAdvisoryBoard@dol.gov* (specify in the email subject line, ''Advisory Board Meeting January 30, 2018'').
- *Mail, express delivery, hand delivery, messenger, or courier service:* Submit one copy to the following address: U.S. Department of Labor, Office of Workers' Compensation Programs, Advisory Board on Toxic Substances and Worker Health, Room S–3522, 200 Constitution Ave. NW, Washington, DC 20210. Due to security-related procedures, receipt of submissions by regular mail may experience significant delays.

Comments must be received by January 23, 2018. OWCP will make available publically, without change, any written comments, including any personal information that you provide. Therefore, OWCP cautions interested parties against submitting personal information such as Social Security numbers and birthdates.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, are also available on the Advisory Board's web page at *http://www.dol.gov/owcp/energy/regs/compliance/AdvisoryBoard.htm.*

FOR FURTHER INFORMATION CONTACT: You may contact Douglas Fitzgerald, Designated Federal Officer, at *fitzgerald.douglas@dol.gov,* or Carrie Rhoads, Alternate Designated Federal Officer, at *rhoads.carrie@dol.gov,* U.S. Department of Labor, 200 Constitution Avenue NW, Suite S–3524, Washington, DC 20210, telephone (202) 343–5580.

This is not a toll-free number.

Signed at Washington, DC, on December 19, 2017.

Julia K. Hearthway,

Director, Office of Workers' Compensation Programs.

[FR Doc. 2017–28227 Filed 12–29–17; 8:45 am]

BILLING CODE 4510–24–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0215]

Yttrium-90 Microsphere Brachytherapy Sources and Devices TheraSphere® and SIR-Spheres®

AGENCY: Nuclear Regulatory Commission.

ACTION: Draft guidance; extension of comment period.

SUMMARY: On November 7, 2017, the U.S. Nuclear Regulatory Commission (NRC) solicited comments on its licensing guidance for licenses authorizing the use of Yttrium-90 (Y–90) Microsphere Brachytherapy Sources and Devices TheraSphere® and SIR-Spheres®. The public comment period was originally scheduled to close on January 8, 2018. The NRC has decided to extend the public comment period to allow more time for members of the public to develop and submit their comments.

DATES: The due date of comments requested in the document published on November 7, 2017 (82 FR 51655) is extended. Comments should be filed no later than February 8, 2018. Comments received after this date will be considered, if it is practical to do so, but the Commission is able to ensure consideration only for comments received on or before this date.

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

- *Federal Rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0215. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

FOR FURTHER INFORMATION CONTACT: Lisa Dimmick, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–0694; email: *Lisa.Dimmick@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0215 when contacting the NRC about

the availability of information regarding this action. You may obtain publicly-available information related to this action by any of the following methods:

• *Federal rulemaking website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0215.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The draft Y–90 Microsphere Brachytherapy Sources and Devices Licensing Guidance, Revision 10, is available in ADAMS under Accession No. ML17107A375.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

The draft Y–90 Microsphere Brachytherapy Sources and Devices Licensing Guidance, Revision 10, is also available on the NRC's public website on the ''Medical Uses Licensee Toolkit'' page at *https://www.nrc.gov/materials/miau/med-use-toolkit.html.*

B. Submitting Comments

Please include Docket ID NRC–2017–0215 in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submission into ADAMS.

II. Discussion

On November 7, 2017, the NRC solicited comments on its draft licensing guidance entitled ''Yttrium-90 (Y–90) Microsphere Brachytherapy Sources and Devices TheraSphere® and SIR-Spheres® Licensing Guidance.'' This draft would be revision 10 to this licensing guidance. The licensing guidance for Y–90 microsphere brachytherapy was initially published in October 2002 and subsequently revised in 2004, 2007, 2008, 2011, 2012, and 2016. Following years of using the current licensing guidance, the NRC staff, stakeholders, and the Advisory Committee on the Medical Uses of Isotopes identified numerous issues that need to be addressed. A working group composed of Agreement State representatives and NRC staff was formed to address identified issues. This draft licensing guidance for Y–90 microsphere brachytherapy has been revised to update criteria for training and experience, medical event reporting, inventory requirement specifications, and waste disposal issues. The draft guidance provides new information regarding cremation and autopsy. The public comment period was originally scheduled to close on January 8, 2018. The NRC has decided to extend the public comment period on this document until February 8, 2018, to allow more time for members of the public to submit their comments.

Dated at Rockville, Maryland, this 27th day of December 2017.

For the Nuclear Regulatory Commission.

Kevin Williams,

Deputy Director, Division of Material Safety, State, Tribal and Rulemaking Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–28271 Filed 12–29–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0001]

Sunshine Act Meeting Notice

DATE: Weeks of January 1, 8, 15, 22, 29, February 5, 2018.

PLACE: Commissioners' Conference Room, 11555 Rockville Pike, Rockville, Maryland.

STATUS: Public and Closed.

Week of January 1, 2018

There are no meetings scheduled for the week of January 1, 2018.

Week of January 8, 2018—Tentative

There are no meetings scheduled for the week of January 8, 2018.

Week of January 15, 2018—Tentative

Thursday, January 18, 2018

9:00 a.m. Strategic Programmatic Overview of the Decommissioning and Low-Level Waste and Spent Fuel Storage and Transportation Business Lines (Public Meeting) (Contact: Damaris Marcano: 301–415–7328)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 22, 2018—Tentative

Tuesday, January 23, 2018

9:00 a.m. Hearing on Construction Permit for Northwest Medical Isotopes Production Facility: Section 189a of the Atomic Energy Act Proceeding (Public Meeting) (Contact: Michael Balazik: 301–415–2856)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Thursday, January 25, 2018

10:00 a.m. Strategic Programmatic Overview of the New Reactors Business Line (Public Meeting) (Contact: Donna Williams: 301–415–1322)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

Week of January 29, 2018—Tentative

There are no meetings scheduled for the week of January 29, 2018.

Week of February 5, 2018—Tentative

Thursday, February 8, 2018

9:00 a.m. Discussion of Potential Changes to the 10 CFR 2.206 Enforcement Petition Process (Public Meeting) (Contact: Doug Broaddus: 301–415–8124)

This meeting will be webcast live at the Web address—*http://www.nrc.gov/.*

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The schedule for Commission meetings is subject to change on short notice. For more information or to verify the status of meetings, contact Denise McGovern at 301–415–0681 or via email at *Denise.McGovern@nrc.gov.*

* * * * *

The NRC Commission Meeting Schedule can be found on the internet at: *http://www.nrc.gov/public-involve/public-meetings/schedule.html.*

* * * * *

The NRC provides reasonable accommodation to individuals with disabilities where appropriate. If you need a reasonable accommodation to

participate in these public meetings, or need this meeting notice or the transcript or other information from the public meetings in another format (*e.g.,* braille, large print), please notify Kimberly Meyer, NRC Disability Program Manager, at 301–287–0739, by videophone at 240–428–3217, or by email at *Kimberly.Meyer-Chambers@nrc.gov.* Determinations on requests for reasonable accommodation will be made on a case-by-case basis.

* * * * *

Members of the public may request to receive this information electronically. If you would like to be added to the distribution, please contact the Nuclear Regulatory Commission, Office of the Secretary, Washington, DC 20555 (301–415–1969), or email *Patricia.Jimenez@nrc.gov* or *Jennifer.BorgesRoman@nrc.gov.*

December 28, 2017.

Denise L. McGovern,

Policy Coordinator, Office of the Secretary.

[FR Doc. 2017–28396 Filed 12–28–17; 4:15 pm]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0238]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to Section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from December 5, 2017, to December 18, 2017. The last biweekly notice was published on December 19, 2017.

DATES: Comments must be filed by February 1, 2018. A request for a hearing must be filed by March 5, 2018.

ADDRESSES: You may submit comments by any of the following methods (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0238. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Mail comments to:* May Ma, Office of Administration, Mail Stop: OWFN–2–A13, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–1927, email: *Lynn.Ronewicz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0238, facility name, unit number(s), plant docket number, application date, and subject when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Website:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0238.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0238, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be

considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's website at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission no later than 60 days from the date of publication of this notice. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for

leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC website at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public website at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public website at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Dominion Nuclear Connecticut, Inc. (DNC), Docket No. 50–336, Millstone Power Station, Unit No. 2, New London County, Connecticut

Date of amendment request: October 4, 2017. A publicly-available version is in ADAMS under Accession No. ML17284A179.

Description of amendment request: The amendment would revise the Millstone Power Station, Unit No. 2 (MPS2) Technical Specification (TS) 6.19, ''Containment Leakage Rate Testing Program,'' by replacing the reference to Regulatory Guide (RG) 1.163, ''Performance-Based Containment Leak-Test Program,'' with a reference to Nuclear Energy Institute (NEI) Topical Report NEI 94–01, Revision 3–A, ''Industry Guideline for Implementing Performance-Based Option of 10 CFR part 50, Appendix J,'' and the limitations and conditions specified in NEI 94–01, Revision 2–A, as the

implementing documents used to develop the MPS2 performance-based leakage testing program in accordance with 10 CFR, Appendix J, Option B, ''Primary Reactor Containment Leakage Testing for Water-Cooled Power Reactors.'' The amendment would allow DNC to extend the Type A primary containment integrated leak rate test interval (ILRT) for MPS2 to 15 years and the Type C local leak rate test interval to 75 months, and incorporates the regulatory positions stated in RG 1.163.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed amendment involves changes to the MPS2 Containment Leakage Rate Testing Program. The proposed amendment does not involve a physical change to the plant or a change in the manner in which the plant is operated or controlled. The primary containment function is to provide an essentially leak tight barrier against the uncontrolled release of radioactivity to the environment for postulated accidents. As such, the containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident, and do not involve any accident precursors or initiators.

Therefore, the probability of occurrence of an accident previously evaluated is not significantly increased by the proposed amendment.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, and the limitations and conditions specified in NEI 94–01, Rev. 2–A, for development of the MPS2 performance-based leakage testing program. Implementation of these guidelines continues to provide adequate assurance that during design basis accidents, the primary containment and its components will limit leakage rates to less than the values assumed in the plant safety analyses. The potential consequences of extending the ILRT interval to 15 years have been evaluated by analyzing the resulting changes in risk. The increase in risk in terms of person-rem [roentgen equivalent man] per year within 50 miles resulting from design basis accidents was estimated to be acceptably small and determined to be within the guidelines published in RG 1.174. Additionally, the proposed change maintains defense-in-depth by preserving a reasonable balance among prevention of core damage, prevention of containment failure, and consequence mitigation. DNC has determined that the increase in Conditional Containment Failure Probability due to the proposed change is very small.

Therefore, [the proposed change does not involve a significant increase in the probability or consequences] of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, and the limitations and conditions specified in NEI 94–01, Rev. 2–A, for development of the MPS2 performance-based leakage testing program, and establishes a 15-year interval for Type A testing and an interval not to exceed 75 months for Type C testing. The containment and the testing requirements to periodically demonstrate the integrity of the containment exist to ensure the plant's ability to mitigate the consequences of an accident; do not involve any accident precursors or initiators. The proposed change does not involve a physical change to the plant (*i.e.,* no new or different type of equipment will be installed) or a change to the manner in which the plant is operated or controlled.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in the margin of safety?

Response: No.

The proposed amendment adopts the NRC-accepted guidelines of NEI 94–01, Revision 3–A, and the limitations and conditions specified in NEI 94–01, Rev. 2–A, for the development of the MPS2 performance-based leakage testing program, and establishes a 15-year interval for Type A testing and an interval not to exceed 75 months for Type C testing. This amendment does not alter the manner in which safety limits, limiting safety system setpoints, or limiting conditions for operation are determined. The specific requirements and conditions of the Containment Leakage Rate Testing Program, as defined in the TS, ensure that the degree of primary containment structural integrity and leak-tightness that is considered in the plant's safety analysis is maintained. The overall containment leakage rate limit specified by the TS is maintained, and the Type A, Type B, and Type C containment leakage tests will be performed at the frequencies established in accordance with the NRC-accepted guidelines of NEI 94–01, Revision 3–A, and the limitations and conditions specified in NEI 94–01, Rev. 2–A.

Containment inspections performed in accordance with other plant programs serve to provide a high degree of assurance that the containment will not degrade in a manner that is not detectable by an ILRT. A risk assessment using the current MPS2 PRA [probabilistic risk assessment] model concluded that extending the ILRT test interval from 10 years to 15 years results in a small change to the MPS2 risk profile.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lillian M. Cuoco, Senior Counsel, Dominion Energy, Inc., 120 Tredegar Street, RS–2, Richmond, VA 23219.

NRC Branch Chief: James G. Danna.

DTE Electric Company, Docket No. 50–341, Fermi 2, Monroe County, Michigan

Date of amendment request: August 24, 2017. A publicly-available version is in ADAMS under Accession No. ML17237A176.

Description of amendment request: The proposed amendment revises Technical Specification (TS) 3.3.1.1, ''Reactor Protection System (RPS) Instrumentation,'' to eliminate the main steam line radiation monitor (MSLRM) functions for initiating (1) a reactor protection system automatic reactor trip and (2) the associated (Group 1) primary containment isolation system (PCIS) isolations, which include automatic closure of the main steam isolation valves (MSIV) and main steam line (MSL) drain valves. The proposed changes also remove requirements for Group 1 PCIS isolation from TS 3.3.6.1, ''Primary Containment Isolation Instrumentation.'' This submittal also proposes the addition of two new TS Limiting Conditions for Operation, 3.3.7.2 and 3.3.7.3, for the mechanical vacuum pump and gland seal exhauster trip instrumentation that will be required to actuate in response to high MSL radiation.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed changes eliminate the MSLRM trip and isolation functions from initiating an automatic reactor scram and automatic closure of the MSIVs. The justification for eliminating the MSLRM trip and MSIV isolation functions is based on the NRC-approved evaluation provided in GE LTR [General Electric Licensing Topical Report] NEDO–31400A, ''Safety Evaluation for Eliminating the Boiling Water Reactor Main Steam Line Isolation Valve Closure Function and Scram Function of the Main Steam Line Radiation Monitor,'' dated October 1992.

The MSLRM high radiation RPS scram function has never been credited to shut down the reactor in response to a postulated CRDA [control rod drop accident]; instead, the neutron monitoring system will continue to be the credited means to shut down the reactor in response to the high flux condition that results from the reactivity inserted by the CRDA.

The consequences of an accident previously evaluated, have been re-evaluated consistent with RG [Regulatory Guide] 1.183 Rev. 0 AST [alternate source term] (10 CFR 50.67) for the applicable DBA [design basis accident] (*i.e.,* the CRDA) as stipulated in NEDO–31400A. The supporting dose analyses demonstrate that, with continued credit for the automatic trip/isolation of the MVPs [mechanical vacuum pump] as well as a new proposed automatic trip of the GSEs [gland seal exhauster], the consequences of the accident are within the regulatory acceptance criteria recommended in RG 1.183 Rev. 0 for compliance with 10 CFR 50.67. As a result, the consequences of any accident previously evaluated are not significantly increased.

The proposed modification of the trip logic for the MVPs to utilize the safety-related MSLRM signals is an improvement over the current licensed configuration of the MVP trip, which utilizes the nonsafety-related offgas 2-minute delay pipe radiation monitor ''High-High'' radiation signal. Reliance on the safety-related MSLRM signal is consistent with similar approved license amendments and, in addition to improving the quality and reliability of the sensing circuit, ensures the signal is generated at the time of earliest possible detection and therefore improves the effectiveness of the actuation. The trip setpoint utilized corresponds to the same value previously assigned for initiating MSIV isolation in response to the design basis CRDA. The offgas 2-minute delay pipe radiation monitor alarm function is being retained, with a more conservative setpoint, to continue to provide indication of increased radiation.

Similar to the MVPs, the proposed new trip of the nonsafety-related GSEs is also necessary to ensure calculated radiological consequences remain within the regulatory acceptance limits. Reliance on the safety-related MSLRM signal is consistent with BWR [boiling water reactor] design for reliable tripping of the nonsafety-related MVPs and ensures the signal is reliably generated at the time of earliest possible detection and maximizes the effectiveness of the actuation.

The proposed changes also include the elimination of the MSLRM isolation function from automatically closing the MSL drain valves. The contents of the MSL drain lines are conveyed to the main condenser. The evaluation of the condenser release path assumes that 100% of CRDA activity released is transported to the main condenser in 1 second, and therefore, the transportation of the post-CRDA activity from the reactor coolant to the main condenser either via MSLs or MSL drain lines is inconsequential and is supported by the dose analyses performed in support of this submittal.

Neither the MSLRMs nor the MVPs are postulated initiators of any accident previously evaluated. None of the proposed changes alter the probability of the occurrence of the CRDA initiating event.

The loss of the GSEs is a malfunction of equipment considered in UFSAR [updated final safety analysis report] Section 15.12 ''Malfunction of Turbine Gland Sealing System.'' In the event that the operating blower malfunctions, the backup blower will automatically assume the gas removal requirements. Assuming loss of both blowers, vacuum will be lost in the gland steam condenser. No cladding perforations result from a malfunction of the turbine gland sealing system. The pressure in the gland steam exhaust header will increase to greater than atmospheric, allowing sealing steam to escape into the turbine building. If exhauster vacuum falls below a specified value, caused for example by loss of alternating current (AC) power, a vacuum switch initiates the closing of the live steam supply to the gland steam header. Above 50% to 60% reactor power, the turbine is self-sealing; hence, the packing lines would remain pressurized under normal operating conditions.

The logic associated with the new trip of the GSEs will be designed to preserve the existing ability of the backup exhauster to automatically respond to a loss of the operating exhauster, in the absence of a valid high MSL radiation trip signal. Similar to the design of the RPS trip logic that is proposed to be eliminated, the GSE trip logic will be configured such that no single failure of a MSLRM can generate a GSE trip signal. As specified in the ''Applicability'' section for the new proposed LCO [limiting condition for operation] 3.3.7.3, the trip logic will be automatically bypassed when reactor power is above 10% RTP [rated thermal power] when the consequences postulated in association with a CRDA are not credible. On the basis of the configuration of the GSE trip logic, the quality of the initiating trip logic signal, and the short duration of normal operation for which the GSE trip logic will be active, the probability of a malfunction of equipment leading to the loss of the turbine gland sealing system is not significantly increased.

The proposed changes do not increase system or component pressures, temperatures, or flowrates for systems designed to prevent accidents or mitigate the consequences of an accident. Since these conditions do not change, the probability of a process-induced failure or malfunction of a SSC [system, structure, or component] is not increased.

The addition of MVP and GSE SRs [surveillance requirements] and LCOs to the TS enhances the reliability of these design functions by establishing administrative requirements for periodic verification of their operability.

The reliance on a lower assigned MSL high radiation alarm setpoint of 1.5 times the full power N–16 background will direct the control room operators to diagnose and act to mitigate conditions associated with fuel damage and release sooner than the current alarm condition which will reduce the potential consequences of a postulated release due to a CRDA.

On the basis of the above considerations, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not increase system or component pressures, temperatures, or flowrates. Since these conditions do not change, the likelihood of a process-induced failure or malfunction of a SSC not previously considered is not increased.

The reliance on the MVP trip to ensure acceptable dose consequences following a postulated CRDA is consistent with the original plant design and licensing bases. The re-assignment of the initiating input for the MVP trip logic to the MSLRM improves the quality and reliability of the credited trip initiating logic by relying on safety-related, redundant components. The quality of the nonsafety-related trip circuit itself is unchanged.

The reliance on the proposed trip of the GSEs is a function that is credited to ensure acceptable dose consequences following a postulated CRDA. The use of the safety-related redundant MSLRM signals and nonsafety-related trip circuit provides the same level of quality and reliability of the initiating trip logic and trip circuitry credited to trip the MVPs. These requirements provide the reliability necessary to ensure the assumptions of the analyzed CRDA remain valid.

Both the safety-related trip logic and the nonsafety-related trip circuits associated with the MVP and GSE trips will be designed to include qualified electrical isolation necessary to ensure the nonsafety-related trip circuitry cannot induce failures of or affect the reliability of the safety-related trip logic.

The new GSE trip will be designed to preserve the existing function for auto-start of the standby exhauster in the event that the plant experiences a loss of the operating exhauster, in the absence of a valid high MSL radiation trip signal. An installed automatic bypass of the GSE trip is actuated once steam flow and feedwater flow correspond to the same Low Power Setpoint used to disable the rod block function of the Rod Worth Minimizer during plant startup. This bypass will minimize the potential for the plant to experience a loss of both GSEs and potential ensuing turbine trip due to a failure of the new trip circuit. The status of the GSE trip bypass will be available to the control room operators and be required to be verified as a part of the plant general operating procedures for startup/shutdown.

Adding requirements for the MVP and GSE trip instrumentation in the TS will ensure that appropriate measures and requirements are in place such that any release of radioactive material released from a gross fuel failure will be contained in the main condenser and processed through the offgas system in the manner credited in the plant analysis of the CRDA.

The MSLRM trip and isolation functions being eliminated as described above are only applicable to the CRDA and no other event

in the safety analysis. The proposed changes are consistent with the revised safety analysis assumptions for a CRDA as described in this license amendment request.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed changes eliminating the MSLRM trip and isolation functions from initiating an automatic reactor scram and automatic closure of the MSIVs are justified based on the NRC-approved LTR NEDO–31400A and supporting dose analysis. The supporting dose analysis also supports the elimination of the MSL drain isolation function of the MSLRMs on the basis that with the valves open the source term associated with the analyzed release is directed to the main condenser the same as it would be via the MSLs themselves.

The methods of analysis and assumptions used to evaluate the consequences of the applicable impacted safety analysis (*i.e.* the CRDA) are consistent with the conservative regulatory requirements and guidance identified in Section 5.1 above [this is a reference to ''Applicable Regulatory Requirements/Criteria'' in DTE August 24, 2017, license amendment request] and establish estimates of the EAB [exclusion area boundary], LPZ [low population zone], and MCR [main control room] doses that comply with these criteria. Hence, there is reasonable assurance that Fermi 2, modified as proposed by this submittal, will continue to provide sufficient safety margins to address unanticipated events and to compensate for uncertainties in accident progression and analysis assumptions and parameters.

Adding requirements for the MVP and GSE high MSL radiation trips in the Fermi 2 TS will ensure that appropriate measures and requirements are in place to maintain the operability of these functions as such that any release of radioactive material from a gross fuel failure resulting from a CRDA will be contained in the main condenser and processed through the offgas system.

The proposed changes do not increase system or component pressures, temperatures, or flowrates for systems designed to prevent accidents or mitigate the consequences of an accident.

The analyses performed in accordance with the specified NRC-approved methods and assumptions demonstrate that the removal of the trip and isolation functions as described will not cause a significant reduction in the margin of safety, as the resulting offsite dose consequences are being maintained within regulatory limits. The proposed changes do not exceed or alter a design basis or a safety limit for a parameter to be described or established in the UFSAR [updated final safety analysis report].

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jon P. Christinidis, DTE Energy, Expert Attorney—Regulatory, 688 WCB, One Energy Plaza, Detroit, MI 48226–1279.

NRC Branch Chief: David J. Wrona.

Duke Energy Progress, LLC (Duke Energy), Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1 (HNP), Wake and Chatham Counties, North Carolina

Duke Energy Progress, LLC, Docket No. 50–261, H.B. Robinson Steam Electric Plant Unit No. 2 (RNP), Darlington County, South Carolina

Date of amendment request: October 19, 2017. A publicly-available version is in ADAMS under Accession No. ML17292A040.

Description of amendment request: The proposed amendment request consists of five changes that would revise the Technical Specifications (TSs) to support the allowance of Duke Energy to self-perform core reload design and safety analyses. These changes would (1) add the NRC-approved COPERNIC Topical Report (TR) to the list of TRs for HNP and RNP; (2) relocate several TS parameters to the Core Operating Limits Reports for HNP and RNP; (3) revise the RNP TS Moderator Temperature Coefficient maximum upper limit; (4) revise the HNP TS definition of Shutdown Margin consistent with Technical Specifications Task Force (TSTF) Traveler TSTF–248, Revision 0, ''Revise Shutdown Margin Definition for Stuck Rod Exception'' (ADAMS Accession No. ML040611010); and (5) revise the RNP and HNP power distribution limits limiting condition for operation actions and surveillance requirements to allow operation of a reactor core designed using the DPC–NE–2011–P [proprietary], ''Nuclear Design Methodology Report for Core Operating Limits of Westinghouse Reactors,'' methodology. (A redacted version, designated as DPC–NE–2011, is publicly-available under ADAMS Accession No. ML16125A420.)

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

COPERNIC

The proposed change adds a topical report for an NRC-reviewed and approved fuel performance code to the list of topical reports in RNP and HNP Technical Specifications (TS), which is administrative in nature and has no impact on a plant configuration or system performance relied upon to mitigate the consequences of an accident. The list of topical reports in the TS used to develop the core operating limits does not impact either the initiation of an accident or the mitigation of its consequences.

Relocate TS Parameters to the COLR

The proposed change relocates certain cycle-specific core operating limits from the RNP and HNP TS to the Core Operating Limits Report (COLR). The cycle-specific values must be calculated using the NRC approved methodologies listed in the COLR section of the TS. Because the parameter limits are determined using the NRC methodologies, they will continue to be within the limit assumed in the accident analysis. As a result, neither the probability nor the consequences of any accident previously evaluated will be affected.

RNP MTC TS Change

The proposed change revises the RNP Technical Specification maximum upper Moderator Temperature Coefficient (MTC) limit. Revision of the MTC limit does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. There is no impact on the source term or pathways assumed in accidents previously assumed. No analysis assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident.

HNP TSTF–248

The proposed change revises the HNP Technical Specification definition of Shutdown Margin (SDM) consistent with existing NRC-approved definition. The proposed revision to the SDM definition will result in analytical flexibility for determining SDM. Revision of the SDM definition does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. There is no impact on the source term or pathways assumed in accidents previously assumed. No analysis assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident.

DPC–NE–2011–P TS Changes

The proposed change revises the RNP and HNP TS to allow operation of a reactor core designed using the DPC–NE–2011–P methodology. The DPC–NE–2011–P methodology has already been approved by the NRC for use at RNP and HNP. Revision of the TS to align with the NRC-approved methodology does not affect the performance of any equipment used to mitigate the consequences of an analyzed accident. There is no impact on the source term or pathways assumed in accidents previously assumed.

No analysis assumptions are violated and there are no adverse effects on the factors that contribute to offsite or onsite dose as the result of an accident.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

COPERNIC

The proposed change adds a topical report for an NRC-reviewed and approved fuel performance code to the list of topical reports in HNP and RNP TS, which is administrative in nature and has no impact on a plant configuration or on system performance. The proposed change updates the list of NRC-approved topical reports used to develop the core operating limits. There is no change to the parameters within which the plant is normally operated. The possibility of a new or different kind of accident is not created.

Relocate TS Parameters to the COLR

The proposed change relocates certain cycle-specific core operating limits from the RNP and HNP TS to the COLR. No new or different accidents result from utilizing the proposed change. The changes do not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed) or a change in the methods governing normal plant operation. In addition, the changes do not impose any new or different requirements or eliminate any existing requirements. The changes do not alter assumptions made in the safety analyses. The proposed changes are consistent with the safety analyses assumptions and current plant operating practice.

RNP MTC TS Change

The proposed change revises the RNP Technical Specification maximum upper MTC limit. The proposed change does not physically alter the plant; that is, no new or different type of equipment will be installed. Therefore the proposed change could also not initiate an equipment malfunction that would result in a new or different type of accident from any previously evaluated. This change does not create new failure modes or mechanisms which are not identifiable during testing, and no new accident precursors are generated.

HNP TSTF–248

Revising the HNP Technical Specification definition of SDM would not require revision to any SDM boron calculations. Rather, it would afford the analytical flexibility for determining SDM for a particular circumstance. The proposed change does not physically alter the plant; that is, no new or different type of equipment will be installed. Therefore the proposed change could also not initiate an equipment malfunction that would result in a new or different type of accident from any previously evaluated. This change does not create new failure modes or mechanisms which are not identifiable during testing, and no new accident precursors are generated.

DPC–NE–2011–P TS Changes

The proposed change revises the RNP and HNP TS to allow operation of a reactor core designed using the DPC–NE–2011–P methodology. The DPC–NE–2011–P methodology has already been approved by the NRC for use at RNP and HNP. The proposed change does not physically alter the plant, that is, no new or different type of equipment will be installed. Therefore the proposed change could also not initiate an equipment malfunction that would result in a new or different type of accident from any previously evaluated. Operating the reactor in accordance with the NRC-approved methodology will ensure that the core will operate within safe limits. This change does not create new failure modes or mechanisms which are not identifiable during testing, and no new accident precursors are generated.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is related to the confidence in the ability of the fission product barriers to perform their design functions during and following an accident. These barriers include the fuel cladding, the reactor coolant system, and the containment system.

COPERNIC

The proposed change adds a topical report for an NRC-reviewed and approved fuel performance code to the list of topical reports in HNP and RNP TS, which is administrative in nature and does not amend the cycle specific parameters presently required by the TS. The individual TS continue to require operation of the plant within the bounds of the limits specified in the COLR. The proposed change to the list of analytical methods referenced in the COLR does not impact the margin of safety.

Relocate TS Parameters to the COLR

The proposed change relocates certain cycle-specific core operating limits from the RNP and HNP TS to the COLR. This change will have no effect on the margin of safety. The relocated cycle-specific parameters will continue to be calculated using NRC-approved methodologies and will provide the same margin of safety as the values currently located in the TS.

RNP MTC TS Change

The proposed change revises the RNP Technical Specification maximum upper MTC limit. The MTC limit change does not impact the reliability of the fission product barriers to function. Radiological dose to plant operators or to the public will not be impacted as a result of the proposed change. The current Updated Final Safety Analysis Report (UFSAR) Chapter 15 analyses of record remain bounding with the proposed change to the maximum upper MTC limit. Therefore, all of the applicable acceptance criteria continue to be met for each of the analyses with the revised maximum upper MTC limit.

HNP TSTF–248

The proposed revision to the HNP Technical Specification definition of SDM does not impact the reliability of the fission product barriers to function. Radiological dose to plant operators or to the public will not be impacted as a result of the proposed change. Adequate SDM will continue to be ensured for all operational conditions.

DPC–NE–2011–P TS Changes

The proposed change revises the RNP and HNP TS to allow operation of a reactor core designed using the DPC–NE–2011–P methodology. As a portion of the overall Duke Energy methodology for cycle reload safety analyses, DPC–NE–2011–P has already been approved by the NRC for use at RNP and HNP. The proposed change will continue to ensure that applicable design and safety limits are satisfied such that the fission product barriers will continue to perform their design functions. Operation of the reactor in accordance with the DPC–NE–2011–P methodology will ensure the margin of safety is not reduced.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon Street, Mail Code DEC45A, Charlotte NC 28202.

NRC Branch Chief: Undine Shoop.

Duke Energy Progress, LLC, Docket No. 50–400, Shearon Harris Nuclear Power Plant, Unit 1, Wake and Chatham Counties, North Carolina

Date of amendment request: October 10, 2017. A publicly-available version is in ADAMS under Accession No. ML17283A159.

Description of amendment request: The amendment would revise the Shearon Harris Nuclear Power Plant (HNP), Unit 1, Technical Specifications (TSs) to align more closely to improved Standard Technical Specifications for rod control and to the initial conditions in the HNP safety analyses. The proposed changes will delete TS action statement requirements that include a plant shutdown to address rods that are immovable but trippable. Revisions to surveillance requirements (SRs) are proposed to clarify actions that are not necessary if rods are immovable but still trippable.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed activity will delete action statement 3.1.3.1.c from the HNP TS and amend action statement 3.1.3.1.d, SR 4.1.1.1.1.a, and SR 4.1.1.2.a. These TS actions address electrical problems that prevent the Control Rod Drive Mechanism (CRDM) from moving rods. These conditions do not affect the safety functions of the control rods or shutdown margin of the unit. Rods will still insert into the core on an interruption of power to the CRDM, as occurs in a reactor trip. Also, rod alignment is not impacted, ensuring no change to reactivity.

The proposed activity is removing actions from the HNP TS for conditions that do not impact the plant's safety analysis. Rods will still insert into the core on an interruption of power to the CRDM, as occurs in a reactor trip. Also, rod alignment is not impacted, ensuring no change to reactivity or shutdown margin. Since the conditions of these TS actions do not impact the plant safety analysis, the plant shutdown directed by them is unnecessary. The overall probability or consequence of an accident will not be significantly increased by removing the unnecessary TS actions.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed activity will delete action statement 3.1.3.1.c from the HNP TS and amend action statements 3.1.3.1.d, SR 4.1.1.1.1.a, and SR 4.1.1.2.a. These TS actions address electrical problems that prevent the CRDM from moving rods. These conditions do not affect the safety functions of the control rods. Rods will still insert into the core on an interruption of power to the CRDM, as occurs in a reactor trip. Also, rod alignment is not impacted, ensuring no change to reactivity or shutdown margin.

The proposed change does not involve installation of new equipment or modification of existing equipment, so that no new equipment failure modes are introduced. Also, the proposed change in TS does not result in a change to the way that the equipment or facility is operated that would create new accident initiators.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed license amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed activity will delete action statement 3.1.3.1.c from the HNP TS and amend action statement 3.1.3.1.d, SR 4.1.1.1.1.a, and SR 4.1.1.2.a. These actions address electrical problems that prevent the CRDM from moving rods. These conditions do not affect the safety functions of the control rods. Rods will still insert into the core on an interruption of power to the CRDM, as occurs in a reactor trip. Also, rod alignment is not impacted, ensuring no change to reactivity or shutdown margin.

The TS action statements as amended will continue to address the two required safety functions of rod control: to shut down the reactor in the event of a reactor trip, or to maintain proper alignment to ensure even power distribution. TS action statement 3.1.3.1.a will remain to drive actions if untrippable rods are identified. TS action statements 3.1.3.1.b and 3.1.3.1.d will remain to drive actions if misaligned rods are identified. The proposed changes to HNP TS do not significantly impact either rod safety function, and separate TS action statements for both functions will remain in place. Further, the impacted surveillances will continue to be applicable to conditions impacting either rod safety function.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Kathryn B. Nolan, Deputy General Counsel, Duke Energy Corporation, 550 South Tryon St., M/C DEC45A, Charlotte, NC 28202.

NRC Branch Chief: Undine Shoop.

Exelon Generation Company, LLC, Docket No. 50–244, R.E. Ginna Nuclear Power Plant, Wayne County, New York

Date of amendment request: October 31, 2017. A publicly available version is in ADAMS under Accession No. ML17304A984.

Description of amendment request: The amendment would revise Technical Specification (TS) Surveillance Requirement 3.8.4.3, ''DC [Direct Current] Sources—MODES 1, 2, 3, and 4,'' for the R.E. Ginna Nuclear Power Plant (Ginna). The proposed change would allow the use of a consistent battery testing technique in order to provide consistent data for trending battery performance. This proposed change is based on guidance provided in the Institute of Electrical and Electronics Engineers (IEEE) Standard 450–2010, ''IEEE Recommended Practice for Maintenance, Testing, and Replacement of Vented Lead-Acid Batteries for Stationary Applications,'' which is endorsed by NRC Regulatory Guide 1.129, Revision 3, ''Maintenance, Testing, and Replacement of Vented Lead-Acid Storage Batteries for Nuclear Power Plants.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change will continue to ensure that the DC system is tested in a manner that will verify operability. Performance of the required system surveillances, in conjunction with the applicable operational and design requirements for the DC system, provide assurance that the system will be capable of performing the required design functions for accident mitigation and also that the system will perform in accordance with the functional requirements for the system as described in the Updated Final Safety Analysis Report for Ginna. This change is in accordance with IEEE Standard 450–2010, ''IEEE Recommended Practice for Maintenance, Testing, and Replacement of Vented Lead-Acid Batteries for Stationary Applications,'' which has been endorsed by NRC Regulatory Guide 1.129, Revision 3, ''Maintenance, Testing, and Replacement of Vented Lead-Acid Storage Batteries for Nuclear Power Plants.'' This endures that the rate of occurrence and consequences of analyzed accidents will not change.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not create the possibility of a new or different kind of accident from any previously evaluated. The proposed surveillance requirement change will continue to ensure that the DC system and in particular the batteries are tested in a manner that will verify operability. No physical changes to the Ginna systems, structures, or components are being implemented. There are no new or different accident initiators or sequences being created by the proposed TS change. Therefore, the change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change does not involve a significant reduction in the margin of safety.

The proposed DC system surveillance requirement change provides appropriate and applicable surveillances for the DC system. The proposed change to surveillance requirements for the DC system will continue to ensure system operability.

Therefore, this change does not affect any margin of safety for Ginna.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Branch Chief: James G. Danna.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: November 7, 2017. A publicly-available version is in ADAMS under Accession No. ML17317A472.

Description of amendment request: The proposed change would allow for deviation from National Fire Protection Association (NFPA) 805 requirements to allow for currently installed non-plenum listed cables routed above suspended ceilings and to allow for the use of thin wall electrical metallic tubing (EMT) and embedded/buried plastic conduit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The use of EMT and embedded/buried PVC [polyvinyl chloride] does not create ignition sources and does not impact fire prevention. The EMT and embedded PVC had been in use since original plant construction, are allowed by the National Electrical Code and are not expected to increase the potential for a fire to start.

The prior introduction of non-listed communication/data cables routed above suspended ceilings does not create ignition sources and does not impact fire prevention. Cable installation procedures are utilized to prevent the future installation of new cables that are noncompliant. Also, the communication/data cables routed above suspended ceilings do not result in compromising automatic fire suppression functions, manual fire suppression functions, fire protection or systems and structures, or post-fire safe shutdown capability.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do allow future physical changes to the facility that deviate from NFPA 805 requirements. However, the proposed changes do not alter any assumptions made in the safety analyses, nor do they involve any changes to plant procedures for ensuring that the plant is operated within analyzed limits. As such, no new failure modes or mechanisms that could cause a new or different kind of accident from any previously evaluated are being introduced.

Therefore, the proposed changes do not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed changes do not alter the manner in which safety limits or limiting safety system settings are determined. No changes to instrument/system actuation setpoints are involved. The safety analysis acceptance criteria are not affected by this change and the proposed changes will not permit plant operation in a configuration outside the design basis.

Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: David J. Wrona.

Indiana Michigan Power Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant (CNP), Units Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: November 7, 2017. A publicly-available version is in ADAMS under Package Accession No. ML17317A454.

Description of amendment request: The proposed change would revise the CNP Emergency Plan to relocate the Technical Support Center (TSC) within the CNP protected area.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CNP emergency plan to relocate the TSC does not impact the physical function of plant structures, systems, or components (SSC) or the manner in which SSCs perform their design function. The proposed change neither adversely affects accident initiators or precursors, nor alters design assumptions. The proposed change does not alter or prevent the ability of SSCs to perform their intended function to mitigate the consequences of an initiating event within assumed acceptance limits. No operating procedures or administrative controls that function to prevent or mitigate accidents are affected by the proposed changes.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not impact the accident analysis. The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed or removed) or a change in the method of plant operation. The proposed change will not introduce failure modes that could result in a new accident, and the change does not alter assumptions made in the safety analysis. The proposed change to the location of the TSC is not an initiator of any accidents.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Margin of safety is associated with confidence in the ability of the fission product barriers (*i.e.,* fuel cladding, reactor coolant system pressure boundary, and containment structure) to limit the level of radiation dose to the public. The proposed change does not impact operation of the plant or its response to transients or accidents. The change does not affect the Technical Specifications or the operating license other than to amend the license to approve the change. The proposed change does not involve a change in the method of plant operation, and no accident analyses will be affected by the proposed changes.

Additionally, the proposed change will not relax any criteria used to establish safety limits and will not relax any safety system settings. The safety analysis acceptance criteria are not affected by these changes. The proposed change will not result in plant operation in a configuration outside the design basis. The proposed change does not adversely affect systems that respond to safely shut down the plant and to maintain

the plant in a safe shutdown condition. The emergency plan will continue to activate an emergency response commensurate with the extend of degradation of plant safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Robert B. Haemer, Senior Nuclear Counsel, One Cook Place, Bridgman, MI 49106.

NRC Branch Chief: David J. Wrona.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: October 6, 2017. A publicly-available version is in ADAMS under Accession No. ML17279B017.

Description of amendment request: The requested amendment proposes changes to the licensing basis documents to change the methodology and acceptance criteria for the in-containment refueling water storage tank (IRWST) heatup preoperational test described in the Updated Final Safety Analysis Report (UFSAR) Subsection 14.2.9.1.3, item h, and the passive residual heat removal (PRHR) heat exchanger preoperational test described in UFSAR Subsection 14.2.9.1.3, item g. These changes involve material which is specifically referenced in Section 2.D.(2) of the combined licenses for VEGP, Units 3 and 4.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

This activity changes the acceptance criteria for the IRWST heatup preoperational test and provides allowance to perform the preoperational test during both PRHR heat exchanger natural circulation and forced flow, instead of only during natural circulation. In addition, the acceptance criteria are changed for the PRHR heat exchanger forced flow system operability and preoperational tests.

No structure, system, or component (SSC) or function is changed by this proposed activity. There is no change to the application of Regulatory Guide 1.68, nor is there a change to the design of the PRHR heat exchanger or the IRWST. The initial test program continues to confirm the heat transfer capability of the PRHR heat exchanger and that the IRWST heatup is consistent with the PRHR heat exchanger heat transfer modeling in the UFSAR Chapter 15 safety analysis.

The proposed amendment does not affect the prevention or mitigation of abnormal events; *e.g.,* accidents, anticipated operation occurrences, earthquakes, floods, turbine missiles, and fires or their safety or design analyses. This change does not involve containment of radioactive isotopes or have any adverse effect on a fission product barrier. There is no impact on previously evaluated accidents.

Therefore, the proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed changes do not involve a new failure mechanism or malfunction, that affects an SSC accident initiator, or interface with any SSC accident initiator or initiating sequence of events considered in the design and licensing bases. There is no adverse effect on radioisotope barriers or the release of radioactive materials. The proposed amendment does not adversely affect any accident, including the possibility of creating a new or different kind of accident from any accident previously evaluated. Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

This activity changes the acceptance criteria for the IRWST heatup preoperational test and gives allowance to perform the preoperational test during both PRHR heat exchanger natural circulation and forced flow, instead of only during natural circulation. In addition, the acceptance criteria are changed for the PRHR heat exchanger forced flow system operability and preoperational tests.

No SSC or function is changed within this activity. There is no change to the application of Regulatory Guide 1.68, nor is there a change to how the PRHR heat exchanger or the IRWST are designed. The initial test program continues to confirm the heat transfer capability of the PRHR heat exchanger. The initial test program will confirm the IRWST heatup is consistent with the current PRHR heat exchanger heat transfer modeling in the UFSAR Chapter 15 safety analysis.

The proposed changes would not affect any safety-related design code, function, design analysis, safety analysis input or result, or existing design/safety margin. No safety analysis or design basis acceptance limit/criterion is challenged or exceeded by the requested changes.

Therefore, the requested amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant, Units 3 and 4, Burke County, Georgia

Date of amendment request: November 16, 2017. A publicly-available version is in ADAMS under Accession No. ML17325A562.

Description of amendment request: The amendments propose changes to Inspections, Tests, Analyses, and Acceptance Criteria (ITAAC) in Combined License (COL) Appendix C, with corresponding changes to the associated plant-specific Tier 1 information to simplify and consolidate a number of ITAAC to improve efficiency of the ITAAC completion and closure process. Pursuant to the provisions of 10 CFR 52.63(b)(1), an exemption from elements of the design as certified in the 10 CFR part 52, Appendix D, design certification rule is also requested for the plant-specific Design Control Document Tier 1 material departures.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed non-technical change to COL Appendix C will consolidate ITAAC in order to improve and create a more efficient process for the ITAAC Closure Notification submittals. No structure, system, or component (SSC) design or function is affected. No design or safety analysis is affected. The proposed changes do not affect any accident initiating event or component failure, thus the probabilities of the accidents previously evaluated are not affected. No function used to mitigate a radioactive material release and no radioactive material release source term is involved, thus the

radiological releases in the accident analyses are not affected.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to COL Appendix C does not affect the design or function of any SSC, but will consolidate ITAAC in order to improve efficiency of the ITAAC completion and closure process. The proposed changes would not introduce a new failure mode, fault or sequence of events that could result in a radioactive material release.

Therefore, the proposed amendment does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed change to COL Appendix C to consolidate ITAAC in order to improve efficiency of the ITAAC completion and closure process is considered non-technical and would not affect any design parameter, function or analysis. There would be no change to an existing design basis, design function, regulatory criterion, or analysis. No safety analysis or design basis acceptance limit/criterion is involved.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: M. Stanford Blanton, Balch & Bingham LLP, 1710 Sixth Avenue North, Birmingham, AL 35203–2015.

NRC Branch Chief: Jennifer Dixon-Herrity.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant, Unit 2, Rhea County, Tennessee

Date of amendment request: October 11, 2017. A publicly-available version is in ADAMS under Accession No. ML17284A452.

Description of amendment request: The amendment would revise Technical Specification (TS) 3.3.1, Table 3.3.1–1, ''Reactor Trip System (RTS) Instrumentation,'' to increase the values for the nominal trip setpoint and the allowable value for Function 14.a, ''Turbine Trip—Low Fluid Oil Pressure.''

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change reflects a design change to the turbine control system that results in the use of an increased control oil pressure system, necessitating a change to the value at which a low fluid oil pressure initiates a reactor trip on turbine trip. The low fluid oil pressure is an input to the reactor trip instrumentation in response to a turbine trip event. The value at which the low fluid oil initiates a reactor trip is not an accident initiator. A change in the nominal control oil pressure does not introduce any mechanisms that would increase the probability of an accident previously analyzed. The reactor trip on turbine trip function is initiated by the same protective signal as used for the existing auto stop low fluid oil system trip signal. There is no change in form or function of this signal and the probability or consequences of previously analyzed accidents are not impacted.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the [proposed] change create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The EHC [electrohydraulic control] fluid oil pressure rapidly decreases in response to a turbine trip signal. The value at which the low fluid oil pressure switches initiates a reactor trip is not an accident initiator. The proposed TS change reflects the higher pressure that will be sensed after the pressure switches are relocated from the auto stop low fluid oil system to the EHC high pressure header. Failure of the new switches would not result in a different outcome than is considered in the current design basis. Further, the change does not alter assumptions made in the safety analysis but ensures that the instruments perform as assumed in the accident analysis.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the [proposed] change involve a significant reduction in a margin of safety?

Response: No.

The change involves a parameter that initiates an anticipatory reactor trip following a turbine trip. The safety analyses do not credit this anticipatory trip for reactor core protection. The original pressure switch configuration and the new pressure switch configuration both generate the same reactor trip signal. The difference is that the initiation of the trip will now be adjusted to a different system of higher pressure. This system function of sensing and transmitting a reactor trip signal on turbine trip remains the same. There is no impact to safety analysis acceptance criteria as described in the plant licensing basis because no change is made to the accident analysis assumptions.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Sherry A. Quirk, Executive Vice President and General Counsel, Tennessee Valley Authority, 400 West Summit Hill Drive, 6A West Tower, Knoxville, TN 37902.

NRC Branch Chief: Undine Shoop.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in

the ''Obtaining Information and Submitting Comments'' section of this document.

Entergy Nuclear Operations, Inc., Docket Nos. 50–003, 50–247, and 50–286, Indian Point Nuclear Generating Unit Nos. 1, 2, and 3, Westchester County, New York

Date of amendment request: April 28, 2017, as supplemented by letters dated August 9, 2017; September 28, 2017; and October 26, 2017.

Brief description of amendments: The amendments revised the Cyber Security Plan Milestone 8 full implementation date by extending the full implementation date from December 31, 2017, to December 31, 2018.

Date of issuance: December 8, 2017.

Effective date: As of the date of issuance, and shall be implemented by December 31, 2017.

Amendment Nos.: 60 (Unit No. 1), 286 (Unit No. 2), and 263 (Unit No. 3). A publicly-available version is in ADAMS under Accession No. ML17315A000; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Provisional Operating License No. DPR–5 and Facility Operating License Nos. DPR–26 and DPR–64: The amendments revised the Provisional Operating License for Unit No. 1 and the Facility Operating Licenses for Unit Nos. 2 and 3.

Date of initial notice in ***Federal Register****:* July 18, 2017 (82 FR 32880).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 8, 2017.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–255, Palisades Nuclear Plant, Van Buren County, Michigan

Date of amendment request: March 30, 2017, as supplemented by letter dated October 17, 2017.

Brief description of amendment: This amendment revised the Cyber Security Plan (CSP) implementation schedule Milestone 8 date and paragraph 2.E in the renewed facility operating license from December 15, 2017, to March 31, 2019. Milestone 8 of the CSP implementation schedule concerns the full implementation of the CSP.

Date of issuance: December 15, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days.

Amendment No.: 264. A publicly-available version is in ADAMS under Accession No. ML17328B033; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–20: Amendment revised the Renewed Facility Operating License.

Date of initial notice in ***Federal Register****:* May 23, 2017 (82 FR 23623). The supplemental letter dated October 17, 2017, provided additional information that expanded the scope of the application as originally noticed and changed the NRC staff's original proposed no significant hazards consideration (NSHC) determination as published in the **Federal Register**. Accordingly, the NRC published a second proposed NSHC determination in the **Federal Register** on November 7, 2017 (82 FR 51650). This notice superseded the original notice in its entirety. It also provided an opportunity to request a hearing by January 8, 2018, but indicated that if the Commission makes a final NSHC determination, any such hearing would take place after issuance of the amendment.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 15, 2017.

No significant hazards consideration comments received: No.

Entergy Nuclear Operations, Inc., Docket No. 50–293, Pilgrim Nuclear Power Station (Pilgrim), Plymouth County, Massachusetts

Date of amendment request: March 30, 2017.

Brief description of amendment: The amendment revised Pilgrim's renewed facility operating license for the Cyber Security Plan (CSP) Milestone 8 full implementation completion date, as set forth in the CSP implementation schedule, and revised the physical protection license condition. The amendment revised the CSP Milestone 8 completion date from December 15, 2017, to December 31, 2020.

Date of issuance: December 15, 2017.

Effective date: As of the date of issuance, and shall be implemented within 30 days.

Amendment No.: 247. A publicly-available version is in ADAMS under Accession No. ML17290A487; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–35: The amendment revised the renewed facility operating license.

Date of initial notice in ***Federal Register****:* May 23, 2017 (82 FR 23624).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 15, 2017.

No significant hazards consideration comments received: No.

National Institute of Standard and Technology (NIST), Docket No. 50–184, National Bureau of Standards Test Reactor (NBSR), Montgomery County, Maryland

Date of amendment request: March 2, 2017, as supplemented by letters dated March 29, 2017; May 25, 2017; November 17, 2017; November 20, 2017; December 1, 2017; December 11, 2017; and December 14, 2017.

Brief description of amendment: The amendment revised NIST NBSR's Facility Operating License TR–5 to allow receipt of calibration and testing sources, and revised technical specifications pertaining to the NIST reactor low power startup testing and organizational reporting requirements.

Date of issuance: December 15, 2017.

Effective date: As of the date of issuance.

Amendment No.: 11. A publicly-available version is in ADAMS under Accession No. ML17292A062; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. TR–5: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* September 12, 2017 (82 FR 42844). The supplemental letters dated November 17, 2017; November 20, 2017; December 1, 2017; December 11, 2017; and December 14, 2017 (which withdrew parts of the application), provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 15, 2017.

No significant hazards consideration comments received: No.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit 1 (FCS), Washington County, Nebraska

Date of amendment request: December 16, 2016, as supplemented by letter dated May 15, 2017.

Brief description of amendment: The amendment revised the FCS Emergency Plan and Emergency Action Level (EAL) scheme for the permanently defueled condition. The proposed permanently defueled Emergency Plan and EAL scheme are commensurate with the

significantly reduced spectrum of credible accidents that can occur in the permanently defueled condition and are necessary to properly reflect the conditions of the facility while continuing to preserve the effectiveness of the emergency plan.

Date of issuance: December 12, 2017.

Effective date: The amendment is effective April 7, 2018, and shall be implemented within 90 days of the effective date.

Amendment No.: 295. A publicly-available version is in ADAMS under Accession No. ML17276B286; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. DPR–40: The amendment revised the Emergency Plan and EAL scheme.

Date of initial notice in ***Federal Register****:* March 28, 2017 (82 FR 15383). The supplemental letter dated May 15, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 12, 2017.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 27, 2017.

Brief description of amendment: The licensee requested to adopt NRC-approved Technical Specifications Task Force (TSTF) Improved Standard Technical Specifications Change Traveler TSTF–535, Revision 0, ''Revise Shutdown Margin Definition to Address Advanced Fuel Designs'' (ADAMS Accession No. ML112200436), dated August 8, 2011. The definition of shutdown margin in the Hope Creek Generating Station Technical Specifications is revised to require calculation of shutdown margin at the reactor moderator temperature corresponding to the most reactive state throughout the operating cycle, which is 68 degrees Fahrenheit or higher.

Date of issuance: December 13, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 208. A publicly-available version is in ADAMS under Accession No. ML17317A605; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–57: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* May 9, 2017 (82 FR 21560).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 13, 2017.

No significant hazards consideration comments received: No.

PSEG Nuclear LLC, Docket No. 50–354, Hope Creek Generating Station, Salem County, New Jersey

Date of amendment request: March 27, 2017, as supplemented by letters dated April 28, 2017, and September 5, 2017.

Brief description of amendment: The amendment changed the Hope Creek Generating Station Technical Specifications (TSs) to relocate the reactor coolant system pressure-temperature (P–T) limit curves from the TSs to a new licensee-controlled document called the Pressure and Temperature Limits Report. The amendment also revised the 32 effective full power years P–T limit curves and approved P–T limit curves applicable through the license renewal term. The revisions to the curves were required due to the results of a recently pulled and tested reactor pressure vessel surveillance capsule.

Date of issuance: December 14, 2017.

Effective date: As of the date of issuance and shall be implemented within 60 days of issuance.

Amendment No.: 209. A publicly-available version is in ADAMS under Accession No. ML17324A840; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–57: Amendment revised the Renewed Facility Operating License and TSs.

Date of initial notice in ***Federal Register****:* May 23, 2017 (82 FR 23628). The supplemental letter dated September 5, 2017, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 14, 2017.

No significant hazards consideration comments received: No.

Southern California Edison Company, et al., Docket Nos. 50–206, 50–361, and 50–362, San Onofre Nuclear Generating Station, Units 1, 2, and 3, San Diego County, California

Date of amendment request: December 15, 2016, as supplemented by letter dated May 5, 2017.

Brief description of amendments: The amendments replaced the San Onofre Nuclear Generating Station, Units 1, 2, and 3 (SONGS) Permanently Defueled Emergency Plan and associated Emergency Action Level (EAL) Bases Manual (hereafter referred to as the EAL scheme) with an Independent Spent Fuel Storage Installation (ISFSI) Only Emergency Plan (IOEP) and associated EAL scheme. The NRC staff determined that the proposed SONGS IOEP and associated EAL changes continue to meet the standards in 10 CFR 50.47, ''Emergency plans,'' and the requirements in Appendix E, ''Emergency Planning and Preparedness for Production and Utilization Facilities,'' of 10 CFR part 50, as exempted. As such, the SONGS IOEP and associated EAL changes provide reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency. These changes more fully reflect the status of the facility, as well as the reduced scope of potential radiological accidents once all spent fuel has been moved to dry cask storage within the onsite ISFSI, an activity which is currently scheduled for completion in 2019.

Date of issuance: November 30, 2017.

Effective date: As of the date Southern California Edison submits a written notification to the NRC that all spent nuclear fuel assemblies have been transferred out of the SONGS spent fuel pools and placed in storage within the onsite ISFSI, and shall be implemented within 60 days.

Amendment Nos.: 168 (Unit 1), 236 (Unit 2), and 229 (Unit 3). A publicly-available version is in ADAMS under Accession No. ML17310B482; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–13, NPF–10, and NPF–15: The amendments revised the Facility Operating Licenses.

Date of initial notice in ***Federal Register****:* February 14, 2017 (82 FR 10601).

The Commission's related evaluation of the amendments is contained in a

Safety Evaluation dated November 30, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: May 10, 2017, and supplemented by letter dated September 20, 2017.

Description of amendments: The amendments consisted of changes to the VEGP, Units 3 and 4, Updated Final Safety Analysis Report in the form of departures from the incorporated plant-specific Design Control Document Tier 2* and Tier 2 information (text, tables, and figures). Specifically, the amendments consisted of changes related to revising the design reinforcement in the roof of the auxiliary building and the design of the girders supporting the roof.

Date of issuance: December 5, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 101 (Unit 3) and 100 (Unit 4). A publicly-available version is in ADAMS under Package Accession No. ML17311B236; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register****:* June 6, 2017 (82 FR 26137). The supplemental letter dated September 20, 2017, provided additional information that clarified the application, did not expand the scope of the application request as originally noticed, and did not change the NRC staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 5, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: June 23, 2017.

Description of amendments: The amendments consisted of changes to the VEGP, Units 3 and 4, Updated Final Safety Analysis Report (UFSAR) in the form of departures from the plant-specific Design Control Document Tier 2 information and involves changes to the VEGP, Units 3 and 4, Combined License Appendix A, Technical Specifications (TSs). Specifically, the proposed changes revise plant-specific Tier 2 information to add the time delay assumed in the safety analysis for the reactor trip on a safeguards actuation (''S'') signal to UFSAR Table 15.0–4a. This is also reflected in the proposed revision to TS 3.3.4, ''Reactor Trip System (RTS) Engineered Safety Feature Actuation System (ESFAS) Instrumentation,'' to add a surveillance requirement to verify the RTS response time for this ''S'' signal. The request also includes proposed changes to TS 3.3.7, ''RTS Trip Actuation Devices,'' to clarify that the requirements for reactor trip breaker (RTB) undervoltage and shunt trip mechanisms apply only to in-service RTBs. In addition, the request includes proposed changes to TS 3.3.9, ''ESFAS Manual Initiation,'' to correct the nomenclature for the Chemical and Volume Control System, which is inadvertently stated as the Chemical Volume and Control System.

Date of issuance: December 8, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 102 (Unit 3) and 101 (Unit 4). A publicly-available version is in ADAMS under Accession No. ML17296A236; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses No. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register****:* August 15, 2017 (82 FR 38714).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated December 8, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Docket Nos. 52–025 and 52–026, Vogtle Electric Generating Plant (VEGP), Units 3 and 4, Burke County, Georgia

Date of amendment request: October 20, 2016.

Description of amendments: The amendments authorized changes to the Tier 2* information in the VEGP, Units 3 and 4, Updated Final Safety Analysis Report (which includes the plant-specific design control document information) to clarify the demonstration of the quality and strength of a specific set of couplers welded to carbon steel embedment plates, already installed and embedded in concrete through visual examination and static tension testing, in lieu of the nondestructive examination requirements of American Institute of Steel Construction (AISC) N690.

Date of issuance: September 5, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment Nos.: 86 (Unit 3) and 85 (Unit 4). A publicly-available version is in ADAMS under Package Accession No. ML17178A197; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Combined Licenses Nos. NPF–91 and NPF–92: Amendments revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register****:* March 14, 2017 (82 FR 13662).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated September 5, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–390, Watts Bar Nuclear Plant, Unit 1, Rhea County, Tennessee

Date of amendment request: March 31, 2017.

Brief description of amendment: The amendment revised Technical Specification (TS) 5.7.2.14, ''Ventilation Filter Testing Program (VFTP),'' to correct an administrative error introduced by Amendment No. 92, issued June 19, 2013. Specifically, Amendment 92 deleted TS 3.9.8, ''Reactor Building Purge Air Cleanup Units,'' but did not delete associated references to the reactor building purge filters from TS 5.7.2.14.

Date of issuance: December 7, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 117. A publicly-available version is in ADAMS under Accession No. ML17311A786; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–90: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register****:* July 5, 2017 (82 FR 31103).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated December 7, 2017.

No significant hazards consideration comments received: No.

Dated at Rockville, Maryland, this 21st day of December 2017.

For the Nuclear Regulatory Commission.

Kathryn M. Brock,

Acting Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–27930 Filed 12–29–17; 8:45 am]

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POSTAL REGULATORY COMMISSION

[Docket Nos. CP2017–177, MC2018–76 and CP2018–118; MC2018–77 and CP2018–119; MC2018–78 and CP2018–120; MC2018–79 and CP2018–121; MC2018–80 and CP2018–122; MC2018–81 and CP128–123; MC2018–82 and CP2018–124; MC2018–83 and CP2018–125; MC2018–84 and CP2018–126; MC2018–85 and CP2018–127; MC2018–86 and CP2018–128]

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 3, 2018, January 4, 2018, and January 5, 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: The January 3, 2018 comment due date applies to Docket Nos. MC2018–76 and CP2018–118; MC2018–77 and CP2018–119; MC2018–78 and CP2018–120; MC2018–79 and CP2018–121; MC2018–80 and CP2018–122.

The January 4, 2018 comment due date applies to Docket Nos. MC2018–81 and CP2018–123; MC2018–82 and CP2018–124; MC2018–83 and CP2018–125; MC2018–84 and CP2018–126; MC2018–85 and CP2018–127.

The January 5, 2018 commend due date applies to Docket Nos. CP2017–177; MC2018–86 and CP2018–128.

Table of Contents

I. Introduction

II. Docketed Proceeding(s)

I. Introduction

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's website (*http://www.prc.gov*). Non-public portions of the Postal Service's request(s), if any, can be accessed through compliance with the requirements of 39 CFR 3007.40.

The Commission invites comments on whether the Postal Service's request(s) in the captioned docket(s) are consistent with the policies of title 39. For request(s) that the Postal Service states concern market dominant product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3622, 39 U.S.C. 3642, 39 CFR part 3010, and 39 CFR part 3020, subpart B. For request(s) that the Postal Service states concern competitive product(s), applicable statutory and regulatory requirements include 39 U.S.C. 3632, 39 U.S.C. 3633, 39 U.S.C. 3642, 39 CFR part 3015, and 39 CFR part 3020, subpart B. Comment deadline(s) for each request appear in section II.

II. Docketed Proceeding(s)

1. *Docket No(s).:* CP2017–177; *Filing Title:* USPS Notice of Change in Prices Pursuant to Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 17; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Gregory Stanton; *Comments Due:* January 5, 2018.

2. *Docket No(s).:* MC2018–76 and CP2018–118; *Filing Title:* USPS Request to Add Priority Mail Express, Priority Mail & First-Class Package Service Contract 31 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Gregory Stanton; *Comments Due:* January 3, 2018.

3. *Docket No(s).:* MC2018–77 and CP2018–119; *Filing Title:* USPS Request to Add Priority Mail Contract 401 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* January 3, 2018.

4. *Docket No(s).:* MC2018–78 and CP2018–120; *Filing Title:* USPS Request to Add First-Class Package Service Contract 89 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* January 3, 2018.

5. *Docket No(s).:* MC2018–79 and CP2018–121; *Filing Title:* USPS Request to Add First-Class Package Service Contract 90 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Curtis E. Kidd; *Comments Due:* January 3, 2018.

6. *Docket No(s).:* MC2018–80 and CP2018–122; *Filing Title:* USPS Request to Add Priority Mail Contract 402 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* January 3, 2018.

7. *Docket No(s).:* MC2018–81 and CP2018–123; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 55 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 21, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Matthew R. Ashford; *Comments Due:* January 4, 2018.

8. *Docket No(s).:* MC2018–82 and CP2018–124; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 67 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* January 4, 2018.

9. *Docket No(s).:* MC2018–83 and CP2018–125; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 68 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Timothy J. Schwuchow; *Comments Due:* January 4, 2018.

10. *Docket No(s).:* MC2018–84 and CP2018–126; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 69 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* January 4, 2018.

11. *Docket No(s).:* MC2018–85 and CP2018–127; *Filing Title:* USPS Request to Add Priority Mail & First-Class Package Service Contract 70 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* January 4, 2018.

12. *Docket No(s).:* MC2018–86 and CP2018–128; *Filing Title:* USPS Request to Add Priority Mail Express & Priority Mail Contract 56 to Competitive Product List and Notice of Filing Materials Under Seal; *Filing Acceptance Date:* December 22, 2017; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Michael L. Leibert; *Comments Due:* January 5, 2018.

This notice will be published in the **Federal Register**.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2017–28219 Filed 12–29–17; 8:45 am]

BILLING CODE 7710–FW–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82403; File No. SR–NSCC–2017–807]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of Advance Notice To Increase the Authorized Amount Under the Prefunded Liquidity Program

December 26, 2017.

Pursuant to Section 806(e)(1) of Title VIII of the Dodd-Frank Wall Street Reform and Consumer Protection Act entitled the Payment, Clearing, and Settlement Supervision Act of 2010 (''Clearing Supervision Act'') [1] and Rule 19b–4(n)(1)(i) under the Securities Exchange Act of 1934, as amended (''Act''),[2] notice is hereby given that on December 12, 2017, National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–NSCC–2017–807 (''Advance Notice'') as described in Items I, II and III below, which Items have been prepared by the clearing agency. The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons.

I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

The advance notice of NSCC proposes to increase the aggregate amount of short-term promissory notes (''Commercial Paper'') and extendible-term promissory notes (''Extendible Notes'' and, together with the Commercial Paper, ''Notes'') that NSCC is authorized to issue and sell, as further described below.[3]

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Advance Notice

In its filing with the Commission, the clearing agency included statements concerning the purpose of and basis for the Advance Notice and discussed any comments it received on the Advance Notice. 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 and B below, of the most significant aspects of such statements.

(A) Clearing Agency's Statement on Comments on the Advance Notice Received From Members, Participants, or Others

NSCC has not solicited or received any written comments relating to this proposal. NSCC will notify the Commission of any written comments received by NSCC.

(B) Advance Notice Filed Pursuant to Section 806(e) of the Payment, Clearing, and Settlement Supervision Act

Description of the Proposal

NSCC maintains a program to issue and sell the Notes (''Prefunded Liquidity Program'' or the ''Program''), and is currently authorized to issue and sell the Notes in an aggregate amount up to $5 billion.[4] NSCC is proposing to increase the aggregate amount of Notes it would be authorized to issue and sell under the Program to $10 billion.

Management of the Prefunded Liquidity Program. Pursuant to the terms and conditions described in the 2015 Advance Notice, NSCC issues Notes to institutional investors, and invests the proceeds in accordance with the Clearing Agency Investment Policy.[5] The Program is managed and monitored daily by the Treasury group (''Treasury'').[6] NSCC has structured the Prefunded Liquidity Program such that the maturities of the issued Notes are staggered to avoid concentrations of maturing liabilities. The majority of the Notes issued and sold under the Program to date have been Commercial Paper, however, NSCC maintains the flexibility to issue and sell any combination of Commercial Paper and Extendible Notes up to the authorized amount in order to allow it to adjust to the market for each of these types of Notes and to stagger the maturities of the outstanding Notes. Treasury also maintains and adheres to internal guidelines that limit the amount of Notes that can mature within any one-week period. The weighted average maturity of the aggregate Notes outstanding issued under the Prefunded Liquidity Program have generally ranged between one and two months, and, in order to maintain the staggered maturity structure, the weighted average maturity of the Notes would be expected

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

[3] Terms not defined herein are defined in the Rules and Procedures of NSCC (''Rules''), *available at http://www.dtcc.com/~/media/Files/Downloads/legal/rules/nscc_rules.pdf.*

[4] The principal terms of the Prefunded Liquidity Program are described in an advance notice (SR–NSCC–2015–802) (''2015 Advance Notice'') filed with the Commission pursuant to Section 806(e)(1) of the Clearing Supervision Act and Rule 19b–4(n)(1)(i) under the Act. *See* Securities Exchange Act Release No. 75730 (August 19, 2015), 80 FR 51638 (August 25, 2015) (SR–NSCC–2015–802).

[5] *See* Securities Exchange Act Release No. 79528 (December 12, 2016), 81 FR 91232, (December 16, 2016) (SR–DTC–2016–007; SR–FICC–2016–005; SR–NSCC–2016–003). The 2015 Advance Notice stated that the proceeds from the issuance of the Notes would be held in a cash deposit account at the Federal Reserve Bank of New York (''FRBNY''). NSCC subsequently adopted the Clearing Agency Investment Policy, which permits NSCC to invest such proceeds in bank deposits either at the FRBNY or at an approved bank counterparty.

[6] Treasury is a part of the Chief Finance Office Organization of The Depository Trust & Clearing Corporation (''DTCC''), NSCC's parent company. DTCC operates on a shared services model with respect to the NSCC and its affiliates. 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 NSCC and its affiliates.

to increase under the proposal to approximately three to six months.

Because the cash proceeds from the Prefunded Liquidity Program are one of NSCC's existing default liquidity resources, as described below, Treasury, in consultation with the Liquidity Product Risk Unit,[7] makes decisions regarding the aggregate amount of Notes to be issued based on NSCC's projected liquidity needs.

NSCC Liquidity Risk Management. NSCC measures and manages its liquidity risks and needs on a daily basis. In compliance with its regulatory requirements, NSCC seeks to maintain liquid resources in a sufficient amount to meet its settlement obligations under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the affiliated family of Members that would generate the largest aggregate payment obligation for NSCC in extreme but plausible market conditions.[8] NSCC developed the Prefunded Liquidity Program in order to strengthen its liquidity risk management by supplementing its other liquid resources with additional, prefunded, readily available liquid resources. NSCC's other liquid resources include (1) the cash in its Clearing Fund; [9] (2) the cash that would be obtained by drawing on NSCC's committed 364-day credit facility with a consortium of banks (''Credit Facility''); [10] and (3) additional cash deposits, known as ''Supplemental Liquidity Deposits.'' [11] By maintaining multiple sources for liquidity, NSCC does not have to rely on any one source to meet its liquidity needs.

Proposed Increase to the Program. NSCC is proposing to increase the aggregate amount of Notes it would be authorized to issue and sell under the Prefunded Liquidity Program to $10 billion dollars. The proposal would enable NSCC to continue to maintain a sufficient amount of liquid resources in compliance with its regulatory requirements through the issuance of additional Notes in the event its liquidity needs increase. The proposal also would enable NSCC to meet its regulatory requirements with additional, prefunded, readily available liquid resources, which are available for NSCC to draw as needed to complete end-of-day settlement in the event of a Member default.

Likewise, the proposal would provide NSCC with the flexibility to reduce its reliance on the Credit Facility as necessary. NSCC has observed varying levels of interest by the credit markets in recent years and cannot be certain that it will be able to continue to renew the Credit Facility at levels that would meet its projected liquidity needs in future years. Alternatively, the growth of the Prefunded Liquidity Program since its inception has been supported by a high, and growing, investor interest in high-rated Commercial Paper.[12] Further, while the Credit Facility continues to be an important liquidity resource, it does not provide NSCC with prefunded, readily available liquidity, and incurs a greater cost to maintain than the Prefunded Liquidity Program. The Program would still be a more cost-effective liquidity resources, as compared to the Credit Facility, after the proposed increase. Therefore, the proposal would give NSCC the flexibility to better diversify its reliance on the various liquidity resources, including the Prefunded Liquidity Program, as it deems necessary to continue to meet its liquidity needs and in order to manage the associated costs.

NSCC believes the proposal to add $5 billion to the authorized amount under the Program would provide it with adequate capacity to mitigate an unexpected increase in its liquidity needs and any potential decrease in the aggregate amount under its Credit Facility. NSCC does not anticipate issuing Notes up to the maximum authorized amount in the near term, and believes the proposal would allow it to grow the Program as necessary. NSCC is not proposing any other change to the Prefunded Liquidity Program, which will continue under the same terms and conditions as described in the 2015 Advance Notice.[13]

Expected Effect on and Management of Risks

As described above, NSCC believes the proposal to increase the authorized aggregate amount of Notes it can issue under the Prefunded Liquidity Program would enable it to better manage its liquidity risks by providing it with flexibility to increase its reliance on the Program, as necessary and appropriate, in meeting its liquidity needs and associated regulatory requirements.

The Prefunded Liquidity Program, like other liquidity resources, involves certain risks that are standard in any commercial paper or extendible note program. Such risks were addressed in the 2015 Advance Notice and include the risk that NSCC does not have sufficient funds to repay issued Notes when they mature. By increasing the authorized aggregate amount of the Prefunded Liquidity Program, and thus potentially the aggregate amount of outstanding Notes that it will have to repay upon maturity, NSCC may be further exposed to this risk. However, as discussed in the 2015 Advance Notice, NSCC continues to believe this risk is remote, as the proceeds of the Program would be used only in the event of a Member default, and NSCC would replenish that cash, as it would replenish any of its liquidity resources that are used to facilitate settlement in the event of a Member default, with the proceeds of the close out of that defaulted Member's portfolio. This notwithstanding, in the event that proceeds from the close out are insufficient to fully repay a liquidity borrowing, then NSCC would look to its loss waterfall to repay any outstanding liquidity borrowings. NSCC has also further mitigated this risk by structuring the Prefunded Liquidity Program so that the maturity dates of the issued Notes are sufficiently staggered, which would provide NSCC with time to complete the close out of a defaulted Member's portfolio. As described above, NSCC would continue to follow its internal guidelines in the management of the Program to stagger the maturity dates of the issued Notes, and to extend the weighted average maturity of the issued Notes to maintain this staggered structure.

A second risk is that NSCC may be unable to issue new Notes as issued Notes mature, or that there is a decrease in investor interest in commercial paper. As discussed in the 2015 Advance Notice, this risk is mitigated by the fact that NSCC maintains a number of different liquidity resources, described above, and would not depend

[7] The Liquidity Product Risk Unit is a part of the Group Chief Risk Office of the DTCC and is responsible for NSCC's liquidity risk management program. *Id.*

[8] Rule 17Ad–22(e)(7)(i).

[9] Rule 4 (Clearing Fund) and Procedure XV (Clearing Fund Formula and Other Matters), *supra* note 3.

[10] Securities Exchange Act Release No. 80605 (May 5, 2017), 82 FR 21850 (May 10, 2017) (SR–DTC–2017–802, SR–NSCC–2017–802).

[11] Rule 4(A) (Supplemental Liquidity Deposits), *supra* note 3. The Supplemental Liquidity Deposits are designed to cover the heightened liquidity exposure arising around monthly option expiry periods and are required from those Members whose activity would pose the largest liquidity exposure to NSCC.

[12] In March 31, 2016, NSCC had issued approximately $1.4 billion in Commercial Paper to 81 investors and, as of July 31, 2017, this increased to approximately $3 billion in Commercial Paper outstanding to 177 investors. Further, as NSCC's investor base has grown, it has also diversified to include corporations, asset managers, governments, and financial institutions.

[13] *Supra* note 4.

on the Prefunded Liquidity Program as its sole source of liquidity.

NSCC believes that the significant systemic risk mitigation benefits of providing NSCC with additional, prefunded liquid resources outweigh these risks.

Consistency With the Clearing Supervision Act

Although the Clearing Supervision Act does not specify a standard of review for an advance notice, its stated purpose is instructive: To mitigate systemic risk in the financial system and promote financial stability by, among other things, promoting uniform risk management standards for systemically important financial market utilities and strengthening the liquidity of systemically important financial market utilities.[14]

Section 805(a)(2) of the Clearing Supervision Act[15] authorizes the Commission to prescribe risk management standards for the payment, clearing and settlement activities of designated clearing entities, like NSCC, and financial institutions engaged in designated activities for which the Commission is the supervisory agency or the appropriate financial regulator. Section 805(b) of the Clearing Supervision Act[16] states that the objectives and principles for the risk management standards prescribed under Section 805(a) shall be to, among other things, promote robust risk management, promote safety and soundness, reduce systemic risks, and support the stability of the broader financial system.

The overall impact of the proposal is to reduce the liquidity risks associated with NSCC's operation as a central counterparty by providing it with additional, prefunded liquidity to complete end–of-day settlement in the event of a Member default. By reducing NSCC's liquidity risks, the proposal would promote its robust risk management. Given its important role in mitigating risks faced by its Members and the financial markets, a reduction in NSCC's liquidity risk would also reduce systemic risk, and would promote the safety, soundness and stability in the broader financial system. Therefore, NSCC believes the proposal is consistent with Section 805(b) of the Clearing Supervision Act.[17]

NSCC also believes that the proposal is consistent with the requirements of the Act, and the rules and regulations thereunder applicable to a registered clearing agency. In particular, NSCC believes the proposal is consistent with Rule 17Ad–22(e)(7)(ii) under the Act.[18]

Rule 17Ad–22(e)(7)(ii) under the Act requires that a covered clearing agency hold qualifying liquid resources sufficient 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.[19] Rule 17Ad–22(a)(14) under the Act defines ''qualifying liquidity resources,'' in part, as cash held either at the central bank of issue or at creditworthy commercial banks.[20]

The proceeds of the Program are cash held at either the FRBNY or a bank counterparty that has been approved pursuant to the Clearing Agency Investment Policy, and, as such, are considered ''qualifying liquid resources'' under Rule 17Ad–22(a)(14).[21] These proceeds are available for NSCC to draw as needed to complete end–of-day settlement in the event of the default of a Member, and, as such, are one of NSCC's liquidity resources that it maintains in order to meet its settlement obligations under a wide range of foreseeable stress scenarios that includes, but is not limited to, the default of the affiliated family of Members that would generate the largest aggregate payment obligation for NSCC in extreme but plausible market conditions, in compliance with NSCC's requirement under Rule 17Ad–22(e)(7)(i). The proposal to increase the authorized amount of Notes NSCC may issue under the Program would enable NSCC to increase the amount of qualifying liquid resources it holds for these purposes. Therefore, the proposal would enable NSCC to continue to meet its requirements under Rule 17Ad–22(e)(7)(ii) in the event its liquidity needs increase.[22]

III. Date of Effectiveness of the Advance Notice, and Timing for Commission Action

The proposed change may be implemented if the Commission does not object to the proposed change within 60 days of the later of (i) The date that the proposed change was filed with the Commission or (ii) the date that any additional information requested by the Commission is received. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

The Commission may extend the period for review by an additional 60 days if the proposed change raises novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension. A proposed change may be implemented in less than 60 days from the date the advance notice is filed, or the date further information requested by the Commission is received, if the Commission notifies the clearing agency in writing that it does not object to the proposed change and authorizes the clearing agency to implement the proposed change on an earlier date, subject to any conditions imposed by the Commission.

The clearing agency shall post notice on its website of proposed changes that are implemented.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the Advance Notice is consistent with the Clearing Supervision 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–NSCC–2017–807 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–NSCC–2017–807. 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 Advance Notice that are filed with the Commission, and all written communications relating to the Advance Notice 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

[14] *See* 12 U.S.C. 5461(b).

[15] 12 U.S.C. 5464(a)(2).

[16] 12 U.S.C. 5464(b).

[17] *Id.*

[18] 17 CFR 240.17Ad–22(e)(7)(ii).

[19] *Id.*

[20] 17 CFR 240.17Ad–22(a)(14).

[21] *Id.*

[22] *Id.*

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 NSCC 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–NSCC–2017–807 and should be submitted on or before January 17, 2018.

By the Commission.

Brent J. Fields,

Secretary.

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82402; File No. SR–NYSEAMER–2017–39]

Self-Regulatory Organizations; NYSE American LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Rule 991

December 26, 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 12, 2017, NYSE American LLC (the ''Exchange'' or ''NYSE American'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 991, regarding options communications, to conform with the rules of the Financial Industry Regulatory Authority, Inc. (''FINRA''). 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 purpose of this filing is to amend NYSE American Rule 991, regarding options communications, to conform with the rules of FINRA. Previously, the Exchange harmonized its then extant Rule 991 to FINRA Rule 2220.[4] For the sake of consistency, and to further promote a more comprehensive and coordinated regulatory process for the review of communications, the Exchange now proposes to conform its rulebook to subsequent amendments by FINRA.[5]

Pursuant to Rule 17d–2 under the Securities Exchange Act of 1934 (the ''Act''), several exchanges, including the Exchange, entered into an agreement dated June 5, 2008 (the ''17d–2 Agreement'') to allocate regulatory responsibility for common rules.[6] In order to continue this successful regulatory approach, the Exchange proposes to further harmonize Rule 991 (Options Communications) with the comparable FINRA rule, in furtherance of the 17d–2 Agreement and in order to continue to maintain substantial similarity with the relevant FINRA rules.

Rule 991 sets forth the regulatory standards applicable to options communications including *inter alia* the definitions of diverse categories of communications, and the standards and attendant review and approval processes for those categories of communications.

Specifically, in order to continue to ensure a uniform regulatory approach, and to reduce any potential risks or inefficiencies in rules, the Exchange proposes to:

- Replace the definition of ''correspondence'' in Rules 991(a)(1)(C)(i) and (ii) with the substantially similar though more succinct definition of ''correspondence'' in FINRA Rule 2210(a)(2), that in turn is referenced in FINRA Rule 2220(a)(1)(A); [7]
- Replace the definition of ''institutional sales material'' in Rule 991(a)(1)(D) with the substantially similar though expanded definition of ''Institutional Communication'' in FINRA Rule 2210(a)(3) concerning options; [8]
- Add the definition of ''Retail Communication'' in FINRA Rule 2210(a)(5), that in turn is referenced in FINRA Rule 2220(a)(1)(C), to Rule 991(a)(1)(C); [9]
- Delete the now inapplicable individual definitions of ''advertisement'', ''sales literature'', ''correspondence'', ''institutional sales material'', ''public appearance'', and ''independently prepared reprints'', as contained in Rule 991(a)(1)(A), Rule 991(a)(1)(B), Rule 991(a)(1)(C), Rule 991(a)(1)(D), Rule 991(a)(1)(E), Rule 991(a)(1)(F), respectively;
- Replace the definition of ''existing retail customer'' in Rule 991(a)(2) with the definition of ''retail investor'' in FINRA Rule 2210(a)(6), that in turn is

[1] 15 U.S.C.78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] *See* Securities Exchange Act Release No. 61499 (February 4, 2010), 75 FR 6738 (February 10, 2010) (SR–NYSEAmex–2010–04). This proposed rule change would further conform the rule books of the Exchange and FINRA.

[5] *See* Securities Exchange Act Release No. 68650 (January 14, 2013), 78 FR 4182 (January 18, 2013) (SR–FINRA–2013–001) and No. 73576 (November 12, 2014), 79 FR 68731 (November 18, 2014) (SR–FINRA–2014–045).

[6] In addition to the Exchange, the other exchanges that entered into the 17d–2 Agreement were: The Boston Stock Exchange, Inc., the Chicago Board Options Exchange, Inc., the International Securities Exchange, LLC, FINRA, the NASDAQ Stock Market LLC, the New York Stock Exchange, LLC, NYSE Arca, Inc. and the Philadelphia Stock Exchange.

[7] As FINRA Rule 2220 is the operative rule concerning options communications, for the sake of clarity and for ease of reference, the Exchange proposes to copy the text of the definition into new proposed Rule 991(a)(1)(A) in lieu of cross-referencing FINRA Rule 2210(a)(2).

[8] FINRA's definition excludes a member's internal communications from this institutional category. In addition, given the distinction between institutional and retail investors, the Exchange believes that a cross-reference to FINRA Rule 2210(a)(3) in proposed Rule 991(a)(1)(B) is appropriate.

[9] As FINRA Rule 2220 is the operative rule concerning options communications, for the sake of clarity and for ease of reference, the Exchange proposes to copy the text of the definition into new proposed Rule 991(a)(1)(C) in lieu of cross-referencing FINRA Rule 2210(a)(5).

referenced in the definition of ''Retail Communication'' *supra;* [10]

- Replace the approval requirement of advertisements, sales literature and independently prepared reprints in Rule 991(b)(1) with the approval requirement of ''Retail Communications'' in FINRA Rule 2220(b)(1); [11]
- Replace the procedural supervisory and review requirements of correspondence in Rule 991(b)(2) with the substantially similar requirements in FINRA Rule 2220(b)(2), that in turn references the requirements of FINRA Rules 3110(b) and 3110.06 through .09; [12]
- Replace the written procedural requirements of institutional sales material in Rule 991(b)(3) with the substantially similar requirements in FINRA Rule 2220(b)(3), that regards [sic] institutional communications written procedural requirements of FINRA Rule 2210(b)(3); [13]
- Replace the reference to ''advertisements, sales literature, and independently prepared reprints'' in Rule 991(c)(1) with ''Retail Communications'', the current category of such communications;
- Replace the reference to the ''designated'' Advertising Regulation Department with the Advertising Regulation Department ''of FINRA'' in Rule 991(c)(1), for clarification and specificity; and
- Replace the reference to ''institutional sales material'' in Rule 991(d)(2)(B) with ''Institutional Communications'', the current category of such communications.

The Exchange believes that the proposed rule change would structurally and procedurally align the Exchange's rule concerning options communications with FINRA rule concerning the same subject matter, and would further both the Exchange's self-regulatory responsibilities and FINRA's delegated responsibilities under the 17d–2 Agreement.

In addition, the Exchange proposes a non-substantive amendment to Rule 991 to replace the term ''member'' with the term ''ATP Holder'' throughout the rule. Rule 900.2NY defines ''ATP Holder'', and provides that ''references to 'member', 'member organization' and '86 Trinity Permit Holder' as those terms are used in the Rules of the Exchange should be deemed to be references to ATP Holders.'' Because the Exchange uses the term ''ATP Holder'' rather than ''member,'' the Exchange proposes to update this rule consistent with that terminology.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Securities Exchange Act of 1934 (the ''Act''),[14] in general, and furthers the objectives of Section 6(b)(5) of the Act,[15] in particular, in that it is designed to 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.

Specifically, the Exchange believes that the proposed change would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the proposed rule change would provide ATP Holders with a clearer, more consistent, and more comprehensive regulatory scheme by further harmonizing the NYSE American rule concerning options communications with the FINRA rule in the same subject matter. The proposed rule change would continue to ensure a uniform regulatory approach and would reduce any potential risks or inefficiencies in rules. Structurally and procedurally, harmonizing and aligning the Exchange's rule with the FINRA rule would further both the Exchange's self-regulatory responsibilities and FINRA's delegated responsibilities under the 17d–2 Agreement. The Exchange also believes that harmonizing definitions, categories of communications, and the standards and attendant review and approval processes of those categories of communications, would also foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities. The Exchange further notes that the proposed change are neither novel nor controversial and are modeled on existing and operative FINRA rules.

The Exchange also believes that the proposal to use the term ''ATP Holder'' instead of ''member'' would remove impediments to, and perfect the mechanisms of, a free and open market and a national market system and, in general, protect investors and the public interest because the proposed change would update terminology in the Exchange's rulebook, reducing any potential ambiguity and providing clarification concerning options communications. The proposed use of the term ''ATP Holder'' would be consistent with the FINRA term ''member,'' as both terms refer to the broker-dealer members of a self-regulatory organization.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule change is not designed to address any competitive issues. Rather, the proposed change is designed to further harmonize the Exchange's rule regarding options communications to the comparable FINRA rule, and to update the terms used in Exchanges rules.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the proposed rule change does not (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate 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 [16] and Rule 19b–4(f)(6) thereunder.[17]

[10] In connection with equities communications, the Exchange previously adopted the text of FINRA Rule 2210(a)(6), and the same definition of ''retail investor''. *See* NYSE American Rule 2210—Equities. *See also* Securities Exchange Act Release No. 70963 (November 29, 2013), 78 FR 73223 (December 5, 2013) (SR–NYSEMKT–2013–95).

[11] FINRA Rule 2210 (concerning communications) is premised upon three categories of communications—retail communications, correspondence, and institutional communications—that in turn categorize [sic] the approval and procedural requirements of FINRA Rule 2220(b)(1), (2) and (3) (concerning options communications) *and* the corresponding rule changes to Rules 991(b)(1), (2) and (3) proposed herein.

[12] *Ibid.*

[13] *Ibid.*

[14] 15 U.S.C. 78f(b).

[15] 15 U.S.C. 78f(b)(5).

[16] 15 U.S.C. 78s(b)(3)(A).

[17] 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

A proposed rule change filed under Rule 19b–4(f)(6) [18] normally does not become operative for 30 days after the date of filing. However, pursuant to Rule 19b–4(f)(6)(iii),[19] 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 upon filing. The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it will allow the Exchange to immediately implement the proposed rule change to promote greater harmonization between the rules of FINRA and the Exchange and also to make clerical changes that may minimize potential investor confusion. Accordingly, the Commission hereby waives the 30-day operative delay requirement and designates the proposed rule change as operative upon filing.[20]

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) [21] 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–NYSEAMER–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–NYSEAMER–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–NYSEAMER–2017–39, and should be submitted on or before January 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28229 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has met this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] 17 CFR 240.19b–4(f)(6)(iii).

[20] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[21] 15 U.S.C. 78s(b)(2)(B).

[22] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82405; File No. SR–ICEEU–2017–011]

Self-Regulatory Organizations; ICE Clear Europe Limited; Notice of Designation of Longer Period for Commission Action on Proposed Rule Change To Modify the ICE Clear Europe Limited Collateral and Haircut Policy

December 27, 2017.

On November 2, 2017, ICE Clear Europe Limited (''ICE Clear Europe'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to modify the ICE Clear Europe Collateral and Haircut Policy to incorporate certain changes to the calculation of absolute collateral limits for bonds provided as Permitted Cover by Clearing Members. (File No. SR–ICEEU–2017–011). The proposed rule change was published for comment in the **Federal Register** on November 17, 2017.[3] To date, the Commission has not received 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 from the publication of notice of filing of this proposed rule change is January 1, 2018.

The Commission is extending the 45-day time period for Commission action on the proposed rule change. ICE Clear Europe proposes to modify the ICE Clear Europe Collateral and Haircut Policy to incorporate certain changes to the calculation of absolute collateral limits for bonds provided as Permitted Cover by Clearing Members. The Commission finds 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

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 34–82063 (November 13, 2017), 82 FR 54423 (November 17, 2017) (SR–ICEEU–2017–011) (''Notice'').

[4] 15 U.S.C. 78s(b)(2).

ICE Clear Europe's proposed rule change.

Accordingly, the Commission, pursuant to Section 19(b)(2)[5] of the Act, designates February 15, 2018, as the date by which the Commission should either approve or disapprove, or institute proceedings to determine whether to disapprove, the proposed rule change (File No. SR–ICEEU–2017–011).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[6]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28307 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82273; File No. SR–CBOE–2017–040]

Self-Regulatory Organizations; Cboe Exchange, Inc.; Notice of Filing of Amendment No. 2 to the Proposed Rule Change To Amend the Schedule of Fees and Assessments To Adopt a Fee Schedule To Establish Fees for Industry Members Related to the National Market System Plan Governing the Consolidated Audit Trail

December 11, 2017.

Correction

In notice document 2017–26995, appearing on pages 59683–59685, in the issue of Friday, December 15, 2017, please note the following correction:

On page 59685, in the second column, in the tenth line from the top, ''January 5, 2017'' should read ''January 5, 2018''.

[FR Doc. C1–2017–26995 Filed 12–29–17; 8:45 am]

BILLING CODE 1301–00–D

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82407; File No. SR–BOX–2017–39]

Self-Regulatory Organizations; BOX Options Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fee Schedule To Adjust the QOO Order Rebate

December 27, 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 22, 2017, BOX Options Exchange LLC (the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Exchange filed the proposed rule change pursuant to Section 19(b)(3)(A)(ii) of the Act,[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal 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 the Substance of the Proposed Rule Change

The Exchange is filing with the Securities and Exchange Commission (''Commission'') a proposed rule change to amend the Fee Schedule to amend the Fee Schedule [sic]. While changes to the fee schedule pursuant to this proposal will be effective upon filing, the changes will become operative on January 2, 2018. The text of the proposed rule change is available from the principal office of the Exchange, at the Commission's Public Reference Room and also on the Exchange's internet website at *http://boxexchange.com.*

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend the Fee Schedule for trading on BOX to amend section II.C, QOO Order Rebate. Specifically, the Exchange proposes to adjust the QOO Order Rebate from $0.05 per contract to $0.075 per contract for all QOO Orders presented to the Trading Floor. The Exchange notes that it is not making any other changes to the rebate and that the QOO rebate will continue to apply to both sides of the QOO Order. The rebate will not apply to Public Customer executions, executions subject to the Strategy QOO Order Fee Cap, and Broker Dealer executions where the Broker Dealer is facilitating a Public Customer. Further, the total monthly rebate for Broker Dealer executions will continue to be capped at $30,000 per month per Broker Dealer.

2. Statutory Basis

The Exchange believes that the proposal is consistent with the requirements of Section 6(b) of the Act, in general, and Section 6(b)(4) and 6(b)(5)of the Act,[5] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among BOX Participants and other persons using its facilities and does not unfairly discriminate between customers, issuers, brokers or dealers.

The Exchange believes that the proposed change to the QOO Order Rebate for Floor Brokers is reasonable, equitable and not unfairly discriminatory.

The Exchange notes that it does not offer a front-end order entry on the Trading Floor, unlike some competing exchanges. The Exchange notes that Participants have two possible means of bringing orders to the Exchange's Trading Floor for possible execution: (1) They can invest in the technology, systems and personnel to participate on the Trading Floor and deliver the order to the Exchange matching engines for validation and execution; or (2) they can utilize the services of another Participant acting as a Floor Broker. The Exchange believes that increasing the rebate will allow Floor Brokers to price their services at a level that would enable them to attract QOO order flow from participants who would otherwise utilize the front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and resources to install and develop their own internal systems to deliver QOO orders directly to the Exchange system. As such, the Exchange believes it is necessary from a competitive standpoint to continue to offer this rebate to the executing Floor Broker on a QOO Order. Further, the Exchange believes that the QOO Order Rebate is reasonable as it is similar to a rebate program offered to Floor Brokers

[5] 15 U.S.C. 78s(b)(2).

[6] 17 CFR 200.30–3(a)(31).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] 15 U.S.C. 78f(b)(4) and (5).

on a competing exchange.[6] Similar to the Floor Broker Rebate for Executed QCC Transactions on Arca, BOX's QOO Order Rebate is applied to both sides of the paired order and is directed to the Floor Broker, and not to the Participant who is assessed the QOO Order fee. Finally, similar to the BOX QOO Rebate, the NYSE Arca QCC rebate is only applied when the Floor Broker executes the QCC Order manually on the NYSE Arca trading floor. No rebate is given when the QCC Order is executed electronically.

The Exchange believes that this rebate structure is appropriate as it allows Floor Brokers to price their services at a level that would enable them to attract QOO order flow from participants who would otherwise utilize the front-end order entry mechanism offered by the Exchange's competitors instead of incurring the cost in time and resources to install and develop their own internal systems to deliver QOO orders directly to the Exchange system.

Lastly, the Exchange believes that the increased rebate is reasonable and appropriate. The BOX Trading Floor is a new functionality for the Exchange, and assessing a higher rebate will help generate additional trading on the BOX Trading Floor. The Exchange believes that the proposed rebate reflects a competitive environment and falls in line with rebate levels assessed on another options exchange in the industry.[7]

The Exchange believes that it is equitable and not unfairly discriminatory to only apply the rebate to Floor Brokers and not to Floor Market Makers. Floor Market Makers only represent their own interest on the Trading Floor and therefore do not need additional incentive. Further, the Exchange believes it is equitable and not unfairly discriminatory to not apply the rebate to Public Customer executions or Broker Dealer executions where the Broker Dealer is facilitating a Public Customer, as these executions are not assessed a fee for their QOO Orders. Further, the Exchange believes it is equitable and not unfairly discriminatory to continue to not apply the rebate to executions subject to the Strategy QOO Order Fee Cap because additional incentives for these orders are not necessary.

[6] *See* NYSE Arca, Qualified Contingent Cross (''QCC'') Transactions Fees and Rebate. The Floor Broker Rebate for Executed Orders is a flat rebate and is applied to both sides of the QCC Order except when a Customer is on both sides of the QCC transaction.

[7] *See* NASDQ [sic] PHLX LLC (''Phlx'') Pricing Schedule. Phlx assesses a per contract rebate for QCC transactions ranging from $0.00 to $0.11.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges. Because competitors are free to modify their own fees in response, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is limited. For the reasons discussed above, the Exchange believes that the proposed changes do not impose an undue burden on competition.

Further, the Exchange does not believe that offering a rebate to Floor Brokers will impose an undue burden on intra-market competition because all Floor Brokers are eligible to transact QOO Orders and receive a rebate. Further, the Exchange believes that the rebate will promote competition by allowing Floor Brokers to competitively price their services and for the Exchange to remain competitive with other exchanges that offer front-end order entry on their trading floors.

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 Exchange Act[8] and Rule 19b–4(f)(2) thereunder,[9] because it establishes or changes a due, or fee.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend the rule change if it appears to the Commission that the action is necessary or appropriate in the public interest, for the protection of investors, or would otherwise further 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.

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–BOX–2017–39 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–BOX–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 such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–BOX–2017–39, and should be submitted on or before January 23, 2018.

[10] 17 CFR 200.30–3(a)(12).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28309 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82401; File No. SR–CboeBZX–2017–014]

Self-Regulatory Organizations; Cboe BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Related to Fees for Use on the Cboe BZX Exchange, Inc. Equity Options Platform

December 26, 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 12, 2017, Cboe BZX Exchange, Inc. (''BZX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Exchange has designated the proposed rule change as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposed rule change effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend its fees and rebates applicable to Members[5] and non-Members of the Exchange pursuant to BZX Rule 15.1(a) and (c).

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 Exchange proposes to amend its fee schedule for its equity options platform (''BZX Options'') to adopt a new Firm,[6] Broker Dealer[7] and Joint Back Office[8] Penny Pilot[9] Add Volume Tier under footnote 2, effective immediately.[10]

The Exchange currently offers one Firm, Broker Dealer and Joint Back Office Penny Add Volume Tier under footnote 2, which provides an enhanced rebate of $0.46 per contract for qualifying orders that add liquidity in Penny Pilot Securities and yield fee code PF.[11] The Exchange now proposes to add a new Tier 1 and to re-number current Tier 1 as Tier 2.

Currently under Tier 1, to be re-numbered as Tier 2, a Member's orders that yield fee code PF receive an enhanced rebate of $0.46 per contract where the Member has an: (i) ADAV[12] in Away Market Maker[13], Firm, Broker Dealer and Joint Back Office orders greater than or equal to 1.05% of average OCV[14]; and (ii) ADV[15] equal to or greater than 1.95% of average OCV. The Exchange proposes to adopt new Tier 1, which would be similar to re-numbered Tier 2 but would have lower criteria (but with different qualifying volume, as described below) and a lower rebate. In order to provide an incentive to encourage additional participation by Members that do not participate on the Exchange as Market Makers or Away Market Makers, new Tier 1 would not take Away Market Maker volume into account for purposes of the Tier calculation. Specifically, pursuant to new Tier 1 a Member's orders that yield fee code PF would receive an enhanced rebate of $0.38 per contract where the Member has an ADAV in Firm, Broker Dealer and Joint Back Office orders greater than or equal to 0.20% of average OCV.

Implementation Date

The Exchange proposes to implement the above changes to its fee schedule immediately.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with the objectives of Section 6 of the Act,[16] in general, and furthers the objectives of Section 6(b)(4),[17] in particular, as it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed modification to the Exchange's tiered pricing structure is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] The term ''Member'' is defined as ''any registered broker or dealer that has been admitted to membership in the Exchange.'' *See* Exchange Rule 1.5(n).

[6] ''Firm'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC, excluding any Joint Back Office transaction. *See* the Exchange's fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/bzx/.*

[7] ''Broker Dealer'' applies to any order for the account of a broker dealer, including a foreign broker dealer, that clears in the Customer range at the Options Clearing Corporation (''OCC''). *See id.*

[8] ''Joint Back Office'' applies to any transaction identified by a Member for clearing in the Firm range at the OCC that is identified with an origin code as Joint Back Office. A Joint Back Office participant is a Member that maintains a Joint Back Office arrangement with a clearing broker-dealer. *See id.*

[9] ''Penny Pilot Securities'' are those issues quoted pursuant to Exchange Rule 21.5, Interpretation and Policy .01.

[10] The Exchange initially filed the proposed rule changes on December 1, 2017 (SR–CboeBZX–2017–10). On December 12, 2017 the Exchange withdrew SR–CboeBZX–2017–10 and then subsequently submitted this filing (SR–CboeBZX–2017–14).

[11] Fee code PF is appended to Firm, Broker Dealer and Joint Back Office orders in Penny Pilot Securities that add liquidity. Orders that yield fee code PF are provided a standard rebate of $0.25 per contract. *See* the Exchange's fee schedule *available at http://markets.cboe.com/us/options/membership/fee_schedule/bzx/.*

[12] ''ADAV'' means average daily added volume calculated as the number of contracts added per day. *See id.*

[13] ''Away Market Maker'' applies to any transaction identified by a Member for clearing in the Market Maker range at the OCC, where such Member is not registered with the Exchange as a Market Maker, but is registered as a market maker on another options exchange. *See id.*

[14] ''OCV'' means the total equity and ETF options volume that clears in the Customer range at the Options Clearing Corporation (''OCC'') for the month for which the fees apply, excluding volume on any day that the Exchange experiences an Exchange System Disruption and on any day with a scheduled early market close. *See id.*

[15] ''ADV'' means average daily volume calculated as the number of contracts added or removed, combined, per day. *See id.*

[16] 15 U.S.C. 78f.

[17] 15 U.S.C. 78f(b)(4).

market participants may readily send order flow to many competing venues if they deem fees at the Exchange to be excessive or incentives provided to be insufficient. The proposed structure remains intended to attract order flow to the Exchange by offering market participants a competitive pricing structure. The Exchange believes it is reasonable to offer and incrementally modify incentives intended to help to contribute to the growth of the Exchange.

Volume-based pricing structures such as that maintained by the Exchange have been widely adopted by exchanges, including the Exchange, and are equitable because they are open to all Members on an equal basis and provide additional benefits or discounts that are reasonably related to: (i) The value to an exchange's market quality; (ii) associated higher levels of market activity, such as higher levels of liquidity provisions and/or growth patterns; and (iii) introduction of higher volumes of orders into the price and volume discovery processes. In particular, the proposed change to footnote 2 is a minor change intended to provide an incentive similar to an existing incentive. The proposed incentive, in turn, is intended to incentivize Members to send increased order flow to the Exchange in an effort to qualify for the enhanced rebates made available by the tier. This increased order flow, in turn, contributes to the growth of the Exchange. The Exchange also believes the rebate associated with the tier is reasonable as it reflects the difficulty in achieving the tier, requiring less participation than existing Tier 1 but also providing a lower rebate. The Exchange again notes that the proposed tier also does not include the same volume as is included when determining whether a Member has qualified for existing Tier 1, specifically, the new tier would not take Away Market Maker volume into account, whereas existing Tier 1 does. The Exchange believes that the proposal to only count Firm, Broker Dealer and Joint Back Office volume for purposes of Tier 1 is reasonable, fair and equitable and not unreasonably discriminatory because it is intended to encourage participants that do not participate as Market Makers or Away Market Makers on the Exchange to increase their participation on the Exchange. The Exchange also believes the proposal is reasonable, equitably allocated and not unreasonably discriminatory because there are other existing incentives offered by the Exchange that are provided to Market Makers and Away Market Makers, and because a participant with Away Market Maker volume could still qualify for the new tier to the extent they also have Firm, Broker Dealer and Joint Back Office volume that reaches the required level, it is just that their Away Market Maker Volume will not be included in the calculation. The Exchange believes that the incentives it provides remain reasonably related to the value to the Exchange's market quality associated with higher levels of market activity, including liquidity provision and the introduction of higher volumes of orders into the price and volume discovery processes. The proposed change to the tiered pricing structure is not unfairly discriminatory because it will apply equally to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes the proposed amendment to its fee schedule would not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed change represents a significant departure from previous pricing offered by the Exchange or pricing offered by the Exchange's competitors. Additionally, Members may opt to disfavor the Exchange's pricing if they believe that alternatives offer them better value. Accordingly, the Exchange does not believe that the proposed change will impair the ability of Members or competing venues to maintain their competitive standing in the financial markets. The Exchange does not believe that the proposed change to the Exchange's tiered pricing structure burdens competition, but instead, enhances competition, as it is intended to increase the competitiveness of the Exchange.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange has not solicited, and does not intend to solicit, comments on this proposed rule change. The Exchange has not received any written comments from members or other interested parties.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [18] and paragraph (f) of Rule 19b–4 thereunder.[19] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CboeBZX–2017–014 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–2017–014. 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 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

[18] 15 U.S.C. 78s(b)(3)(A).

[19] 17 CFR 240.19b–4(f).

submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CboeBZX–2017–014 and should be submitted on or before January 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28228 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82408; File No. SR–NASDAQ–2017–131]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Filing of Proposed Rule Change To List and Trade the Shares of the Reinhart Intermediate Bond NextShares Fund

December 27, 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 20, 2017, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to list and trade under Nasdaq Rule 5745 (Exchange-Traded Managed Fund Shares (''NextShares'')) the common shares (''Shares'') of the Reinhart Intermediate Bond NextShares (the ''Fund'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to list and trade the Shares of the Fund under Nasdaq Rule 5745, which governs the listing and trading of exchange-traded managed fund shares, as defined in Nasdaq Rule 5745(c)(1), on the Exchange.[3] Managed Portfolio Series, which is discussed below, is registered with the Commission as an open-end investment company and has filed a registration statement on Form N–1A (''Registration Statement'') with the Commission. The Fund is a series of Managed Portfolio Series and will be advised by an investment adviser registered under the Investment Advisers Act of 1940 (''Advisers Act''), as described below. The Fund will be actively managed and will pursue the principal investment strategy noted below.[4]

I. Managed Portfolio Series

Managed Portfolio Series is registered with the Commission as an open-end investment company and has filed a Registration Statement with the Commission.[5] The following Fund is a series of Managed Portfolio Series.[6]

Reinhart Partners, Inc. (the ''Adviser'') will be the adviser to the Fund. The Adviser is not a registered broker-dealer, and is not affiliated with a broker-dealer. Personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.[7]

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or is affiliated with a broker-dealer, such adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non-public information regarding such portfolio.

Quasar Distributors, LLC will be the principal underwriter and distributor of the Fund's Shares. U.S. Bancorp Fund Services, LLC will act as the administrator and accounting agent to the Fund; U.S. Bancorp Fund Services, LLC will act as transfer agent to the Fund; and U.S. Bank, NA will act as custodian to the Fund.

The Fund will be actively managed and will pursue the principal investment strategies described below.[8]

Reinhart Intermediate Bond NextShares

The investment objective of the Reinhart Intermediate Bond NextShares is that the Fund will seek to outperform its benchmark, the Barclays Capital Intermediate Government/Credit Index, measured over an entire market cycle, while maintaining key risks (interest

[20] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] The Commission approved Nasdaq Rule 5745 in Securities Exchange Act Release No. 34–73562 (Nov. 7, 2014), 79 FR 68309 (Nov. 14, 2014) (SR–NASDAQ–2014–020).

[4] Additional information regarding the Fund will be available on the free public website for the Fund at *www.reinhartfunds.com* and in the Registration Statement for the Fund.

[5] *See* Post-Effective Amendment number 316 to the Registration Statement on Form N–1A for Managed Portfolio Series dated Oct. 26, 2017 (File Nos. 333–172080 and 811–22525). The descriptions of the Fund and the Shares contained herein conform to the initial Registration Statement.

[6] The Commission has issued an order granting Managed Portfolio Series and certain affiliates exemptive relief under the Investment Company Act of 1940, as amended (the ''Investment Company Act''). *See* Investment Company Act Release No. 32893 (Nov. 28, 2017) (File No. 812–14830).

[7] An investment adviser to an open-end fund is required to be registered under the Advisers Act. As a result, the Adviser and its related personnel are subject to the provisions of Rule 204A–1 under the Advisers Act relating to codes of ethics. This Rule requires investment advisers to adopt a code of ethics that reflects the fiduciary nature of the relationship to clients as well as compliance with other applicable securities laws. Accordingly, procedures designed to prevent the communication and misuse of non-public information by an investment adviser must be consistent with Rule 204A–1 under the Advisers Act. In addition, Rule 206(4)–7 under the Advisers Act makes it unlawful for an investment adviser to provide investment advice to clients unless such investment adviser has (i) adopted and implemented written policies and procedures reasonably designed to prevent violation, by the investment adviser and its supervised persons, of the Advisers Act and the Commission rules adopted thereunder; (ii) implemented, at a minimum, an annual review regarding the adequacy of the policies and procedures established pursuant to subparagraph (i) above and the effectiveness of their implementation; and (iii) designated an individual (who is a supervised person) responsible for administering the policies and procedures adopted under subparagraph (i) above.

[8] Additional information regarding the Fund will be available on a free public website for the Fund (*www.reinhartfunds.com* which may contain links for certain information to *www.nextshares.com*) and in the Registration Statement for the Fund.

rate risk, credit risk, structure risk, and liquidity risk) similar to the benchmark. An entire market cycle refers to the broad economy transitioning from a peak in economic growth through a trough and back.

Under normal market conditions, the Reinhart Intermediate Bond NextShares will invest primarily in investment grade fixed income securities. The Fund considers a fixed income security to be investment grade if it is rated within the BBB-category or better by Standard & Poor's Ratings Services or the Baa3 category or better by Moody's Investors Services, Inc., or an equivalent rating by another nationally recognized statistical rating organization; or, if unrated, determined by the Adviser to be of comparable quality.

The Fund will normally invest within the intermediate term structure of the yield curve. The average-dollar weighted maturity of the securities in which the Fund expects to invest will generally range from 3 to 10 years. The Fund's investments in fixed income securities may include government or agency securities or obligations, corporate bonds, mortgage-backed securities, asset-backed securities, municipal bonds, revenue bonds, variable and floating rate securities, zero coupon bonds and collateralized mortgage obligations (''CMOs''). Normally, the Reinhart Intermediate Bond NextShares will invest at least 80% of its total assets in fixed income securities.

Creations and Redemptions of Shares

Shares will be issued and redeemed on a daily basis at the Fund's next-determined net asset value (''NAV'') [9] in specified blocks of Shares called ''Creation Units.'' A Creation Unit will consist of at least 25,000 Shares. Creation Units may be purchased and redeemed by or through ''Authorized Participants.'' [10] Purchases and sales of Shares in amounts less than a Creation Unit may be effected only in the secondary market, as described below, and not directly with the Fund.

The creation and redemption process for the Fund may be effected ''in kind,'' in cash, or in a combination of securities and cash. Creation ''in kind'' means that an Authorized Participant—usually a brokerage house or large institutional investor—purchases the Creation Unit with a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit. When an Authorized Participant redeems a Creation Unit in kind, it receives a basket of securities equal in value to the aggregate NAV of the Shares in the Creation Unit.[11]

Composition File

As defined in Nasdaq Rule 5745(c)(3), the Composition File is the specified portfolio of securities and/or cash that the Fund will accept as a deposit in issuing a Creation Unit of Shares, and the specified portfolio of securities and/or cash that the Fund will deliver in a redemption of a Creation Unit of Shares. The Composition File will be disseminated through the NSCC once each business day before the open of trading in Shares on such day and also will be made available to the public each day on a free public website.[12] Because the Fund will seek to preserve the confidentiality of its current portfolio trading program, the Fund's Composition File generally will not be a pro rata reflection of the Fund's investment positions.

Each security included in the Composition File will be a current holding of the Fund, but the Composition File generally will not include all of the securities in the Fund's portfolio or match the weightings of the included securities in the portfolio. Securities that the Adviser is in the process of acquiring for the Fund generally will not be represented in the Fund's Composition File until their purchase has been completed. Similarly, securities that are held in the Fund's portfolio but in the process of being sold may not be removed from its Composition File until the sale program is substantially completed. To the extent that the Fund creates or redeems Shares in kind, it will use cash amounts to supplement the in-kind transactions to the extent necessary to ensure that Creation Units are purchased and redeemed at NAV. The Composition File also may consist entirely of cash, in which case it will not include any of the securities in the Fund's portfolio.[13]

Transaction Fees

All persons purchasing or redeeming Creation Units are expected to incur a transaction fee to cover the estimated cost to the Fund of processing the transaction, including the costs of clearance and settlement charged to it by NSCC or DTC, and the estimated trading costs (*i.e.,* brokerage commissions, bid-ask spread and market impact) to be incurred in converting the Composition File to or from the desired portfolio holdings. The transaction fee is determined daily and will be limited to amounts approved by the board of trustees of the Fund and determined by the Adviser to be appropriate to defray the expenses that the Fund incurs in connection with the purchase or redemption of Creation Units.

The purpose of transaction fees is to protect the Fund's existing shareholders from the dilutive costs associated with the purchase and redemption of Creation Units. Transaction fees may vary over time for the Fund depending on the estimated trading costs for its portfolio positions and Composition File, processing costs and other considerations. To the extent that the Fund specifies greater amounts of cash in its Composition File, it may impose higher transaction fees. In addition, to the extent that the Fund includes in its Composition File instruments that clear through DTC, the Fund may impose higher transaction fees than when the Composition File consists solely of instruments that clear through NSCC, because DTC may charge more than NSCC in connection with Creation Unit transactions.[14] The transaction fees

[9] As with other registered open-end investment companies, NAV generally will be calculated daily (on each day the New York Stock Exchange is open for trading), as of 4:00 p.m. Eastern Time. NAV will be calculated by dividing the Fund's net asset value by the number of Shares outstanding. Information regarding the valuation of investments in calculating the Fund's NAV will be contained in the Registration Statement for its Shares.

[10] ''Authorized Participants'' will be either: (1) ''participating parties,'' *i.e.,* brokers or other participants in the Continuous Net Settlement System (''CNS System'') of the National Securities Clearing Corporation (''NSCC''), a clearing agency registered with the Commission and affiliated with the Depository Trust Company (''DTC''), or (2) DTC participants, which in either case have executed participant agreements with the Fund's distributor, and which have been acknowledged by the transfer agent, regarding the creation and redemption of Creation Units. Investors will not have to be Authorized Participants in order to transact in Creation Units, but must place an order through and make appropriate arrangements with an Authorized Participant for such transactions.

[11] In compliance with Nasdaq Rule 5745(b)(5), which applies to Shares based on an international or global portfolio, Managed Portfolio Series' application for exemptive relief under the Investment Company Act states that Managed Portfolio Series will comply with the federal securities laws in accepting securities for deposits and satisfying redemptions with securities, including that the securities accepted for deposits and the securities used to satisfy redemption requests are sold in transactions that would be exempt from registration under the Securities Act of 1933, as amended (15 U.S.C. 77a).

[12] The free public website containing the Composition File will be *www.nextshares.com.*

[13] In determining whether the Fund will issue or redeem Creation Units entirely on a cash basis, the key consideration will be the benefit that would accrue to the Fund and its investors. For instance, in bond transactions, the Adviser may be able to obtain better execution for the Fund than Authorized Participants because of the Adviser's size, experience and potentially stronger relationships in the fixed-income markets.

[14] Authorized Participants that participate in the CNS System of the NSCC are expected to be able to use the enhanced NSCC/CNS process for effecting in-kind purchases and redemptions of

Continued

applicable to the Fund's purchases and redemptions on a given business day will be disseminated through the NSCC prior to the open of market trading on that day and also will be made available to the public each day on a free public website.[15] In all cases, the transaction fees will be limited in accordance with the requirements of the Commission applicable to open-end management investment companies offering redeemable securities.

NAV-Based Trading

Because Shares will be listed and traded on the Exchange, Shares will be available for purchase and sale on an intraday basis. Shares will be purchased and sold in the secondary market at prices directly linked to the Fund's next-determined NAV using a new trading protocol called ''NAV-Based Trading.'' [16] All bids, offers and execution prices of Shares will be expressed as a premium/discount (which may be zero) to the Fund's next-determined NAV (*e.g.,* NAV − $0.01, NAV + $0.01). The Fund's NAV will be determined daily (on each day the New York Stock Exchange is open for trading), as of 4:00 p.m. Eastern Time. Trade executions will be binding at the time orders are matched on Nasdaq's facilities, with the transaction prices contingent upon the determination of NAV.

Trading Premiums and Discounts

Bid and offer prices for Shares will be quoted throughout the day relative to NAV. The premium or discount to NAV at which Share prices are quoted and transactions are executed will vary depending on market factors, including the balance of supply and demand for Shares among investors, transaction fees and other costs in connection with creating and redeeming Creation Units of Shares, the cost and availability of borrowing Shares, competition among market makers, the Share inventory positions and inventory strategies of market makers, the profitability requirements and business objectives of market makers, and the volume of Share trading. Reflecting such market factors, prices for Shares in the secondary market may be above, at or below NAV. A fund with higher transaction fees may trade at wider premiums or discounts to NAV than other funds with lower transaction fees, reflecting the added costs to market makers of managing their Share inventory positions through purchases and redemptions of Creation Units.

Because making markets in Shares will be simple to manage and low risk, competition among market makers seeking to earn reliable, low-risk profits should enable the Shares to routinely trade at tight bid-ask spreads and narrow premiums/discounts to NAV. As noted below, the Fund will make available on a free public website that will be updated on a daily basis current and historical trading spreads and premiums/discounts of Shares trading in the secondary market.[17]

Transmitting and Processing Orders. Member firms will utilize certain existing order types and interfaces to transmit Share bids and offers to Nasdaq, which will process Share trades like trades in shares of other listed securities.[18] In the systems used to transmit and process transactions in Shares, the Fund's next-determined NAV will be represented by a proxy price (*e.g.,* 100.00) and a premium/discount of a stated amount to the next-determined NAV to be represented by the same increment/decrement from the proxy price used to denote NAV (*e.g.,* NAV − $0.01 would be represented as 99.99; NAV + $0.01 as 100.01).

To avoid potential investor confusion, Nasdaq will work with member firms and providers of market data services to seek to ensure that representations of intraday bids, offers and execution prices of Shares that are made available to the investing public follow the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Shares listed on the Exchange will have a unique identifier associated with its ticker symbol, which would indicate that the Shares are traded using NAV-Based Trading.

Nasdaq makes available to member firms and market data services certain proprietary data feeds that are designed to supplement the market information disseminated through the consolidated tape (''Consolidated Tape'').

Specifically, the Exchange will use the Nasdaq Basic and Nasdaq Last Sale data feeds to disseminate intraday price and quote data for Shares in real time in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Member firms could use the Nasdaq Basic and Nasdaq Last Sale data feeds to source intraday Share prices for presentation to the investing public in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. Alternatively, member firms could source intraday Share prices in proxy price format from the Consolidated Tape and other Nasdaq data feeds (*e.g.,* Nasdaq TotalView and Nasdaq Level 2) and use a simple algorithm to convert prices into the ''NAV − $0.01/NAV + $0.01'' (or similar) display format. As noted below, prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the identities of the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

Intraday Reporting of Quotes and Trades. All bids and offers for Shares and all Share trade executions will be reported intraday in real time by the Exchange to the Consolidated Tape [19] and separately disseminated to member firms and market data services through the Exchange data feeds listed above. The Exchange will also provide the member firms participating in each Share trade with a contemporaneous notice of trade execution, indicating the number of Shares bought or sold and the executed premium/discount to NAV.[20]

Final Trade Pricing, Reporting and Settlement. All executed Share trades will be recorded and stored intraday by Nasdaq to await the calculation of the Fund's end-of- day NAV and the determination of final trade pricing. After the Fund's NAV is calculated and provided to the Exchange, Nasdaq will price each Share trade entered into

Shares (the ''NSCC Process'') to purchase and redeem Creation Units of the Fund that limits the composition of its basket to include only NSCC Process-eligible instruments (generally domestic equity securities and cash). Because the NSCC Process is generally more efficient than the DTC clearing process, NSCC is likely to charge the Fund less than DTC to settle purchases and redemptions of Creation Units.

[15] The free public website will be *www.nextshares.com.*

[16] Aspects of NAV-Based Trading are protected intellectual property subject to issued and pending U.S. patents held by NextShares Solutions LLC (''NextShares Solutions''), a wholly owned subsidiary of Eaton Vance Corp. Nasdaq has entered into a license agreement with NextShares Solutions to allow for NAV-Based Trading on the Exchange of exchange-traded managed funds that have themselves entered into license agreements with NextShares Solutions.

[17] The free public website containing this information will be *www.nextshares.com,* which will be available directly and through a link from *www.reinhartfunds.com.*

[18] As noted below, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the effect of this characteristic on existing order types.

[19] Due to systems limitations, the Consolidated Tape will report intraday execution prices and quotes for Shares using a proxy price format. As noted, Nasdaq will separately report real-time execution prices and quotes to member firms and providers of market data services in the ''NAV − $0.01/NAV + $0.01'' (or similar) display format, and otherwise seek to ensure that representations of intraday bids, offers and execution prices for Shares that are made available to the investing public follow the same display format.

[20] All orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day.

during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.[21] After the pricing is finalized, Nasdaq will deliver the Share trading data to NSCC for clearance and settlement, following the same processes used for the clearance and settlement of trades in other exchange-traded securities.

Availability of Information

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a free public website through which its current prospectus may be downloaded.[22] The free public website will include directly or through a link additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the midpoint of the highest bid and lowest offer prices as of the close of Exchange trading, expressed as a premium/discount to NAV (the ''Closing Bid/Ask Midpoint''); and (c) the spread between highest bid and lowest offer prices as of the close of Exchange trading (the ''Closing Bid/Ask Spread.'').[23] The free public website will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free public website as noted above.[24] Consistent with the disclosure requirements that apply to traditional open-end investment companies, a complete list of current Fund portfolio positions will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Reports of Share transactions will be disseminated to the market and delivered to the member firms participating in the trade contemporaneous with execution. Once the Fund's daily NAV has been calculated and disseminated, Nasdaq will price each Share trade entered into during the day at the Fund's NAV plus/minus the trade's executed premium/discount. Using the final trade price, each executed Share trade will then be disseminated to member firms and market data services via an FTP file to be created for exchange-traded managed funds and confirmed to the member firms participating in the trade to supplement the previously provided information to include final pricing.

Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services.

Initial and Continued Listing

Shares will conform to the initial and continued listing criteria as set forth under Nasdaq Rule 5745. A minimum of 50,000 Shares and no less than two Creation Units of the Fund will be outstanding at the commencement of trading on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the NAV per Share will be calculated daily (on each day the New York Stock Exchange is open for trading) and provided to Nasdaq via the Mutual Fund Quotation Service (''MFQS'') by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the NAV to market participants and market data vendors via the Mutual Fund Dissemination Service (''MFDS'') so all firms will receive the NAV per Share at the same time. The Reporting Authority[25] also will implement and maintain, or will ensure that the Composition File will be subject to, procedures designed to prevent the use and dissemination of material non-public information regarding the Fund's portfolio positions and changes in the positions.

An estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the ''Intraday Indicative Value,'' will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session[26] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV for the Fund will be calculated on an intraday basis and provided to Nasdaq for dissemination via the Nasdaq Global Index Service (''GIDS'').

The IIV for the Fund will be based on current information regarding the value of the securities and other assets held by the Fund.[27] The purpose of the IIV for the Fund is to enable investors to estimate the next-determined NAV so they can determine the number of Shares to buy or sell if they want to transact in an approximate dollar amount (*e.g.,* if an investor wants to acquire approximately $5,000 of the Fund, how many Shares should the investor buy?).[28]

The Adviser is not a registered broker-dealer, or affiliated with a broker-dealer. Personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and

[21] File Transfer Protocol (''FTP'') is a standard network protocol used to transfer computer files on the internet. Nasdaq will arrange for the daily dissemination of an FTP file with executed Share trades to member firms and market data services.

[22] The free public website containing this information will be *www.reinhartfunds.com.*

[23] The free public website containing the Fund's NAV will be *www.reinhartfunds.com.* All other information listed will be made available on *www.nextshares.com,* which can be accessed directly and via a link on *www.reinhartfunds.com.*

[24] The free public website containing this information will be *www.nextshares.com.*

[25] *See* Nasdaq Rule 5745(c)(4).

[26] *See* Nasdaq Rule 4120(b)(4) (describing the three trading sessions on the Exchange: (1) Pre-Market Session from 4 a.m. to 9:30 a.m. Eastern Time; (2) Regular Market Session from 9:30 a.m. to 4 p.m. or 4:15 p.m. Eastern Time; and (3) Post-Market Session from 4 p.m. or 4:15 p.m. to 8 p.m. Eastern Time).

[27] IIVs for the Fund disseminated throughout each trading day would be based on the same portfolio as used to calculate that day's NAV. The Fund will reflect purchases and sales of portfolio positions in its NAV the next business day after trades are executed.

[28] Because, in NAV-Based Trading, prices of executed trades are not determined until the reference NAV is calculated, buyers and sellers of Shares during the trading day will not know the final value of their purchases and sales until the end of the trading day. The Fund's Registration Statement, free public website and any advertising or marketing materials will include prominent disclosure of this fact. Although the IIV for the Fund may provide useful estimates of the value of intraday trades, they cannot be used to calculate with precision the dollar value of the Shares to be bought or sold.

dissemination of material non- public information regarding such portfolio.

Trading Halts

The Exchange may consider all relevant factors in exercising its discretion to halt or suspend trading in Shares. Nasdaq will halt trading in Shares under the conditions specified in Nasdaq Rules 4120 and in Nasdaq Rule 5745(d)(2)(C). Additionally, Nasdaq may cease trading Shares if other unusual conditions or circumstances exist which, in the opinion of Nasdaq, make further dealings on Nasdaq detrimental to the maintenance of a fair and orderly market. To manage the risk of a non-regulatory Share trading halt, Nasdaq has in place back-up processes and procedures to ensure orderly trading.

Because, in NAV-Based Trading, all trade execution prices are linked to end-of-day NAV, buyers and sellers of Shares should be less exposed to risk of loss due to intraday trading halts than buyers and sellers of conventional exchange-traded funds (''ETFs'') and other exchange-traded securities.

Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds.[29] With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.[30]

Trading Rules

Nasdaq deems Shares to be equity securities, thus rendering trading in Shares subject to Nasdaq's existing rules governing the trading of equity securities. Nasdaq will allow trading in Shares from 9:30 a.m. until 4:00 p.m. Eastern Time.

Surveillance

The Exchange represents that trading in Shares will be subject to the existing trading surveillances, administered by both Nasdaq and the Financial Industry Regulatory Authority, Inc. (''FINRA'') on behalf of the Exchange, which are designed to detect violations of Exchange rules and applicable federal securities laws.[31] The Exchange represents that these procedures are adequate to properly monitor trading of Shares on the Exchange and to deter and detect violations of Exchange rules and applicable federal securities laws.

The surveillances referred to above generally focus on detecting securities trading outside their normal patterns, which could be indicative of manipulative or other violative activity. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

FINRA, on behalf of the Exchange, will communicate as needed with other markets and other entities that are members of the Intermarket Surveillance Group (''ISG'')[32] regarding trading in Shares, and in exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), and FINRA may obtain trading information regarding such trading from other markets and other entities. In addition, the Exchange may obtain information regarding trading in Shares, and in exchange-traded securities and instruments held by the Fund (to the extent such exchange-traded securities and instruments are known through the publication of the Composition File and periodic public disclosures of the Fund's portfolio holdings), from markets and other entities that are members of ISG, which includes securities and futures exchanges, or with which the Exchange has in place a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's Trade Reporting and Compliance Engine (''TRACE'').[33]

In addition, the Exchange also has a general policy prohibiting the distribution of material non-public information by its employees.

Information Circular

Prior to the commencement of trading in the Fund, the Exchange will inform its members in an Information Circular of the special characteristics and risks associated with trading the Shares of the Fund. Specifically, the Information Circular will discuss the following: (1) The procedures for purchases and redemptions of Shares in Creation Units (and noting that Shares are not individually redeemable); (2) Nasdaq Rule 2111A, which imposes suitability obligations on Nasdaq members with respect to recommending transactions in Shares to customers; (3) how information regarding the IIV and Composition File is disseminated; (4) the requirement that members deliver a prospectus to investors purchasing Shares prior to or concurrently with the confirmation of a transaction; and (5) information regarding NAV-Based Trading protocols.

As noted above, all orders to buy or sell Shares that are not executed on the day the order is submitted will be automatically cancelled as of the close of trading on such day. The Information Circular will discuss the effect of this characteristic on existing order types. The Information Circular also will identify the specific Nasdaq data feeds from which intraday Share prices in proxy price format may be obtained.

In addition, the Information Circular will advise members, prior to the commencement of trading, of the prospectus delivery requirements applicable to the Fund. Members purchasing Shares from the Fund for resale to investors will deliver a summary prospectus to such investors. The Information Circular will also discuss any exemptive, no-action and interpretive relief granted by the Commission from any rules under the Act.

The Information Circular also will reference that the Fund is subject to various fees and expenses described in the Registration Statement. The Information Circular will also disclose the trading hours of the Shares and the applicable NAV calculation time for the Shares. The Information Circular will disclose that information about the Shares will be publicly available on the Fund's free public website.[34]

Information regarding Fund trading protocols will be disseminated to Nasdaq members in accordance with current processes for newly listed products. Nasdaq intends to provide its members with a detailed explanation of NAV-Based Trading through a Trader

[29] *See* Nasdaq Rule 5745(h).

[30] *See* Nasdaq Rule 5745(b)(6).

[31] FINRA provides surveillance of trading on the Exchange pursuant to a regulatory services agreement. The Exchange is responsible for FINRA's performance under this regulatory services agreement.

[32] For a list of the current members of ISG, *see www.isgportal.org.* The Exchange notes that not all components of the Fund's portfolio may trade on markets that are members of ISG or with which the Exchange has in place a comprehensive surveillance sharing agreement.

[33] For municipal securities, trade information can generally be found on the Electronic Municipal Market Access (''EMMA'') of the Municipal Securities Rulemaking Board (''MSRB'').

[34] *See supra* footnote 23.

Alert issued prior to the commencement of trading in Shares on the Exchange.

Continued Listing Representations

All statements and representations made in this filing regarding (a) the description of the portfolio or reference assets, (b) limitations on portfolio holdings or reference assets, (c) dissemination and availability of the reference asset or intraday indicative values, or (d) the applicability of Exchange listing rules shall constitute continued listing requirements for listing the Shares on the Exchange. In addition, the issuer has represented to the Exchange that it will advise the Exchange of any failure by the Fund to comply with the continued listing requirements, and, pursuant to its obligations under Section 19(g)(1) of the Act, the Exchange will monitor for compliance with the continued listing requirements. If the Fund is not in compliance with the applicable listing requirements, the Exchange will commence delisting procedures under the Nasdaq 5800 Series.

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[35] in general, and furthers the objectives of Section 6(b)(5) of the Act,[36] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Exchange believes that the proposed rule change is designed to prevent fraudulent and manipulative acts and practices in that the Shares would be listed and traded on the Exchange pursuant to the initial and continued listing criteria in Nasdaq Rule 5745. The Exchange believes that its surveillance procedures are adequate to properly monitor the trading of Shares on Nasdaq and to deter and detect violations of Exchange rules and the applicable federal securities laws. The Adviser is not a registered broker-dealer, and is not affiliated with a broker-dealer. Personnel who make decisions on the Fund's portfolio composition must be subject to procedures designed to prevent the use and dissemination of material, non-public information regarding the open-end fund's portfolio.

In the event that (a) the Adviser registers as a broker-dealer or becomes newly affiliated with a broker-dealer, or (b) any new adviser or sub-adviser to the Fund is a registered broker-dealer or becomes affiliated with a broker-dealer, such adviser or sub-adviser will implement and will maintain a fire wall with respect to its relevant personnel and/or such broker-dealer affiliate, as applicable, regarding access to information concerning the composition and/or changes to the Fund's portfolio and will be subject to procedures designed to prevent the use and dissemination of material non- public information regarding such portfolio.

The Exchange may obtain information via ISG from other exchanges that are members of ISG or with which the Exchange has entered into a comprehensive surveillance sharing agreement. Moreover, FINRA, on behalf of the Exchange, will be able to access, as needed, trade information for certain fixed income securities held by the Fund reported to FINRA's TRACE.[37]

The proposed rule change is designed to promote just and equitable principles of trade and to protect investors and the public interest. The Exchange will obtain a representation from the issuer of Shares that the NAV per Share will be calculated daily (on each day the New York Stock Exchange is open for trading) and provided to Nasdaq via the MFQS by the fund accounting agent. As soon as the NAV is entered into MFQS, Nasdaq will disseminate the NAV to market participants and market data vendors via MFDS so all firms will receive the NAV per Share at the same time. In addition, a large amount of information would be publicly available regarding the Fund and the Shares, thereby promoting market transparency.

Prior to the commencement of market trading in Shares, the Fund will be required to establish and maintain a free public website through which its current prospectus may be downloaded.[38] The free public website will include directly or through a link additional Fund information updated on a daily basis, including the prior business day's NAV, and the following trading information for such business day expressed as premiums/discounts to NAV: (a) Intraday high, low, average and closing prices of Shares in Exchange trading; (b) the Closing Bid/Ask Midpoint; and (c) the Closing Bid/Ask Spread.[39] The free public website will also contain charts showing the frequency distribution and range of values of trading prices, Closing Bid/Ask Midpoints and Closing Bid/Ask Spreads over time.

The Composition File will be disseminated through the NSCC before the open of trading in Shares on each business day and also will be made available to the public each day on a free public website.[40] An estimated value of an individual Share, defined in Nasdaq Rule 5745(c)(2) as the ''Intraday Indicative Value,'' will be calculated and disseminated at intervals of not more than 15 minutes throughout the Regular Market Session [41] when Shares trade on the Exchange. The Exchange will obtain a representation from the issuer of the Shares that the IIV for the Fund will be calculated on an intraday basis and provided to Nasdaq for dissemination via GIDS. A complete list of current portfolio positions for the Fund will be made available at least once each calendar quarter, with a reporting lag of not more than 60 days. The Fund may provide more frequent disclosures of portfolio positions at its discretion.

Transactions in Shares will be reported to the Consolidated Tape at the time of execution in proxy price format and will be disseminated to member firms and market data services through Nasdaq's trading service and market data interfaces, as defined above. Once the Fund's daily NAV has been calculated and the final price of its intraday Share trades has been determined, Nasdaq will deliver a confirmation with final pricing to the transacting parties. At the end of the day, Nasdaq will also post a newly created FTP file with the final transaction data for the trading and market data services. Information regarding NAV-based trading prices, best bids and offers for Shares, and volume of Shares traded will be continuously available on a real-time basis throughout each trading day on brokers' computer screens and other electronic services. Because Shares will trade at prices based on the next-determined NAV, investors will be able to buy and sell individual Shares at a known premium or discount to NAV that they can limit by transacting using limit orders at the time of order entry. Trading in Shares will be subject to Nasdaq Rules 5745(d)(2)(B) and (C), which provide for the suspension of trading or trading halts under certain circumstances, including if, in the view of the Exchange, trading in Shares becomes inadvisable.

[35] 15 U.S.C. 78f(b).

[36] 15 U.S.C. 78f(b)(5).

[37] *See supra* footnote 33.

[38] *See supra* footnote 22.

[39] *See supra* footnote 23.

[40] *See supra* footnote 12.

[41] *See supra* footnote 26.

Every order to trade Shares of the Fund is subject to the proxy price protection threshold of plus/minus $1.00, which determines the lower and upper threshold for the life of the order and whereby the order will be cancelled at any point if it exceeds $101.00 or falls below $99.00, the established thresholds. With certain exceptions, each order also must contain the applicable order attributes, including routing instructions and time-in-force information, as described in Nasdaq Rule 4703.

The proposed rule change is designed to perfect the mechanism of a free and open market and, in general, to protect investors and the public interest in that it will facilitate the listing and trading of the Fund, which will seek to provide investors with access to actively managed investment strategies in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure, and is designed to ensure a tight relationship between market trading prices and NAV.

For the above reasons, Nasdaq believes the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. In fact, the Exchange believes that the introduction of the Fund would promote competition by making available to investors actively managed investment strategies in a structure that offers the cost and tax efficiencies and shareholder protections of ETFs, while removing the requirement for daily portfolio holdings disclosure, and is designed to ensure a tight relationship between market trading prices and NAV. Moreover, the Exchange believes that the proposed method of Share trading would provide investors with transparency of trading costs, and the ability to control trading costs using limit orders, that is not available for conventionally traded ETFs.

These developments could significantly enhance competition to the benefit of the markets and investors.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period up to 90 days (i) as the Commission may designate if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve or disapprove the proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–NASDAQ–2017–131 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2017–131. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet 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 No. SR–NASDAQ–2017–131 and should be submitted on or before January 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[42]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28310 Filed 12–29–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82406; File No. SR–LCH SA–2017–011]

Self-Regulatory Organizations; LCH SA; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to the CDSClear Fee Grid for All Accounts Structures

December 27, 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 20, 2017, Banque Centrale de Compensation, which conducts business under the name LCH SA (''LCH SA''), filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II, and III below, which Items have been prepared primarily by LCH SA. LCH SA filed the proposed rule changes pursuant to Section 19(b)(3)(A)[3] of the Act and Rule 19b–4(f)(2)[4] thereunder, so that the proposal was effective upon filing with the Commission. 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

LCH SA is filing a proposed fee grid for all accounts structures, including those introduced[5] to reflect the indirect

[42] 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)(2).

[5] See SR–LCH SA–2017–010.

clearing requirements [6] under EMIR [7] and MiFIR [8] for authorized CCPs. The text of the proposed rule change has been annexed as Exhibit 5.

II. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, LCH SA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. LCH SA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of these statements.

A. Clearing Agency's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to adopt the applicable CDSClear fee grid for all accounts structures, including the indirect client account structures proposed in accordance with the provisions of MiFIR Article 30.

The proposed rule change introduces a fixed annual fee payable to CDSClear by its Clearing Members semi annually for the 6-month periods beginning January 1st and July 1st in accordance with the amount and currency specified in the fee grid attached in Exhibit 5.

The Account structure fees will be calculated on the day immediately preceding each 6-month period, being December 31st and June 30th of each year, based on the number of live accounts at that date. It will apply for existing client accounts from 1st January 2018.

Any Clearing Member will make its own pricing arrangements with its clients.

The Account structure fee does not apply to house accounts.

2. Statutory Basis

Section 17A(b)(3)(D) of the Act requires that the rules of a clearing agency provide for the equitable allocation of reasonable dues, fees, and other charges.[9]

As noted above, the proposed fee grid will apply equally to all existing and new client accounts, whether Indirect or not, and LCH SA believes that it is reasonable and appropriate. The fee amount applied is constant across all account types reflecting the even workload for each account opened by clients.

LCH believes that the proposed rule change is consistent with the requirements of Section 17A of the Act [10] and regulations thereunder applicable to it, because it provides for the equitable allocation of reasonable fees, dues, and other charges among clearing members including their clients and market participants by ensuring that they pay reasonable fees and dues for the services that LCH SA provides.

B. Clearing Agency's Statement on Burden on Competition

Section 17A(b)(3)(I) of the Act requires that the rules of a clearing agency not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.[11] LCH SA does not believe that the proposed rule change would impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

The proposed rule change will apply equally to all existing and new client accounts and does not adversely affect the ability of Clearing Members and their clients or other market participants generally to engage in cleared transactions or to access clearing services. Therefore, LCH SA does not believe that the proposed rule change would impose a burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Clearing Agency's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments relating to the proposed rule change have not been solicited or received. LCH SA will notify the Commission of any written comments received by LCH SA.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Subject to any regulatory review or approval process duly completed, the foregoing proposed rule change has become effective upon filing pursuant to Section 19(b)(3)(A) [12] of the Act and Rule 19b–4(f)(2) [13] thereunder because it establishes a fee or other charge imposed by LCH SA on its Clearing Members. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such proposed 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–LCH SA–2017–011 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–LCH SA–2017–011. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's internet website (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street NE, Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for

[6] Commission Delegated Regulation (EU) 2017/2155 of 22 September 2017 amending Delegated Regulation (EU) No. 149/2013 supplementing the European Market Infrastructure Regulation (MiFIR) with regard to regulatory technical standards (RTS) on indirect clearing arrangements.

[7] Regulation (EU) No 648/2012 of the European Parliament and of the Council of 4 July 2012 on OTC derivatives, central counterparties and trade repositories (EMIR).

[8] Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012.

[9] 15 U.S.C. 78q–1(b)(3)(D).

[10] 15 U.S.C. 78q–1.

[11] 15 U.S.C. 78q–1(b)(3)(I).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(2).

inspection and copying at the principal office of LCH SA and on LCH SA's website at *http://www.lch.com/asset-classes/cdsclear.*

All comments received will be posted without change. Persons submitting comments are cautioned that we do not redact or edit personal identifying information from comment submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–LCH SA–2017–011 and should be submitted on or before January 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28308 Filed 12–29–17; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–82409; File No. SR–IEX–2017–43]

Self-Regulatory Organizations; Investors Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Related to the Displayed Match Fee

December 27, 2017.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''),[2] and Rule 19b–4 thereunder,[3] notice is hereby given that on December 14, 2017, the Investors Exchange LLC (''IEX'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

Pursuant to the provisions of Section 19(b)(1) under the Securities Exchange Act of 1934 (''Act''),[4] and Rule 19b–4 thereunder,[5] Investors Exchange LLC (''IEX'' or ''Exchange'') is filing with the Commission a proposed rule change to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to: (i) To increase the fee for orders that provide or take resting interest with displayed priority (*i.e.,* displayed liquidity) during continuous trading, (ii) eliminate the exception to the Non-Displayed Match Fee for taking non-displayed liquidity with a displayable order for Members that predominantly provide displayed liquidity (iii) increase the fee for orders displayed on the Continuous Book that execute as part of the Opening Process for Non-IEX-Listed Securities (the ''Opening Process'') while continuing to provide such orders free execution in the Opening and Closing Auction when IEX begins to list securities as a primary listing exchange, and (iv) make two nonsubstantive clarifying changes to its Fee Schedule. Changes to the Fee Schedule pursuant to this proposal are effective upon filing, and will be operative on January 1, 2018.The text of the proposed rule change is available at the Exchange's website at *www.iextrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statement may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to modify its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to (i) to increase the fee for orders that provide or take displayed liquidity during continuous trading, (ii) eliminate the exception to the Non-Displayed Match Fee for taking non-displayed liquidity with a displayable order for Members that predominantly provide displayed liquidity, (iii) increase the fee for orders displayed on the Continuous Book that execute as part of the Opening Process while continuing to provide such orders free execution in the Opening and Closing Auction when IEX begins to list securities as a primary listing exchange, and (iv) make two nonsubstantive clarifying changes to its Fee Schedule.

Displayed Match Fee

Pursuant to the existing Fee Schedule, the Exchange currently does not charge any fee to Members for executions on IEX that provide or take displayed liquidity (*i.e.,* an order or portion of a reserve order that is booked and ranked with display priority on the Order Book[6] either as the IEX best bid or best offer (''BBO''), or at a less aggressive price). This pricing is referred to by the Exchange as the ''Displayed Match Fee'', resulting in a Fee Code of 'L' provided by the Exchange on execution reports to Members.[7] The Exchange proposes to update its Fee Schedule, pursuant to IEX Rule 15.110(a) and (c), to (i) increase the Displayed Match Fee from $0 to $0.0003 for securities with an execution price at or above $1.00, or 0.30% of the total dollar value of the transaction for securities with an execution price below $1.00, calculated as the execution price multiplied by the number of shares executed in the transaction.

The current Displayed Match Fee of $0 was adopted in connection with IEX's launch as a national securities exchange in August 2016, and was designed to attract displayed order flow to the Exchange, without offering rebates, thereby contributing to price discovery and consistent with the overall goal of enhancing market quality. The Exchange periodically assesses its fee structure. Based upon a recent assessment, the Exchange determined that the modest proposed fee increase for the Displayed Match Fee would continue to attract and incentivize displayed order flow in a comparable manner, while also increasing revenue.

The Exchange is not proposing any change to the Internalization Fee whereby no fee is charged for executions when the adding and removing order originated from the same Exchange Member. Accordingly, transactions that qualify for the Internalization Fee will not be charged the Displayed Match Fee, since the IEX Fee Schedule provides that to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply.[8]

Non-Displayed Match Fee

The Exchange currently charges the Non-Displayed Match Fee of $0.0009

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

[4] 15 U.S.C. 78s(b)(1).

[5] 17 CFR 240.19b–4.

[6] *See* Rule 1.160(p).

[7] *See* the Investors Exchange Fee Schedule, available on the Exchange's public website.

[8] *Id.*

per share (or 0.30% of the total dollar value of the transaction for securities with an execution price below $1.00) to Members for executions on IEX that provide or take non-displayed liquidity (*i.e.,* an order or portion of a reserve order that is booked and ranked with non-display priority on the Order Book either at the NBBO midpoint or at a less aggressive price on the Order Book),[9] with the exception of (i) executions on the Exchange where the adding and removing order originated from the same Exchange Member and (ii) executions on IEX that involve taking resting interest with non-displayed priority where (a) the liquidity removing order was displayable (*i.e.,* the order would have booked and displayed if posted to the Order Book) and (b) on a monthly basis, at least 90% of the liquidity removing Member's aggregate executions of displayable orders added liquidity during such calendar month (*i.e.,* the ''90% display exception'').[10] The Exchange is proposing to eliminate the 90% display exception. As explained in IEX's rule change adopting the 90% display exception to the Non-Displayed Match Fee, the flexibility was designed to address limited inadvertent liquidity removal by Members who are largely adding displayed liquidity and generally intend to add displayed liquidity on IEX, to further encourage aggressively priced displayed orders.[11] However, the Exchange believes that the 90% display exception has had limited success in encouraging aggressively priced displayed orders on the Exchange, and has resulted in relatively small credits to Members. During September, October, and November of 2017, no more than 31 Members (of 159 total Members) qualified for the 90% display exception through one or more MPID's during any month. The credits ranged from $0.03 to $9,195 with 47% (on average) of the credits under $100.

Further the 90% display exception introduces certain technical complexities for IEX that are associated with processing the 90% display exception at the end of the month, as well as for Members with respect to forecasting fees due to the Exchange. Specifically, the Exchange's current billing processes account for the 90% display exception at the end of the trading month by processing each MPID's eligible trading activity to determine the number of shares, if any, that are eligible for free execution under the 90% display exception. The Exchange believes the computational components of the 90% display exception are not inherently complex; however, accounting for the 90% display exception along with other conditional fees that are processed at the end of the trading month (*e.g.,* the Crumbling Quote Remove Fee), raises unnecessary technical complexities considering the fees limited practical utility. Moreover, the Exchange believes that removing the 90% display exception will provide Members more clarity regarding the fees assessed for executions on the Exchange, because Members will not need to account for the 90% display exception when calculating the fees due to the Exchange, and will instead know with certainty that executions that receive Fee Code 'I' in isolation will be subject to the Non-Displayed Match Fee. Accordingly, the Exchange proposes to eliminate the exception. The Exchange thus proposes to delete the single asterisked footnote to the Fee Schedule to delete the reference and description of the 90% display exception, and to adjust the footnote references that follow accordingly.

Auction and Opening Process Fee

The Exchange Fee Schedule currently provides that displayed orders resting on the Continuous Book that execute in the Opening Auction, Closing Auction, or the Opening Process are not charged a fee (*i.e.,* are free).[12] IEX proposes to retain the free pricing for displayed orders resting on the Continuous Book that execute in the Opening or Closing Auction, but to increase the fee for displayed orders resting on the Continuous Book that execute in the Opening Process to align with the proposed Displayed Match Fee. The Exchange believes that the Opening and Closing Auctions will provide a critical price discovery mechanism that establishes the IEX Official Opening and Closing Prices, respectively, for IEX-listed securities. It is generally the data point most closely scrutinized by investors, securities analysts, and the financial media, and is used to value and assess management fees on mutual funds, hedge funds, and individual investor portfolios. The Exchange further believes that displayed liquidity is an important part of the Opening and Closing Auction price discovery process. Therefore, in order to incentivize market participants to display quotations on the Exchange leading into the Opening and Closing Auctions to support the price formation process, the Exchange is proposing to not charge a fee for displayed interest resting on the Continuous Book that executes as part of the Opening or Closing Auction. In contrast, the Opening Process for Non-Listed Securities is not designed to be a price discovery mechanism and accordingly the Exchange does not believe that a free pricing incentive is appropriate.

Clarifying Changes

The Exchange is proposing to make two nonsubstantive changes to its Fee Schedule to clarify the fees assessed on certain orders that receive multiple Fee Codes. First, the Exchange proposes to reorder the asterisked footnotes to account for the elimination of the 90% display exception. Secondly, the Exchange proposes to amend the triple asterisked footnote and add a new sentence to the quadruple asterisked footnote to clarify the Fee Codes provided for orders that execute in the Opening Process and in the Opening or Closing Auctions. As proposed, the triple asterisked footnote provides that, for orders that execute in the Opening Process, non-displayed orders will receive a Fee Code of X rather than I, and executions that receive a Fee Code of XL are assessed the Displayed Match Fee. The current quadruple asterisked footnote provides that, for orders that execute in the Opening Auction or Closing Auction, non-displayed orders will receive a Fee Code of O or C, respectively, rather than I, and orders that were displayed on the Continuous Book prior to the Opening or Closing Auction will receive a Fee Code of L, in addition to O or C, respectively (*i.e.,* such orders will receive Fee Codes OL or CL, respectively). The proposed new sentence to the quadruple asterisked footnote further provides that executions in the Opening or Closing Auction that receive a Fee Code of OL or CL, respectively, are free. While the third bullet in the Transaction Fees section of the Fee Schedule currently specifies that, except for the Crumbling Quote Remove Fee Code of Q, to the extent a Member receives multiple Fee Codes on an execution, the lower fee shall apply, the Exchange believes that the proposed changes will provide additional clarity to Members with respect to how multiple Fee Codes on an execution apply.

2. Statutory Basis

IEX believes that the proposed rule change is consistent with the provisions

[9] *Id.*

[10] However, in such transactions, the non-displayed liquidity adding interest is subject to the Non-Displayed Match Fee.

[11] *See* Securities Exchange Act Release No. 78550 (August 11, 2016), 81 FR 54873 (August 17, 2016) (SR–IEX–2016–09).

[12] *See supra* note 7 [sic].

of Section 6(b) [13] of the Act in general, and furthers the objectives of Sections 6(b)(4) [14] of the Act, in particular, in that it is designed to provide for the equitable allocation of reasonable dues, fees and other charges among its Members and other persons using its facilities. The Exchange believes that the proposed fee change is reasonable, fair and equitable, and non-discriminatory. The Exchange operates in a highly competitive market in which market participants can readily direct order flow to competing venues if they deem fee levels at a particular venue to be excessive.

As proposed, the modest increase to the Displayed Match Fee remains intended to attract displayed order flow to the Exchange by offering a pricing incentive to send IEX aggressively priced displayable orders, without offering rebates, thereby contributing to price discovery and consistent with the overall goal of enhancing market quality. The Exchange does not believe that the proposed change represents a significant departure from pricing currently offered by the Exchange.

Specifically, the Displayed Match Fee will continue to be less than the Non-Displayed Match Fee and substantially lower than the fee to add displayed liquidity on an exchange with a ''taker-maker'' fee structure (*i.e.,* that charges liquidity providers) and to take displayed liquidity on an exchange with a ''maker-taker'' fee structure (*i.e.,* that charges liquidity takers).[15] In addition, the Exchange believes that it continues to be reasonable, equitable and not unfairly discriminatory to charge the Displayed Match Fee to both the liquidity adder and remover because it is designed to facilitate execution of, and enhance trading opportunities for, displayable orders, thereby further incentivizing entry of displayed orders.

The Exchange also believes that it is reasonable, fair and equitable, and non-discriminatory to charge the increased Displayed Match Fee for displayed interest resting on the Continuous Book that executes as part of the Opening Process. As discussed in the Purpose Section, the Opening Process is not designed to be a price discovery mechanism and accordingly the Exchange believes that the same factors that support increasing the Displayed Match Fee also support increasing the fee for such orders.

The Exchange further believes that it is reasonable, fair and equitable, and non-discriminatory to continue to not charge a fee for displayed interest resting on the Continuous Book that executes as part of the Opening or Closing Auction. As discussed in the Purpose section, the Opening and Closing Auctions provide a critical price discovery mechanism that establishes the IEX Official Opening and Closing Prices, respectively, for IEX-listed securities, and displayed liquidity is an important part of the Opening and Closing Auction price discovery process. Therefore, the Exchange believes that a fee incentive is appropriate in order to incentivize market participants to display quotations on the Exchange leading into the Opening and Closing Auctions. The Exchange notes that Cboe BZX Exchange, Inc. (''BZX'') does not charge a fee for continuous book orders that execute in an opening or closing auction in a BZX-listed security, notwithstanding that it charges various fees for other orders that execute in such auctions.[16]

Additionally, the Exchange believes that it is reasonable, fair and equitable, and non-discriminatory to continue to charge the Internalization Fee rather than the Displayed Match Fee for executions on IEX that provide or take resting interest with displayed priority when the adding and removing order originated from the same Exchange Member. IEX believes that the same factors that support not charging fees for such transactions, as described in its rule filing adopting this fee structure, continue to be relevant.[17] Specifically, not charging a fee is designed to incentivize Members (and their customers) to send orders to IEX that may otherwise be internalized off exchange, with the goal of increasing order interaction on IEX. Internalization on IEX is not guaranteed, and the additional order flow that does not internalize is available to trade by all Members.

The Exchange also believes that it is reasonable, fair and equitable, and non-discriminatory to eliminate the 90% display exception, based on its limited practical utility and the technical complexities that are associated with processing the exception, as described in the Purpose section. Moreover, the Exchange believes that removing the 90% display exception is reasonable because it will provide Members more clarity regarding the fees assessed for executions on the Exchange, because Members will not need to account for the 90% display exception when calculating the fees due to the Exchange, and will instead know with certainty that executions that receive Fee Code 'I' in isolation will be subject to the Non-Displayed Match Fee.

Additionally, the Exchange believes that the proposed nonsubstantive clarifying changes to the Fee Schedule are reasonable, fair and equitable, and non-discriminatory because they will provide additional clarity to Members with respect to how multiple Fee Codes on an execution apply, thereby eliminating any potential confusion.

Finally, the Exchange believes that the proposed fees are nondiscriminatory because they will apply uniformly to all Members.

B. Self-Regulatory Organization's Statement on Burden on Competition

IEX does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intermarket competition that is not necessary or appropriate in furtherance of the purposes of the Act. The Exchange operates in a highly competitive market in which market participants can readily favor competing venues if fee schedules at other venues are viewed as more favorable. Consequently, the Exchange believes that the degree to which IEX fees could impose any burden on competition is extremely limited, and does not believe that such fees would burden competition between Members or competing venues in a manner that is not necessary or appropriate in furtherance of the purposes of the Act. Moreover, as noted in the Statutory

[13] 15 U.S.C. 78f.

[14] 15 U.S.C. 78f(b)(4).

[15] For example, the New York Stock Exchange (''NYSE'') trading fee schedule on its public website reflects fees to ''take'' liquidity ranging from $0.0024–$0.0030 depending on the type of market participant, order and execution. Additionally, NYSE fees to ''add'' liquidity range from $0.0018–$0.0030 per share for shares executed in continuous trading. (*See, https://www.nyse.com/markets/nyse/trading-info/fees*). The Nasdaq Stock Market (''Nasdaq'') trading fee schedule on its public website reflects fees to ''remove'' liquidity ranging from $0.0025–$0.0030 per share for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00. Additionally, Nasdaq fees for ''adding'' liquidity range from $0.0001–$0.00305 per share for shares executed in continuous trading. (*See, http://nasdaqtrader.com/Trader.aspx?id=PriceListTrading2*). The Cboe BZX Exchange (''Cboe BZX) trading fee schedule on its public website reflects fees for ''removing'' liquidity ranging from $0.0025–$0.0030, for shares executed in continuous trading at or above $1.00 or 0.30% of total dollar volume for shares executed below $1.00. Additionally, Cboe BZX fees for ''adding'' liquidity ranging from $0.0020–$0.0045 per share for shares executed in continuous trading. (*See, https://www.batstrading.com/support/fee_schedule/bzx/*).

[16] *See* Cboe BZX U.S. Equities Exchange Fee Schedule available at: *http://markets.cboe.com/us/equities/membership/fee_schedule/bzx/.*

[17] *See supra* note 11 [sic].

Basis section, the Exchange does not believe that the proposed changes represent a significant departure from its current fee structure.

The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because, while different fees are assessed in some circumstances, these different fees are not based on the type of Member entering the orders that match but on the type of order entered and all Members can submit any type of order. Further, the proposed fee changes continue to be intended to encourage market participants to bring increased order flow to the Exchange, which benefits all market participants.

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 foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) [18] of the Act.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B) [19] of the Act to determine whether the proposed rule change should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–IEX–2017–43 on the subject line.

Paper Comments

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090.

All submissions should refer to File Number SR–IEX–2017–43. 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–IEX–2017–43 and should be submitted on or before January 23, 2018.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[20]

Brent J. Fields,

Secretary.

[FR Doc. 2017–28311 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

[18] 15 U.S.C. 78s(b)(3)(A)(ii).

[19] 15 U.S.C. 78s(b)(2)(B).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32956; 812–14749]

Oppenheimer Capital Appreciation Fund et al.; Application

December 27, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice.

Notice of an application under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from section 15(a) of the Act and rule 18f–2 under the Act, as well as from certain disclosure requirements in rule 20a–1 under the Act, Item 19(a)(3) of Form N–1A, Items 22(c)(1)(ii), 22(c)(1)(iii), 22(c)(8) and 22(c)(9) of Schedule 14A under the Securities Exchange Act of 1934, and Sections 6–07(2)(a), (b), and (c) of Regulation S–X (''Disclosure Requirements''). The requested exemption would permit an investment adviser to hire and replace certain sub-advisers without shareholder approval and grant relief from the Disclosure Requirements as they relate to fees paid to the sub-advisers.

APPLICANTS: Oppenheimer Capital Appreciation Fund; Oppenheimer Capital Income Fund; Oppenheimer Corporate Bond Fund; Oppenheimer Developing Markets Fund; Oppenheimer Discovery Fund; Oppenheimer Discovery Mid Cap Growth Fund; Oppenheimer Dividend Opportunity Fund; Oppenheimer Emerging Markets Innovators Fund; Oppenheimer Emerging Markets Local Debt Fund; Oppenheimer Equity Income Fund; Oppenheimer Global Fund; Oppenheimer Global High Yield Fund; Oppenheimer Global Multi-Alternatives Fund; Oppenheimer Global Multi-Asset Growth Fund; Oppenheimer Global Multi-Asset Income Fund; Oppenheimer Global Multi Strategies Fund; Oppenheimer Global Opportunities Fund; Oppenheimer Global Real Estate Fund; Oppenheimer Global Strategic Income Fund; Oppenheimer Global Value Fund; Oppenheimer Gold & Special Minerals Fund; Oppenheimer Government Cash Reserves; Oppenheimer Government Money Market Fund; Oppenheimer Institutional Government Money Market Fund; Oppenheimer Integrity Funds; Oppenheimer International Bond Fund; Oppenheimer International Diversified Fund; Oppenheimer International Equity Fund; Oppenheimer International Growth and Income Fund; Oppenheimer International Growth Fund; Oppenheimer International Small-Mid Company Fund; Oppenheimer Limited-Term Bond Fund; Oppenheimer Limited-Term Government Fund; Oppenheimer Macquarie Global Infrastructure Fund; Oppenheimer Main Street Funds; Oppenheimer Main Street Mid Cap Fund; Oppenheimer Main Street All Cap Fund; Oppenheimer Main Street Small Cap Fund; Oppenheimer Master Event-Linked Bond Fund, LLC;

Oppenheimer Master Inflation Protected Securities Fund, LLC; Oppenheimer Master International Value Fund, LLC; Oppenheimer Master Loan Fund, LLC; Oppenheimer Multi-State Municipal Trust; Oppenheimer Municipal Fund; Oppenheimer Portfolio Series; Oppenheimer Quest for Value Funds; Oppenheimer Real Estate Fund; Oppenheimer ETF Trust; Oppenheimer Rising Dividends Fund; Oppenheimer Rochester AMT-Free Municipal Fund; Oppenheimer Rochester AMT-Free New York Municipal Fund; Oppenheimer Rochester Arizona Municipal Fund; Oppenheimer Rochester California Municipal Fund; Oppenheimer Rochester Fund Municipals; Oppenheimer Rochester Intermediate Term Municipal Fund; Oppenheimer Rochester Limited Term California Municipal Fund; Oppenheimer Rochester Maryland Municipal Fund; Oppenheimer Rochester Massachusetts Municipal Fund; Oppenheimer Rochester Michigan Municipal Fund; Oppenheimer Rochester Minnesota Municipal Fund; Oppenheimer Rochester North Carolina Municipal Fund; Oppenheimer Rochester Ohio Municipal Fund; Rochester Portfolio Series; Oppenheimer Rochester Short Term Municipal Fund; Oppenheimer Rochester Virginia Municipal Fund; Oppenheimer Senior Floating Rate Fund; Oppenheimer Senior Floating Rate Plus Fund; Oppenheimer Series Fund; Oppenheimer Small Cap Value Fund; Oppenheimer Steelpath MLP Funds Trust; Oppenheimer Steelpath Panoramic Fund; Oppenheimer Ultra-Short Duration Fund; Oppenheimer Variable Account Funds (each, an ''Oppenheimer Investment Company'' and collectively, the ''Oppenheimer Investment Companies'' with multiple series (each, a ''Fund'')); OFI Global Asset Management, Inc.; OppenheimerFunds, Inc.; OFI SteelPath, Inc. and VTL Associates, LLC (each an ''Adviser'' and, collectively with the Oppenheimer Investment Companies, the ''Applicants''). Each Oppenheimer Investment Company is organized as either a Delaware statutory trust or a Delaware limited liability company and is registered with the Commission as an open-end management investment company under the 1940 Act.

FILING DATES: The application was filed on February 28, 2017, and amended on August 31, 2017.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on January 22, 2018 and should be accompanied by proof of service on the applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street NE, Washington, DC 20549–1090. Applicants: c/o Margery K. Neale, Esq., Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, New York 10019.

FOR FURTHER INFORMATION CONTACT: Rachel Loko, Senior Counsel, at (202) 551–6883, or Holly Hunter-Ceci, Assistant Chief Counsel, at (202) 551–6825 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's website by searching for the file number, or an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Summary of the Application

1. An Adviser will serve as the investment adviser to the Subadvised Funds pursuant to an investment advisory agreement with the Oppenheimer Investment Companies (each, an ''Investment Management Agreement'').[1] An Adviser will provide the Subadvised Funds with continuous and comprehensive investment management services subject to the supervision of, and policies established by, each Subadvised Funds' board of directors or trustees (the ''Board'').[2] Each Investment Management Agreement permits the Adviser, subject to the approval of the Board, to delegate to one or more Sub-Advisers the responsibility to provide the day-to-day portfolio investment management of each Subadvised Funds, subject to the supervision and direction of the Adviser.[3] The primary responsibility for managing the Subadvised Funds will remain vested in an Adviser. An Adviser will hire, evaluate, allocate assets to and oversee the Sub-Advisers, including determining whether a Sub-Adviser should be terminated, at all times subject to the authority of the Board.

2. Applicants request an exemption to permit an Adviser, subject to Board approval, to hire a Non-Affiliated Sub-Adviser or a Wholly-Owned Sub-Adviser, pursuant to Sub-Advisory Agreements and materially amend Sub-Advisory Agreements with Non-Affiliated Sub-Advisers and Wholly-Owned Sub-Advisers without obtaining the shareholder approval required under section 15(a) of the Act and rule 18f–2 under the Act.[4] Applicants also seek an exemption from the Disclosure Requirements to permit a Subadvised Fund to disclose (as both a dollar amount and a percentage of the Subadvised Fund's net assets): (a) The

[1] Applicants request that the relief apply to the named Applicants, as well as to any future Fund and any other existing or future registered open-end management investment company or series thereof that intends to rely on the requested order in the future and that (i) is advised by the Adviser, its successors, and any entity controlling, controlled by or under common control with an Adviser or its successors (included in the term ''Adviser''), (ii) uses the multi-manager structure described in this application, and (iii) complies with the terms and conditions of this application (each, a ''Subadvised Fund''). For the purposes of the requested order, ''successor'' is limited to an entity resulting from a reorganization into another jurisdiction or a change in the type of business organization.

[2] The term ''Board'' includes the board of trustees or directors of a future Subadvised Funds.

[3] A ''Sub-Adviser'' for a Fund is (1) an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the Adviser for that Fund, or (2) a sister company of the Adviser for that Fund that is an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the Act) of the same company that, indirectly or directly, wholly owns the Adviser, or (3) a company of which the Adviser for that Fund is an indirect or direct ''wholly-owned subsidiary'' (as such term is defined in the 1940 Act) (each of (1), (2) and (3) a ''Wholly-Owned Sub-Advisor'' and collectively, the ''Wholly-Owned Sub-Advisers''), or (4) an investment sub-adviser for that Funds that is not an ''affiliated person'' (as such term is defined in Section 2(a)(3) of the Act) of the Funds, any Feeder Fund, (as defined below) invested in a Master Fund (as defined below), the Funds, or the Adviser, except to the extent that an affiliation arises solely because the Sub-Adviser serves as a sub-adviser to one or more Funds (each a ''Non-Affiliated Sub-Adviser'' and collectively, the ''Non-Affiliated Sub-Advisers'').

Certain Oppenheimer Investment Companies are operated in a master-feeder structure pursuant to Section 12(d)(1)(E) of the 1940 Act. In such a structure, certain Funds (each, a ''Feeder Fund'') may invest substantially all of their assets in a Fund (a ''Master Fund'') pursuant to Section 12(d)(1)(E) of the 1940 Act. No Feeder Fund will engage any sub-advisers other than through approving the engagement of one or more of the Master Fund's sub-advisers.

[4] The requested relief will not extend to any sub-adviser, other than a Wholly-Owned Sub-Adviser, who is an affiliated person, as defined in section 2(a)(3) of the Act, of the Subadvised Funds or the Manager, other than by reason of serving as a sub-adviser to one or more of the Subadvised Funds or to any existing or future registered open-end management company or series thereof advised by an Advisor (''Affiliated Sub-Adviser'').

aggregate fees paid to the Adviser and any Wholly-Owned Sub-Advisers; (b) the aggregate fees paid to Non-Affiliated Sub-Advisers; and (c) the fee paid to each Affiliated Sub-Adviser.

3. Applicants agree that any order granting the requested relief will be subject to the terms and conditions stated in the application. Such terms and conditions provide for, among other safeguards, appropriate disclosure to Subadvised Funds' shareholders and notification about sub-advisory changes and enhanced Board oversight to protect the interests of the Subadvised Funds' shareholders.

4. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction or any class or classes of persons, securities, or transactions from any provisions of the Act, or any rule thereunder, if such relief is necessary or appropriate in the public interest and consistent with the protection of investors and purposes fairly intended by the policy and provisions of the Act. Applicants believe that the requested relief meets this standard because, as further explained in the application, the Investment Management Agreements will remain subject to shareholder approval, while the role of the Sub-Advisers is substantially equivalent to that of individual portfolio managers, so that requiring shareholder approval of Sub-Advisory Agreements would impose unnecessary delays and expenses on the Subadvised Funds. Applicants believe that the requested relief from the Disclosure Requirements meets this standard because it will improve the Adviser's ability to negotiate fees paid to the Sub-Advisers that are more advantageous for the Subadvised Funds.

For the Commission, by the Division of Investment Management, under delegated authority.

Brent J. Fields,

Secretary.

[FR Doc. 2017–28299 Filed 12–29–17; 8:45 am]

BILLING CODE 8011–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. 2017–103]

Petition for Exemption; Summary of Petition Received; Sierra Pacific Airlines, Inc.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: This notice contains a summary of a petition seeking relief from specified requirements of Federal Aviation Regulations. The purpose of this notice is to improve the public's awareness of, and participation in, the FAA's exemption process. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of the petition or its final disposition.

DATES: Comments on this petition must identify the petition docket number and must be received on or before January 12, 2018.

ADDRESSES: Send comments identified by docket number FAA–2017–0964 using any of the following methods:

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

Privacy: In accordance with 5 U.S.C. 553(c), DOT solicits comments from the public to better inform its rulemaking process. DOT posts these comments, without edit, including any personal information the commenter provides, to *http://www.regulations.gov,* as described in the system of records notice (DOT/ALL–14 FDMS), which can be reviewed at *http://www.dot.gov/privacy.*

Docket: Background documents or comments received may be read at *http://www.regulations.gov* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Justin Barcas (202) 267–7023, Office of Rulemaking, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85.

Issued in Washington, DC, on December 27, 2017.

Dale Bouffiou,

Deputy Executive Director, Office of Rulemaking.

Petition for Exemption

Docket No.: FAA–2017–0964.
Petitioner: Sierra Pacific Airlines. Inc.
Section(s) of 14 CFR Affected: 121.1117.

Description of Relief Sought: Sierra Pacific Airlines, Inc. seeks an exemption from § 121.1117 to the extent necessary to allow it to operate its one (1) Boeing 737–200 aircraft (Reg. No. N703S) and its two (2) Boeing 737–500 aircraft (Reg. Nos. N708S and N709S) in revenue service after December 26, 2017, even though such aircraft have not been retrofitted in compliance with the flammability reduction means requirement in § 121.1117.

[FR Doc. 2017–28303 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0340]

Hours of Service of Drivers: Application for Exemption; Cudd Energy Services

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from Cudd Energy Services (CES) (incorporated as Cudd Pressure Control Inc., and Cudd Pumping Services Inc.) requesting an exemption from the electronic logging device (ELD) requirements for their specially trained drivers of specially constructed commercial motor vehicles (CMVs) used in oilfield operations. The exemption would allow drivers of these infrequently-driven CMVs to complete paper records of duty status (RODS) instead of using an ELD device. These drivers are prohibited by regulation from using the short-haul exceptions to the hours-of-service (HOS) rules. CES believes that the exemption would not have any adverse impacts on operational safety because drivers would remain subject to the HOS regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on CES' application for exemption.

DATES: Comments must be received on or before February 1, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2017–0340 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. Thomas 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–2017–0340), 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–2017–0340'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

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 notice 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

Cudd Energy Services (CES) (incorporated as Cudd Pressure Control Inc., USDOT 211908 and Cudd Pumping Services Inc. USDOT 962805) is requesting an exemption from the requirement in 49 CFR 395.8(a)(1)(i) that motor carriers ensure their drivers use ELDs in place of written records of duty status (RODS) to record their duty status for each 24-hour period. According to CES, the exemption would be applicable to CES' operations in which specially trained drivers of CMVs specially constructed to service oil wells are utilized. The exemption is requested for 5 years and would cover a total of approximately 939 drivers and 1,858 CMVs.

CES' services utilizing special equipment are performed in an environment where connectivity and driver access to the vehicles both affect the use of an ELD system. Due to regulatory wording in 49 CFR 395.1 (d)(2), these drivers are not eligible to use the provisions of Section 395.1(e)(1) for 100 air-mile short-haul operations. Therefore, the drivers would normally be required to be operating vehicles equipped with ELDs.

CES reports that it intends to install equipment that would enable tracking of its vehicles when communication capabilities exist, but would not meet AOBRD or ELD standards. They state that this tracking would provide an increased level of safety. CES listed AOBRD/ELD issues that it claims could prevent a driver from logging into an ELD system such as poor cellular service in certain oilfield locations and when companies prohibit cell phones and electronic equipment exclusively while operations are in progress. According to CES, ''If drivers are required to use the ELD, Cudd feels the efforts involved in administering the documentation to show why paper logs were utilized beyond the eight-day threshold, tracking all repairs purely due to communication loss, and manual editing of RODS, would become counterproductive, not cost effective and does not contribute to the safety of the driver, equipment, or motoring public.''

CES asserts that due to the low exposure of these vehicle in traffic,

compliance with current paper log provisions would ensure compliance with driver fatigue reduction intentions of 49 CFR part 395.

A copy of CES' application for exemption is available for review in the docket for this notice.

Issued on: December 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–28126 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0356]

Hours of Service of Drivers: Application for Exemption; Owner Operator Independent Drivers Association, Inc.

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that the Owner Operator Independent Drivers Association, Inc. (OOIDA) has requested an exemption from the electronic logging device (ELD) requirements for motor carriers considered to be a small transportation trucking business. OOIDA request this exemption to allow small trucking businesses that do not have a carrier safety rating of ''unsatisfactory,'' and can document a proven history of safety performance with no attributable at-fault crashes, to complete paper records of duty status (RODS) instead of using an ELD device. OOIDA believes that the exemption would not have any adverse impacts on operational safety as motor carriers and drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on OOIDA's application for exemption.

DATES: Comments must be received on or before February 1, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2017–0356 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–2017–0356), 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–2017–0356'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

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 notice 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

OOIDA reports that it is the largest association representing the views of small-business motor carriers. OOIDA has approximately 160,000 members

located in all 50 states and Canada who collectively own and operate more than 240,000 individual heavy-duty trucks.

OOIDA is requesting an exemption from the ELD mandate scheduled to become effective December 18, 2017, for motor carriers that are considered to be a small trucking business as defined by 13 CFR 121.201,[1] who do not have a carrier safety rating of ''unsatisfactory,'' and can document a proven history of safety performance with no attributable at-fault crashes.

OOIDA asserts that the exemption would not have any adverse impacts on operational safety, as motor carriers and drivers would remain subject to the HOS regulations in 49 CFR 395.3, as well as the requirements to maintain a paper RODS under 49 CFR 395.8. The exemption would also allow small-business motor carriers to maintain their current practices that have resulted in a proven safety record. The term of the requested exemption, if granted, is for five years, subject to renewal upon application.

In its application, OOIDA addressed many of its concerns regarding cybersecurity issues, cost, and the lack of validation for ELDs in the marketplace. OOIDA believes that a five year exemption would provide necessary time for ELD manufacturers to be fully vetted by Federal regulators, would allow small-business carriers to determine which device best fits their operation, and provide additional time for law enforcement to analyze which devices fulfill regulatory requirements.

OOIDA concluded: ''Many OOIDA members with millions of accident-free miles driving during their career have notified us that they will be retiring as a result of this mandate. These drivers are subject matter experts who have driven an array of trucks in severe weather, traffic and other conditions. If these drivers will remain in the trucking industry as result of an exemption, then that will achieve a level safety equal to, or greater than, the level that would be obtained by complying with the ELD mandate. If the mandates forces these skilled drivers out of the industry, they will be replaced with new, inexperienced drivers that are far more likely to crash which will not achieve an equal or higher level of safety.''

A copy of OOIDA's application for exemption is available for review in the docket for this notice.

[1] The Small Business Administration size standard for truck transportation and local delivery services is currently $27.5 million. *https://www.sba.gov/sites/default/files/files/Size_Standards_Table_2017.pdf.*

Issued on: December 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–28125 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0337]

Hours of Service of Drivers: Application for Exemption; Association of Energy Service Companies

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that it has received an application from the Association of Energy Service Companies (AESC) requesting an exemption from the electronic logging device (ELD) requirements for well service rig contractors. AESC request this exemption to allow all drivers of well service rigs to complete paper records of duty status (RODS) instead of using an ELD device whenever the drivers exceed the requirements of the short-haul exception. AESC believes that the exemption would not have any adverse impacts on operational safety because drivers would remain subject to the hours-of-service (HOS) regulations as well as the requirements to maintain paper RODS. FMCSA requests public comment on AESC's application for exemption.

DATES: Comments must be received on or before February 1, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2017–0337 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. Thomas 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–2017–0337), 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–2017–0337'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!''

button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

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 notice 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

AESC is requesting an exemption on behalf of well service rig contractors from the requirement in 49 CFR part 395.8(a) that motor carriers ensure their drivers use ELDs in place of written logs to record their duty status for each 24-hour period. The term of the requested exemption is for five years, subject to renewal. According to AESC, complying with the ELD requirement would be overly burdensome for well service rig contractors without providing any measurable safety benefit. The drivers of well service rigs hold commercial driver's licenses and typically operate under the short-haul exception. While drivers must record their duty status on paper on any day they exceed the requirements of the short-haul exception, the changes that take effect on December 18, 2017, would require drivers to use an ELD whenever they exceed the 8 in 30-day threshold HOS exception.

AESC contends that without the exemption well service rig contractors would have to monitor the number of days their drivers exceed the requirements of the short-haul exception, including if a driver exceeded the short-haul exception on any day in a rolling 30-day period immediately before the employer hired the driver. Contractors would have to purchase ELDs, train the drivers on their usage and monitor compliance.

AESC explained that well service rig drivers operate under different circumstances than long-haul truck drivers. Well service rig drivers spend very little time on public roads, in contrast to long-haul truck drivers, who spend most of their on-duty hours driving on public roads. Depending on the service required at the oil well, a well service rig spends two to five days parked at a single location or sometimes longer. The oil well serves as the daily work reporting location, and the well service rigs remain stationary at that location until the job is completed.

AESC asserts that exempting well service rig contractors from the ELD requirement would have no impact on safety for several reasons. First, drivers would continue to maintain written RODS logs on any day that they exceed the requirements of the short-haul exception. Second, drivers typically spend little time on public roads. Third, contractors are required to maintain time records for their drivers. Fourth, contractors and drivers otherwise must comply with the HOS requirements.

AESC further asserts that a level of safety that is equivalent, or greater than, the level of safety obtained by complying with the regulation will be maintained by continuing the practices already being exercised in the industry. AESC reports that one current method of ensuring safety is the process of a contractor obtaining a permit from the State prior to driving the well service rig on a public highway. Well service rigs are then provided an escort as they move to their next location.

A copy of AESC's application for exemption is available for review in the docket for this notice.

Issued on: December 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–28123 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2017–0361]

Hours of Service of Drivers: Application for Exemption; American Disposal Services, Inc. (ADS)

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of application for exemption; request for comments.

SUMMARY: FMCSA announces that American Disposal Services, Inc. (ADS) has requested an exemption from the requirement that a motor carrier install and require each of its drivers to use an electronic logging device (ELD) to record the driver's hours-of-service (HOS) no later than December 18, 2017. ADS further requested an exemption from the required use of paper records of duty status (RODS). ADS requests these exemptions for all of its operators of a commercial motor vehicle (CMV) in their company and their affiliates. FMCSA would extend the exemption to all carriers with similar operational scenarios if the exemption were granted in entirety or in part. ADS advises that ELD systems cannot accurately record driving time for a CMV that stops at each house along their trash and recycling residential routes, with the driver often leaving the vehicle. ADS believes that the exemptions, if granted, will achieve a level of safety that is equivalent to, or greater than, the level that would be achieved absent the exemptions. FMCSA requests public comment on the ADS application for exemptions.

DATES: Comments must be received on or before February 1, 2018.

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Number FMCSA–2017–0361 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. Thomas 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–2017–0361), 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–2017–0361'' in the ''Keyword'' box, and click ''Search.'' When the new screen appears, click on ''Comment Now!'' button and type your comment into the text box in the following screen. Choose whether you are submitting your comment as an individual or on behalf of a third party, and then submit. If you submit your comments by mail or hand delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit comments by mail and would like to know that they reached the facility, please enclose a stamped, self-addressed postcard or envelope. FMCSA will consider all comments and material received during the comment period and may grant or not grant this application based on your comments.

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 notice 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 Exemptions

American Disposal Services, Inc. (ADS) is a trash hauling and recycling company with over 300 commercial driver's license (CDL) drivers servicing over 390,000 customers in four states with more than 400 commercial motor vehicles (CMVs). Each route has 800–1,200 stops/customers per day. Their drivers, on the average, service a home every 22 seconds and exit the truck about one-third to one-half of the time to assist the laborer.

ADS has been using the multiple stop rule, ''treating all the stops in a village, town or city as one.'' (See Regulatory Guidance Question 6 to Section 395.8.) The drivers leave the yard on driving time and at the first stop on the route they change their status to on-duty, not-driving time for next 500 stops. When it is time to go to the landfill, the drivers change their status from not-driving time back to driving. ADS operations fall under the 100 air-mile short haul exemption in Section 395.1(e)(1). However, they currently exceed the 12-hour limitation more than 8 times in any 30 consecutive days per driver, and would therefore be required to use ELDs.

ADS applies for the exemption from the required use of ELDs and paper logs as they state that there is no ELD that can accurately record driving time when the CMV makes constant short movements with the driver often exiting the vehicle.

ADS states that the considerable investment in equipment, training, and extra manpower required to use ELDs would not assist them to meet the FMCSA regulations, and, which according to them, would result in a significant financial burden and ''waste of money.''

IV. Method To Ensure an Equivalent or Greater Level of Safety

According to ADS, safety will not be affected unless one considers less distracted time by not using an ELD, which would be an improvement. ADS believes that paper logs or ELDs for their type of operation will not improve safety. The use of an ELD that cannot calculate the multiple stops would result in inaccurate data. such as actual time spent driving.

A copy of ADS's application for exemptions is available for review in the docket for this notice.

Issued on: December 22, 2017.

Larry W. Minor,

Associate Administrator for Policy.

[FR Doc. 2017–28122 Filed 12–29–17; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF THE TREASURY

Alcohol and Tobacco Tax and Trade Bureau

[Docket No. TTB–2018–0001]

Proposed Information Collections; Comment Request (No. 67)

AGENCY: Alcohol and Tobacco Tax and Trade Bureau, Treasury.

ACTION: Notice and request for comments.

SUMMARY: As part of our continuing effort to reduce paperwork and respondent burden, and as required by the Paperwork Reduction Act of 1995, the Alcohol and Tobacco Tax and Trade Bureau (TTB) invites comments on the proposed or continuing information collections listed below in this document.

DATES: Comments are due on or before March 5, 2018.

ADDRESSES: As described below, you may send comments on the information collections listed in this document using the ''*Regulations.gov*'' online comment form for this document, or you may send written comments via U.S. mail or hand delivery. TTB no longer accepts public comments via email or fax.

- *https://www.regulations.gov:* Use the comment form for this document posted within Docket No. TTB–2017–0003 on ''*Regulations.gov*,'' the Federal e-rulemaking portal, to submit comments via the internet;
- *U.S. Mail:* Michael Hoover, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005.
- *Hand Delivery/Courier in Lieu of Mail:* Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Suite 400, Washington, DC 20005.

Please submit separate comments for each specific information collection listed in this document. You must reference the information collection's title, form or recordkeeping requirement number, and OMB number (if any) in your comment.

You may view copies of this document, the information collections listed in it and any associated instructions, and all comments received in response to this document within Docket No. TTB–2018–0001 at *https://www.regulations.gov.* A link to that docket is posted on the TTB website at *https://www.ttb.gov/forms/comment-on-form.shtml.* You may also obtain paper copies of this document, the information collections described in it and any associated instructions, and any comments received in response to this document by contacting Michael Hoover at the addresses or telephone number shown below.

FOR FURTHER INFORMATION CONTACT: Michael Hoover, Alcohol and Tobacco Tax and Trade Bureau, 1310 G Street NW, Box 12, Washington, DC 20005; telephone (202) 453–1039, ext. 135; or email *informationcollections@ttb.gov* (please *do not* submit comments on the information collections listed in this document to this email address).

SUPPLEMENTARY INFORMATION:

Request for Comments

The Department of the Treasury and its Alcohol and Tobacco Tax and Trade Bureau (TTB), as part of a continuing effort to reduce paperwork and respondent burden, invite the general public and other Federal agencies to comment on the proposed or continuing information collections listed below in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for Office of Management and Budget (OMB) approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in comments.

For each information collection listed below, we invite comments on: (a) Whether the information collection is necessary for the proper performance of the agency's functions, including whether the information has practical utility; (b) the accuracy of the agency's estimate of the information collection's burden; (c) ways to enhance the quality, utility, and clarity of the information collected; (d) ways to minimize the information collection's burden 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 the requested information.

Information Collections Open for Comment

Currently, we are seeking comments on the following information collections (forms, recordkeeping requirements, or questionnaires):

Title: Applications—Volatile Fruit-Flavor Concentrate Plants, TTB REC 5520/2.

OMB Number: 1513–0006.

TTB Form Number: F 5520.3.

TTB Recordkeeping Number: REC 5520/2.

Abstract: Under the authority of the Internal Revenue Code (IRC) at 26 U.S.C. 5511, persons who wish to establish premises to manufacture volatile fruit-flavor concentrates are required to file an application. Under the TTB regulations, the application must be submitted on TTB F 5520.3. TTB uses the application information to identify persons responsible for such manufacture since these products contain ethyl alcohol that could be diverted for use as alcohol beverages, with consequent loss of revenue. TTB regulations also require the filing of an amended TTB F 5520.3 to report any changes affecting the accuracy of the original application. In addition, the TTB regulations require the filing of letterhead applications for certain volatile fruit flavor concentrate plant matters not covered by the application form. TTB uses the required records to ensure that the concentrates are manufactured in compliance with Federal law and regulations. Proprietors must maintain a file of applications forms and letters, and the required records must be retained for 3 years.

Current Actions: TTB is submitting this information collection for extension purposes only, and the information collection remains unchanged. However, due to a decrease in the number of volatile fruit-flavor concentrate manufacturing premises, the Bureau is decreasing the estimated number of annual respondents, responses, and burden hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 55.

Estimated Total Annual Burden Hours: 110.

Title: Annual Report of Concentrate Manufacturers and Usual and Customary Business Records—Volatile Fruit Flavor Concentrate, TTB REC 5520/1.

OMB Number: 1513–0022.

TTB Form Number: F 5520.2.

TTB Recordkeeping Number: REC 5520/1.

Abstract: As authorized by the IRC at 26 U.S.C. 5511, the TTB regulations require manufacturers of volatile fruit-flavor concentrates to provide reports as necessary to ensure the protection of the revenue. The report, TTB F 5520.2, accounts for all concentrates manufactured, removed, or treated so as to be unfit for beverage use. TTB

requires this information to verify that alcohol is not being diverted, thereby jeopardizing tax revenues. The records used to compile this report are usual and customary business records that the manufacturer would maintain in the course of doing business. These reports and records must be retained for 3 years from the date prepared or 3 years from the date of the last entry, whichever is later.

Current Actions: TTB is submitting this information collection for extension purposes only, and the information collection remains unchanged. However, due to a decrease in the number of volatile fruit-flavor concentrate manufacturing premises, the Bureau is decreasing the estimated number of annual respondents, responses, and burden hours.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 55.

Estimated Total Annual Burden Hours: 19.

Title: Distilled Spirits Records (TTB REC 5110/01) and Monthly Report of Production Operations.

OMB Number: 1513–0047.

TTB Form Number: F 5110.40.

TTB Recordkeeping Number: REC 5110/01.

Abstract: The IRC at 26 U.S.C. 5001 imposes, in general, an excise tax on distilled spirits of $13.50 per proof gallon. The IRC at 26 U.C.C. 5207 requires distilled spirit plant (DSP) proprietors to maintain records of production, storage, denaturation, and processing activities and to render reports covering those operations, as may be prescribed by regulation. The TTB regulations in 27 CFR part 19 require DSP proprietors to submit a Monthly Report of Production Operations on TTB F 5110.40, and, in support of that report, maintain records regarding materials used to produce the spirits, production and withdrawal of spirits from the production account, and byproduct spirit production. Proprietors must maintain the required records for at least 3 years. TTB uses the collected information to account for a DSP proprietor's tax liability and adequacy of bond coverage to protect the revenue, and to ensure compliance with relevant statutes and regulations.

Current Actions: TTB is submitting this information collection for extension purposes only, and the information collection is unchanged. However, TTB is increasing the number of respondents, responses, and estimated annual burden hours due to growth in the number of distillers.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 1,600.

Estimated Total Annual Burden Hours: 38,400.

Title: Wholesale Dealers Records of Receipt of Alcohol Beverages, Disposition of Distilled Spirits, and Monthly Summary Report, TTB REC 5170/2.

OMB Number: 1513–0065.

TTB Recordkeeping Number: REC 5170/2.

Abstract: The IRC at 26 U.S.C. 5121 requires wholesale liquor dealers to keep daily records of receipt and disposition of distilled spirits, and a record of all wine and beer the dealer receives. These usual and customary records of receipt and disposition describe the activities of a wholesale dealer and provide an audit trail from point of production to point of sale for these taxable commodities. The TTB regulations also provide that TTB may require, in certain circumstances, that a wholesale dealer submit a monthly summary report of receipt and disposition of alcohol beverages. The retention requirement for these records and report is 3 years.

Current Actions: TTB is submitting this information collection for extension purposes only, and the information collection is unchanged. However, as a matter of agency discretion, TTB is adjusting the number of respondents associated with this information collection. Previously, TTB did not report all wholesale dealers that it regulates as respondents to this information collection because, under the Paperwork Reduction Act (see 5 CFR 1320.3(b)(2)), the keeping of usual and customary business records during the normal course of business imposes no burden on respondents. However, as a matter of agency discretion, TTB is now reporting all of the estimated 24,300 wholesale dealers that it regulates as respondents to this information collection. TTB notes, however, that because the keeping of usual and customary business records imposes no burden on respondents, the estimated annual burden hours associated with this collection remains at 1,200 hours, which accounts for the burden imposed on the estimated 50 wholesale dealers that TTB requires to submit monthly summary reports.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 24,300.

Estimated Total Annual Burden Hours: 1,200.

Title: Specific and Continuing Export Bonds for Distilled Spirits and Wine.

OMB Number: 1513–0135.

TTB Form Number: F 5100.25 and F 5100.30.

Abstract: The IRC at 26 U.S.C. 5175, 5214, and 5362 authorizes exporters (other than proprietors of distilled spirits plants or bonded wine premises) to withdraw distilled spirits and wine, without payment of tax, for export if the exporter provides a bond, as prescribed by regulation. In order to protect the revenue and provide exporters with a degree of flexibility based on individual need, the TTB alcohol export regulations in 27 CFR part 28 allow exporters to file either a specific bond using TTB F 5100.25 to cover a single export shipment or a continuing bond using TTB F 5100.30 to cover export shipments made from time to time.

Current Actions: TTB is submitting this information collection as a revision. In addition to requesting re-approval of TTB F 5100.25, Specific Export Bond—Distilled Spirits or Wine, as an information collection instrument under this information collection request, TTB is submitting TTB F 5100.30, Continuing Export Bond—Distilled Spirits and Wine, for approval as an additional information collection instrument under this information collection request. TTB also is increasing the number of respondents to this information collection request from 6 to 20 (10 for each of the two forms), is increasing the reported per-burden response from 15 minutes to 1 hour (which is the per-response burden stated on each form), and, as a result, is increasing the annual estimated burden hours from 2 hours to 20 hours. In addition, TTB is revising the title of this information collection to include reference to both the Specific and Continuing Export Bonds for Distilled Spirits and Wine.

Type of Review: Revision of a currently approved collection.

Affected Public: Businesses and other for-profits.

Estimated Number of Respondents: 20.

Estimated Total Annual Burden Hours: 20.

Dated: December 22, 2017.

Amy R. Greenberg,

Director, Regulations and Rulings Division.

[FR Doc. 2017–28024 Filed 12–29–17; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0219]

Agency Information Collection Activity Under OMB Review: CHAMP VA Benefits—Application, Claim, Other Health Insurance & Potential Liability

AGENCY: Veterans Health Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995, this notice announces that the Veterans Health Administration, Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden and it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 1, 2018.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*, or to Office of Information and Regulatory Affairs, Office of Management and Budget, Attn: VA Desk Officer; 725 17th St. NW, Washington, DC 20503 or sent through electronic mail to *oira_submission@omb.eop.gov.* Please refer to ''OMB Control No. 2900–0219'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Cynthia Harvey-Pryor, Enterprise Records Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue NW, Washington, DC 20420, (202) 461–5870 or email *cynthia.harvey-pryor@va.gov.* Please refer to ''OMB Control No. 2900–0219'' in any correspondence.

SUPPLEMENTARY INFORMATION:

Authority: 38 U.S.C. 501 and 1781, 10 U.S.C. 1079 and 1086, 42 U.S.C. 2651, 2652 and 2653

Title: CHAMP VA Benefits—Application, Claim, Other Health Insurance & Potential Liability

OMB Control Number: 2900–0219.

Type of Review: Revision of a currently approved collection.

Titles:

1. VA Form 10–10d, Application for CHAMPVA Benefits
2. VA Form 10–7959a, CHAMPVA Claim Form
3. VA Form 10–7959c, CHAMPVA Other Health Insurance (OHI) Certification
4. VA Form 10–7959d, CHAMPVA Potential Liability Claim
5. VA Form 10–7959e, VA Claim for Miscellaneous Expenses
6. Payment (beneficially claims)
7. Review and Appeal Process
8. Clinical Review

OMB Control Number: 2900–0219.

Type of Review: Revision of a currently approved collection.

Abstracts:

1. VA Form 10–10d, Application for CHAMPVA Benefits, is used to determine eligibility of persons applying for healthcare benefits under the CHAMPVA program in accordance with 38 U.S.C. 501 and 1781.

2. VA Form 10–7959a, CHAMPVA Claim Form, is used to adjudicate claims for CHAMPVA benefits in accordance with 38 U.S.C. 501 and 1781, and 10 U.S.C. 1079 and 1086. This information is required for accurate adjudication and processing of beneficiary submitted claims. The claim form is also instrumental in the detection and prosecution of fraud. In addition, the claim form is the only mechanism to obtain, on an interim basis, other health insurance (OHI) information.

3. Except for Medicaid and health insurance policies that are purchased exclusively for the purpose of supplementing CHAMPVA benefits, CHAMPVA is always the secondary payer of healthcare benefits (38 U.S.C. 501 and 1781, and 10 U.S.C. 1086). VA Form 10–7959c, CHAMPVA—Other Health Insurance (OHI) Certification, is used to systematically obtain OHI information and to correctly coordinate benefits among all liable parties.

4. The Federal Medical Care Recovery Act (42 U.S.C. 2651–2653), mandates recovery of costs associated with healthcare services related to an injury/illness caused by a third party. VA Form 10–7959d, CHAMPVA Potential Liability Claim, provides basic information from which potential liability can be assessed. Additional authority includes 38 U.S.C. 501; 38 CFR 1.900 *et seq.;* 10 U.S.C. 1079 and 1086; 42 U.S.C. 2651–2653; and Executive Order 9397.

5. VA Form 10–7959e, VA Claim for Miscellaneous Expenses, information collection is needed to carry out the health care programs for certain children of Korea and/or Vietnam veterans authorized under 38 U.S.C., chapter 18, as amended by section 401, Public Law 106–419 and section 102, Public Law 108–183. VA's medical regulations 38 CFR part 17 (17.900 through 17.905) establish regulations regarding provision of health care for certain children of Korea and Vietnam veterans and women Vietnam veterans' children born with spina bifida and certain other covered birth defects. These regulations also specify the information to be included in requests for preauthorization and claims from approved health care providers.

6. Payment of Claims for Provision of Health Care for Certain Children of Korea and/or Vietnam Veterans (includes provider billing and VA Forms 10–7959e). This data collection is for the purpose of claiming payment/reimbursement of expenses related to spina bifida and certain covered birth defects. Beneficiaries utilize VA Form 10–7959e, VA Claim for Miscellaneous Expenses. Providers utilize provider generated billing statements and standard billing forms such as: Uniform Billing-Forms UB–04, and CMS 1500, Medicare Health Insurance Claims Form. VA would be unable to determine the correct amount to reimburse providers for their services or beneficiaries for covered expenses without the requested information. The information is instrumental in the timely and accurate processing of provider and beneficiary claims for reimbursement. The frequency of submissions is not determined by VA, but will determined by the provider or claimant and will be based on the volume of medical services and supplies provided to patients and claims for reimbursement are submitted individually or in batches.

7. Review and Appeal Process Regarding Provision of Health Care or Payment Relating to Provision of Health Care for Certain Children of Korea and/or Vietnam Veterans. The provisions of 38 CFR 17.904 establish a review process regarding disagreements by an eligible veteran's child or representative with a determination concerning provision of health care or a health care provider's disagreement with a determination regarding payment. The person or entity requesting reconsideration of such determination is required to submit such a request to the Chief Business Office Purchased Care (CBOPC) (Attention: Chief, Customer Service), in writing within one year of the date of initial determination. The request must state why the decision is in error and include any new and relevant information not previously considered. After reviewing the matter, a Customer Service Advisor issues a written determination to the person or entity seeking reconsideration. If such person or entity remains dissatisfied with the determination, the person or entity is permitted to submit within 90 days of the date of the decision a written

request for review by the Director, CBOPC.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published at 82 FR 40832 on August 28, 2017, page 40832.

Affected Public: Individuals or households.

Estimated Annual Burden:

1. VA Form 10–10d—7,000 hours.
2. VA Form 10–7959a—13,500 hours.
3. VA Form 10–7959c—16,666 hours.
4. VA Form 10–7959d—467 hours.
5. VA Form 10–7959e—1,350 hours.
6. Payment (beneficially claims)—183 hours.
7. Review and Appeal Process—6,577 hours.
8. Clinical Review—433 hours.

Estimated Average Burden per Respondent:

1. VA Form 10–10d—10 minutes.
2. VA Form 10–7959a—10 minutes.
3. VA Form 10–7959c—10 minutes.
4. VA Form 10–7959d—7 minutes.
5. VA Form 10–7959e—15 minutes.
6. Payment (beneficially claims)—10 minutes.
7. Review and Appeal Process—30 minutes.
8. Clinical Review—20 minutes.

Frequency of Response: Annually.

Estimated Annual Responses:

1. VA Form 10–10d—42,000.
2. VA Form 10–7959a—81,000.
3. VA Form 10–7959c—100,000.
4. VA Form 10–7959d—4,000.
5. VA Form 10–7959e—5,400.
6. Payment (beneficially claims)—1,100.
7. Review and Appeal Process—13,154.
8. Clinical Review—1,300.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Quality, Privacy and Risk, Department of Veterans Affairs.

[FR Doc. 2017–28296 Filed 12–29–17; 8:45 am]

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CFR PARTS AFFECTED DURING JANUARY

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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When a date falls on a weekend or holiday, the next Federal business day is used. (See 1 CFR 18.17)

A new table will be published in the first issue of each month.

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