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# Presidential Documents

**Title 3—**

**The President**

**Executive Order 13747 of November 4, 2016**

## Advancing the Global Health Security Agenda To Achieve a World Safe and Secure From Infectious Disease Threats

By the authority vested in me as President by the Constitution and the laws of the United States of America, it is hereby ordered as follows:

**Section 1**. *Policy.* As articulated in the National Strategy for Countering Biological Threats and implemented in Presidential Policy Directive 2 (PPD–2), promoting global health security is a core tenet of our national strategy for countering biological threats. No single nation can be prepared if other nations remain unprepared to counter biological threats; therefore, it is the policy of the United States to advance the Global Health Security Agenda (GHSA), which is a multi-faceted, multi-country initiative intended to accelerate partner countries' measurable capabilities to achieve specific targets to prevent, detect, and respond to infectious disease threats (GHSA targets), whether naturally occurring, deliberate, or accidental. The roles, responsibilities, and activities described in this order will support the goals of the International Health Regulations (IHR) and will be conducted, as appropriate, in coordination with the World Health Organization (WHO), Food and Agriculture Organization of the United Nations (FAO), World Organisation for Animal Health (OIE), Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, the International Criminal Police Organization (INTERPOL), and other relevant organizations and stakeholders. To advance the achievement of the GHSA targets and to support the implementation of the IHR within partner countries, each executive department, agency, and office (agency) shall, as appropriate, partner, consult, and coordinate with other governments, international financial institutions, international organizations, regional organizations, economic communities, and nongovernmental stakeholders, including the private sector.

**Sec. 2**. *GHSA Interagency Review Council.*

(a) *GHSA Coordination and Policy Development.* In furtherance of the policy described in section 1 of this order, I hereby direct the National Security Council staff, in accordance with the procedures and requirements in Presidential Policy Directive 1 (or any successor directive), to convene a GHSA Interagency Review Council (Council) to perform the responsibilities described in this order. The Assistant to the President for National Security Affairs, in coordination with the Assistant to the President for Homeland Security and Counterterrorism, shall designate a member of the National Security Council staff to serve as Chair for the Council. The Council shall meet not less than four times per year to advance its mission and fulfill its responsibilities.

(b) *GHSA Interagency Review Council Responsibilities.*

(i) The Council shall be responsible for the following activities:

(A) Provide, by consensus, policy-level guidance to participating agencies on GHSA goals, objectives, and implementation.

(B) Facilitate interagency, multi-sectoral engagement to carry out GHSA implementation.

(C) Provide a forum for raising and working to resolve interagency disagreements concerning the GHSA.

(D) Review the progress toward and work to resolve challenges in achieving U.S. commitments under the GHSA, including commitments to assist other countries in achieving the GHSA targets. The Council shall consider, among other issues, the status of U.S. financial commitments to the GHSA in the context of commitments by other donors, and the contributions of partner countries to achieve the GHSA targets; progress toward the milestones outlined in GHSA national plans for those countries where the United States Government has committed to assist in implementing the GHSA and in annual work-plans outlining agency priorities for implementing the GHSA; and external evaluations of United States and partner country capabilities to address infectious disease threats, including the ability to achieve the targets outlined within the WHO Joint External Evaluation (JEE) tool, as well as gaps identified by such external evaluations.

(E) Provide, by consensus, within 30 days of the date of this order, initial policy-level guidance on GHSA implementation.

(F) Develop a report on an annual basis regarding the progress achieved and challenges concerning the United States Government's ability to advance the GHSA across priority countries. The report shall include recommendations to resolve, mitigate, or otherwise address the challenges identified therein. The report shall be transmitted to the President and, to the extent possible, made publicly available.

(G) Conduct an overall review of the GHSA for submission to the President by September 2019. The review should include an evaluation of the progress achieved during the 5 years of this initiative, as well as any challenges faced. The report should also provide recommendations on the future direction of the initiative.

(ii) The Council shall not perform any activities or functions that interfere with the foreign affairs responsibilities of the Secretary of State, including the responsibility to oversee the implementation of programs and policies that advance the GHSA within foreign countries.

(c) *Participation.* The Council shall consist of representatives, serving at the Assistant Secretary level or higher, from the following agencies:

(i) the Department of State;

(ii) the Department of Defense;

(iii) the Department of Justice;

(iv) the Department of Agriculture;

(v) the Department of Health and Human Services;

(vi) the Department of Homeland Security;

(vii) the Office of Management and Budget;

(viii) the United States Agency for International Development;

(ix) the Environmental Protection Agency;

(x) the Centers for Disease Control and Prevention;

(xi) the Federal Bureau of Investigation;

(xii) the Office of Science and Technology Policy; and

(xiii) such other agencies as the agencies set forth above, by consensus, deem appropriate.

**Sec. 3**. *Agency Roles and Responsibilities.* In furtherance of the policy described in section 1 of this order, I hereby direct agencies to perform the following:

(a) The heads of agencies described in section 2(c) of this order shall:

(i) make the GHSA and its implementation a high priority within their respective agencies, and include GHSA-related activities within their respective agencies' strategic planning and budget processes;

(ii) designate a senior-level official to be responsible for the implementation of this order;

(iii) designate, in accordance with section 2(c) of this order, an appropriate representative at the Assistant Secretary level or higher to participate on the Council;

(iv) keep the Council apprised of GHSA-related activities undertaken within their respective agencies;

(v) maintain responsibility for agency-related programmatic functions in coordination with host governments, country teams, and GHSA in-country teams, and in conjunction with other relevant agencies;

(vi) coordinate with other agencies that are identified in this order to satisfy programmatic goals, and further facilitate coordination of country teams, implementers, and donors in host countries; and

(vii) coordinate across GHSA national plans and with GHSA partners to which the United States is providing assistance.

(b) The Secretary of State shall:

(i) engage Chiefs of Mission, country teams, and regional and functional bureaus within the Department of State to promote the GHSA with international partners and to facilitate country-level implementation of U.S. programmatic activities;

(ii) monitor and evaluate progress toward achieving GHSA targets, determine where more work is needed, and work with agencies and international partners to identify the partners best placed to improve performance and to achieve the GHSA targets for countries the United States has made a commitment to assist;

(iii) facilitate implementation and coordination of Department of State programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(iv) coordinate planning, implementation, and evaluation of GHSA activities with the U.S. Global Malaria Coordinator at the United States Agency for International Development and the U.S. Global AIDS Coordinator at the Department of State in countries the United States has made a commitment to assist;

(v) lead diplomatic outreach, including at senior levels, in conjunction with other relevant agencies, to build international support for the GHSA with its members, other countries, and regional and multilateral bodies, including the Group of 7 (G7), the Group of 20 (G20), the African Union, the WHO, the OIE, the FAO, INTERPOL, the Global Partnership Against the Spread of Weapons and Materials of Mass Destruction, the European Union, the Asia-Pacific Economic Cooperation, the Association of Southeast Asian Nations, the Economic Community of West African States, the Organization of Islamic Cooperation, development banks, and other relevant partners;

(vi) work, in conjunction with other relevant agencies, with other donors and nongovernmental implementers in partner countries in order to leverage commitments to advance the GHSA with partners; and

(vii) coordinate, in conjunction with other relevant agencies, the United States Government relationship with foreign and domestic GHSA nongovernmental stakeholders, including the private sector, nongovernmental organizations, and foundations, and develop, with consensus from the Council, an annual GHSA nongovernmental outreach strategy.

(c) The Secretary of Defense shall:

(i) facilitate implementation and coordination of Department of Defense programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which Department of Defense programs are active in order to coordinate and leverage commitments to advance the GHSA with partners; and

(iii) coordinate and communicate, in conjunction with other relevant agencies, with defense ministries with regard to the GHSA, including at the GHSA Ministerial and Steering Group.

(d) The Attorney General, generally acting through the Director of the Federal Bureau of Investigation (FBI), shall:

(i) serve, in conjunction with other relevant agencies, as the United States Government lead for GHSA targets relating to linking public health and law enforcement, and coordinate with INTERPOL on the GHSA and its successful implementation;

(ii) facilitate implementation and coordination of FBI programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist; and

(iii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which FBI programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(e) The Secretary of Agriculture shall:

(i) represent, in conjunction with other relevant agencies, the United States in coordination and communication with the FAO and OIE with regard to the GHSA;

(ii) facilitate implementation and coordination of Department of Agriculture programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist; and

(iii) work, in conjunction with interagency partners and the in-country GHSA team, with other donors, contributing international organizations, and nongovernmental implementers in partner countries in which Department of Agriculture programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(f) The Secretary of Health and Human Services shall:

(i) represent, in conjunction with other relevant agencies, the United States at GHSA Ministerial and Steering Group meetings and in working with G7 and G20 Health Ministers on the GHSA, and coordinate United States Government support for those activities;

(ii) provide overall leadership and coordination for the GHSA Action Packages (Action Packages), which consist of country commitments to advance and share best practices toward specific GHSA targets, including serving as the primary point of contact for the Action Packages, providing support to Action Package leaders, and tracking overall progress on the Action Packages;

(iii) coordinate United States Government support for and participation in external evaluations, including the WHO JEE tool and the Alliance for Country Assessments for Global Health Security and IHR Implementation;

(iv) represent, in conjunction with other relevant agencies, the United States in coordination and communication with the WHO regarding the GHSA;

(v) facilitate, no less than every 4 years, the request for an external assessment, such as the process outlined within the WHO JEE tool, of United States Government domestic efforts to implement the IHR and the GHSA and work to publish the assessment to the general public; and

(vi) consolidate and publish to the general public an external assessment of United States domestic capability to address infectious disease threats and implement the IHR, including the ability to achieve the targets outlined within the WHO JEE tool and including the gaps identified by such external assessment.

(g) The Secretary of Homeland Security shall:

(i) assess the impacts of global health threats on homeland security operations; and

(ii) lead, in conjunction with the Secretary of Health and Human Services, the Secretary of State, and the Secretary of Agriculture, United States Government GHSA activities related to global health threats at U.S. borders and ports of entry.

(h) The Administrator for the United States Agency for International Development shall:

(i) facilitate implementation and coordination of United States Agency for International Development programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) provide, in conjunction with other agencies, strategic technical guidance for achieving GHSA targets; and

(iii) work, in conjunction with interagency partners and the in-country GHSA teams, with other donors and nongovernmental GHSA implementers in partner countries in which United States Agency for International Development programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

(i) The Director of the U.S. Centers for Disease Control and Prevention, in coordination with the Secretary of Health and Human Services, shall:

(i) facilitate implementation and coordination of U.S. Centers for Disease Control and Prevention programs to further the GHSA, as well as provide technical expertise to measure and evaluate progress in countries the United States has made a commitment to assist;

(ii) provide, in conjunction with other agencies, strategic technical guidance for achieving GHSA targets;

(iii) provide, in coordination with the Department of Health and Human Services, strategic technical support for and participate in external assessments, including the WHO JEE tool, and the Alliance for Country Assessments for Global Health Security and IHR implementation; and

(iv) work, in conjunction with interagency partners and the in-country GHSA team, with other donors and nongovernmental implementers in partner countries in which the U.S. Centers for Disease Control and Prevention programs are active in order to coordinate and leverage commitments to advance the GHSA with partners.

**Sec. 4**. *General Provisions.* (a) Nothing in this order shall be construed to impair, or otherwise affect:

(i) the authority granted by law to an executive department, agency, or the head thereof;

(ii) the functions of the Director of the Office of Management and Budget relating to budgetary, administrative, or legislative proposals; or

(iii) the coordination or implementation of emergency response operations during a health emergency.

(b) This order shall be implemented consistent with applicable law, and subject to the availability of appropriations.

(c) This order is not intended to, and does not, create any right or benefit, substantive or procedural, enforceable at law or in equity by any party against the United States, its departments, agencies, or entities, its officers, employees, or agents, or any other person.

THE WHITE HOUSE,
*November 4, 2016.*

[FR Doc. 2016–27171
Filed 11–8–16; 8:45 am]
Billing code 3295–F7–P

# Rules and Regulations

Federal Register

Vol. 81, No. 217

Wednesday, November 9, 2016

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

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 29

**[Docket No. FAA–2016–6940; Notice No. 29–039–SW–SC]**

## Special Conditions: Bell Helicopter Textron, Inc. (BHTI), Model 525 Helicopters; Crew Alerting System (CAS)

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final special conditions.

**SUMMARY:** These special conditions are issued for the BHTI Model 525 helicopter. This helicopter will have a novel or unusual design feature associated with the electronic CAS. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for this design feature. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

**DATES:** These special conditions are effective December 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Martin R. Crane, Aviation Safety Engineer, Safety Management Group, Rotorcraft Directorate, FAA, 10101 Hillwood Pkwy., Fort Worth, TX 76177; telephone (817) 222–5110; email *martin.r.crane@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Background

On December 15, 2011, BHTI applied for a type certificate for a new transport category helicopter designated as the Model 525. The aircraft is a medium twin-engine rotorcraft. The design maximum takeoff weight is 20,000 pounds, with a maximum capacity of 16 passengers and a crew of 2.

BHTI proposes that the Model 525 use a novel and unusual design feature, which is an electronic CAS. Section 29.1322 of Title 14, Code of Federal Regulations (14 CFR), prescribes discrete colored lights for warning, caution, and advisory alerts. In this regard, § 29.1322 lacks adequate airworthiness standards for alerting messages and displays that do not use discrete colored lights, that include non-visual cues, that provide alerting information to the flightcrew, and that use integrated and multiple alerts concurrently.

The Model 525 CAS will have more effective integrated visual, aural, tactile, and alert messaging that will require special airworthiness standards, known as special conditions, to address crew alerting of failures or malfunctions in critical systems. These special conditions will add requirements from the airworthiness standards in § 25.1322 (Amendment 25–131) for advanced crew alerting systems in transport category aircraft.

### Type Certification Basis

Under the provisions of 14 CFR 21.17, BHTI must show that the Model 525 meets the applicable provisions of part 29, as amended by Amendments 29–1 through 29–55 thereto. The BHTI Model 525 certification basis date is December 15, 2011, the date of application to the FAA.

If the Administrator finds that the applicable airworthiness regulations (*i.e.,* 14 CFR part 29) do not contain adequate or appropriate safety standards for the BHTI Model 525 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same or similar novel or unusual design feature, the special conditions would also apply to the other model under § 21.101.

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type-certification basis under § 21.17(a)(2).

### Novel or Unusual Design Features

The BHTI Model 525 helicopter will incorporate the following novel or unusual design features: An advanced CAS system. The novel design includes the integration of audio and visual alerts, tactical sensors, and CAS message consolidation. The new technologies associated with integrated visual, aural, tactile, and alert messaging are more effective in alerting the flightcrew and aiding them in decision-making than the discrete colored lights for warning, caution, and advisory alerts prescribed in § 29.1322 alone.

### Discussion

The current 14 CFR part 29 standards do not provide adequate standards for the advanced CAS system of the Bell Model 525 helicopter due to the complexity of the aircraft systems and the modes of the fly-by-wire primary flight controls. The special condition will update definitions, define a prioritization scheme, expand color requirements, and address performance for flightcrew alerting to reflect changes in technology and functionality.

### Comments

A notice of proposed special conditions for the BHTI Model 525 helicopter CAS was published in the **Federal Register** on June 3, 2016 (81 FR 35654). We did not receive any comments.

### Applicability

As discussed above, these special conditions are applicable to the BHTI Model 525 helicopter. Should BHTI apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

### Conclusion

This action affects only certain novel or unusual design features on one model of helicopter. It is not a rule of general applicability.

### List of Subjects in 14 CFR Part 29

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

**Authority:** 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

### The Special Conditions

Accordingly, the Federal Aviation Administration (FAA) issues the

following special conditions as part of the type certification basis for Bell Helicopter Textron, Inc., Model 525 helicopters.

**Flightcrew Alerting**

(a) Flightcrew alerts must:

(1) Provide the flightcrew with the information needed to:

(i) Identify non-normal operation or aircraft system conditions, and

(ii) Determine the appropriate actions, if any.

(2) Be readily and easily detectable and intelligible by the flightcrew under all foreseeable operating conditions, including conditions where multiple alerts are provided.

(3) Be removed when the alerting condition no longer exists.

(b) Alerts must conform to the following prioritization hierarchy based on the urgency of flightcrew awareness and response.

(1) *Warning:* For conditions that require immediate flightcrew awareness and immediate flightcrew response.

(2) *Caution:* For conditions that require immediate flightcrew awareness and subsequent flightcrew response.

(3) *Advisory:* For conditions that require flightcrew awareness and may require subsequent flightcrew response.

(c) Warning and caution alerts must:

(1) Be prioritized within each category, when necessary.

(2) Provide timely attention-getting cues through at least two different senses by a combination of aural, visual, or tactile indications.

(3) Permit each occurrence of the attention-getting cues required by paragraph (c)(2) of these special conditions to be acknowledged and suppressed, unless they are required to be continuous.

(d) The alert function must be designed to minimize the effects of false and nuisance alerts. In particular, it must be designed to:

(1) Prevent the presentation of an alert that is inappropriate or unnecessary.

(2) Provide a means to suppress an attention-getting component of an alert caused by a failure of the alerting function that interferes with the flightcrew's ability to safely operate the helicopter. This means must not be readily available to the flightcrew so that it could be operated inadvertently or by habitual reflexive action. When an alert is suppressed, there must be a clear and unmistakable annunciation to the flightcrew that the alert has been suppressed.

(e) Visual alert indications must:

(1) Conform to the following color convention:

(i) Red for warning alert indications.

(ii) Amber or yellow for caution alert indications.

(iii) Any color except red, amber, yellow, or green for advisory alert indications.

(2) Use visual coding techniques, together with other alerting function elements in the cockpit, to distinguish between warning, caution, and advisory alert indications, if they are presented on monochromatic displays that are not capable of conforming to the color convention in paragraph (e)(1) of these special conditions.

(f) Use of the colors red, amber, and yellow in the cockpit for functions other than flightcrew alerting must be limited and must not adversely affect flightcrew alerting.

Issued in Fort Worth, Texas, on November 3, 2016.

**Lance Gant,**

*Manager, Rotorcraft Directorate, Aircraft Certification Service.*

[FR Doc. 2016–27088 Filed 11–8–16; 8:45 am]

**BILLING CODE 4910–13–P**

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## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2016–9369; Directorate Identifier 2016–CE–034–AD; Amendment 39–18710; AD 2016–23–03]**

**RIN 2120–AA64**

## Airworthiness Directives; Diamond Aircraft Industries GmbH Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule; request for comments.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for all Diamond Aircraft Industries GmbH Model DA 40 NG airplanes. This AD results from mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as possible loss of engine power and emergency landing with consequent damage to the airplane and occupant injury caused by a manufacturing quality deficiency in a batch of V-clamps that could cause the V-clamp to crack and fail. We are issuing this AD to require actions to address the unsafe condition on these products.

**DATES:** This AD is effective November 29, 2016.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in this AD as of November 29, 2016.

We must receive comments on this AD by December 27, 2016.

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

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

For service information identified in this AD, contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.* You may view this referenced service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2016–9369.

**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–2016–9369; 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 AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

**FOR FURTHER INFORMATION CONTACT:** Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

**Discussion**

The European Aviation Safety Agency (EASA), which is the Technical Agent

for the Member States of the European Community, has issued AD No. 2016–0203, dated October 10, 2016 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states:

Failures of V-clamps, Part Number (P/N) E4A–41–000–002, installed on the turbochargers, have been reported on DA 40 NG aeroplanes. One of the failures resulted in engine power loss and subsequent emergency landing. Preliminary investigations identified a manufacturing quality deficiency in a batch of V-clamps as the possible cause of these failures.

This condition, if not detected and corrected, could lead to further occurrences of engine power loss, possibly resulting in an emergency landing with consequent damage to the aeroplane and injury to occupants.

To address this potential unsafe condition, DAI designed an improved V-clamp, P/N D44–9081–26–03, and issued Mandatory Service Bulletin (MSB) 40NG–046 (later revised), providing instructions to identify all the parts suspected to be part of the affected batch, and to replace these with the new V-clamp. The MSB also introduces repetitive inspections of all turbocharger V-clamps, irrespective of P/N.

For the reasons described above, this AD requires repetitive visual inspections of the V-clamps and, depending on findings, replacement. This AD also requires replacement of certain V-clamps with improved clamps.

You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9369.

## Related Service Information Under 1 CFR Part 51

Diamond Aircraft Industries GmbH has issued Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016, and Work Instruction WI–MSB 40NG–046, dated July 14, 2016. In combination, this service information describes procedures for inspecting the V-clamp for cracks and for correct installation and for replacing cracked and incorrectly installed V-clamps with parts of improved design. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section of this AD.

## FAA's Determination and Requirements of This AD

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

## FAA's Determination of the Effective Date

An unsafe condition exists that requires the immediate adoption of this AD. The FAA has found that the risk to the flying public justifies waiving notice and comment prior to adoption of this rule because a manufacturing quality deficiency in a batch of V-clamps could cause the V-clamp to crack and fail. Failure of the V-clamp could result in loss of engine power and possible emergency landing, which could result in damage to the airplane and occupant injury. Therefore, we determined that notice and opportunity for public comment before issuing this AD are impracticable and that good cause exists for making this amendment effective in fewer than 30 days.

## Comments Invited

This AD is a final rule that involves requirements affecting flight safety, and we did not precede it by notice and opportunity for public comment. We invite you to send any written relevant data, views, or arguments about this AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2016–9369; Directorate Identifier 2016–CE–034–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this AD. We will consider all comments received by the closing date and may amend this AD 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 AD.

## Costs of Compliance

We estimate that this AD will affect 22 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the inspection requirements of this AD. The average labor rate is $85 per work-hour.

Based on these figures, we estimate the cost of the inspection in this AD on U.S. operators to be $1,870, or $85 per product.

We also estimate that it will take about 1 work-hour per product to comply with the replacement requirement of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $75 per product.

Based on these figures, we estimate the cost of the replacement in this AD on U.S. operators to be $3,520, or $160 per product.

## Paperwork Reduction Act

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

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

responsibilities among the various levels of government.

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

**2016–23–03 Diamond Aircraft Industries GmbH:** Amendment 39–18710; Docket No. FAA–2016–9369; Directorate Identifier 2016–CE–034–AD.

**(a) Effective Date**

This airworthiness directive (AD) becomes effective November 29, 2016.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to Diamond Aircraft Industries GmbH Model DA 40 NG airplanes, all serial numbers, certificated in any category.

**(d) Subject**

Air Transport Association of America (ATA) Code 81: Turbocharging.

**(e) Reason**

This AD was prompted by mandatory continuing airworthiness information (MCAI) issued by the aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as manufacturing quality deficiency in a batch of V-clamps that could cause the V-clamp to crack and fail. We are issuing this AD to prevent failure of the V-clamp and possible loss of engine power, which could result in emergency landing with consequent damage to the airplane and occupant injury.

**(f) Actions and Compliance**

Unless already done, do the following actions.

(1) Within the next 50 hours time-in-service (TIS) after November 29, 2016 (the effective date of this AD) or within the next 2 months after November 29, 2016 (the effective date of this AD), whichever occurs first, and repetitively thereafter at intervals not to exceed 100 hours TIS, inspect the V-clamp following the Instructions section in Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 40NG–046, dated July 14, 2016, as specified in DAI Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016.

(2) If any crack or incorrect installation is found during any inspection required in paragraph (f)(1) of this AD, before further flight, replace the V-clamp with an improved V-clamp, P/N D44–9081–26–03. After this replacement, continue with the 100 hour TIS repetitive inspection required in paragraph (f)(1) of this AD. Do the replacement following the Instructions section in Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 40NG–046, dated July 14, 2016, as specified in DAI Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016.

(3) Unless already replaced as required in paragraph (f)(2) of this AD, within the next 100 hours TIS after November 29, 2016 (the effective date of this AD) or within the next 4 months after November 29, 2016 (the effective date of this AD), whichever occurs first, replace P/N E4A–41–000–002 V-clamp with an improved P/N D44–9081–26–03 V-clamp. After this replacement, continue with the 100 hour TIS repetitive inspection required in paragraph (f)(1) of this AD. Do the replacement following the Instructions section in Diamond Aircraft Industries GmbH (DAI) Work Instruction WI–MSB 40NG–046, dated July 14, 2016, as specified in DAI Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016.

(4) Within 10 days after each inspection required in paragraph (f)(1) of this AD, report the results to DAI at the address in paragraph (i)(3) of this AD using the Execution Report on page 3 of DAI Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016. If the initial inspection was done before November 29, 2016 (the effective date of this AD), then the report for this inspection is required within 10 days after November 29, 2016 (the effective date of this AD).

(5) At the following compliance times, installing a V-clamp P/N E4A–41–000–002 is prohibited.

(i) Anytime a P/N E4A–41–000–002 V-clamp is replaced with an improved P/N D44–9081–126–03 V-clamp, as required by paragraphs (f)(2) and (3) of this AD; and

(ii) As of November 29, 2016 (the effective date of this AD), if a P/N E4A–41–000–002 V-clamp is not currently installed.

**(g) Other FAA AD Provisions**

The following provisions also apply to this AD:

(1) *Alternative Methods of Compliance (AMOCs):* The Manager, Standards Office, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. Send information to ATTN: Mike Kiesov, Aerospace Engineer, FAA, Small Airplane Directorate, 901 Locust, Room 301, Kansas City, Missouri 64106; telephone: (816) 329–4144; fax: (816) 329–4090; email: *mike.kiesov@faa.gov.* Before using any approved AMOC on any airplane to which the AMOC applies, notify your appropriate principal inspector (PI) in the FAA Flight Standards District Office (FSDO), or lacking a PI, your local FSDO.

(2) *Airworthy Product:* For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) *Reporting Requirements:* For any reporting requirement in this AD, a federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

**(h) Related Information**

Refer to MCAI European Aviation Safety Agency (EASA) AD No. 2016–0203, dated October 10, 2016, and Diamond Aircraft Temporary Revision AMM–TR–MÄM 40–853/b, dated July 15, 2016, for related information. You may examine the MCAI on the Internet at *http://www.regulations.gov* by searching for and locating Docket No. FAA–2016–9369.

**(i) Material Incorporated by Reference**

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

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

(i) Diamond Aircraft Industries GmbH Mandatory Service Bulletin MSB 40NG–046/2, dated July 22, 2016.

(ii) Diamond Aircraft Industries GmbH Work Instruction WI–MSB 40NG–046, dated July 14, 2016.

(3) For Diamond Aircraft Industries GmbH service information identified in this AD,

contact Diamond Aircraft Industries GmbH, N.A. Otto-Straße 5, A–2700 Wiener Neustadt, Austria, telephone: +43 2622 26700; fax: +43 2622 26780; email: *office@diamond-air.at;* Internet: *http://www.diamondaircraft.com.*

(4) You may view this service information at the FAA, Small Airplane Directorate, 901 Locust, Kansas City, Missouri 64106. For information on the availability of this material at the FAA, call (816) 329–4148. It is also available on the Internet at *http://www.regulations.gov* by searching for locating Docket No. FAA–2016–9369.

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

Issued in Kansas City, Missouri, on October 31, 2016.

**Pat Mullen,**

*Acting Manager, Small Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–26808 Filed 11–8–16; 8:45 am]

BILLING CODE 4910–13–P

## DEPARTMENT OF TRANSPORTATION

## Federal Aviation Administration

## 14 CFR Part 39

**[Docket No. FAA–2016–0462; Directorate Identifier 2015–NM–144–AD; Amendment 39–18703; AD 2016–22–14]**

**RIN 2120–AA64**

## Airworthiness Directives; The Boeing Company Airplanes

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Final rule.

**SUMMARY:** We are adopting a new airworthiness directive (AD) for certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. This AD was prompted by a report of wire chafing damage, which caused an electrical arc to an adjacent hydraulic tube located on the forward bulkhead of the main landing gear (MLG) wheel well, resulting in a hole in a hydraulic tube and consequent total loss of system B hydraulic fluid. This AD requires an inspection for chafing damage of wire bundles and a hydraulic tube in the right side of the MLG wheel well, and corrective action if necessary; and installation of clamps between the wire bundles and hydraulic tube. We are issuing this AD to prevent chafing damage, which could result in electrical arcing that can cause a hole in the hydraulic tube and consequent loss of hydraulic fluid, possibly resulting in a fire in the MLG wheel well.

**DATES:** This AD is effective December 14, 2016.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of December 14, 2016.

**ADDRESSES:** For service information identified in this final rule, 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 referenced service information at the FAA, Transport Airplane Directorate, 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–2016–0462.

### 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–2016–0462; 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 AD, the regulatory evaluation, any comments received, and other information. The address for the Docket Office (phone: 800–647–5527) is Docket Management Facility, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** Sean J. Schauer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA. 98057–3356; phone: 425–917–6479; fax: 425–917–6590; email: *sean.schauer@faa.gov.*

**SUPPLEMENTARY INFORMATION:**

### Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 by adding an AD that would apply to certain The Boeing Company Model 737–600, –700, –700C, –800, –900, and –900ER series airplanes. The NPRM published in the **Federal Register** on February 8, 2016 (81 FR 6475) (''the NPRM''). The NPRM was prompted by a report of wire chafing damage, which caused an electrical arc to an adjacent hydraulic tube located on the forward bulkhead of the MLG wheel well, resulting in a hole in a hydraulic tube and consequent total loss of system B hydraulic fluid. The NPRM proposed to require an inspection for chafing damage of wire bundles and a hydraulic tube in the right side of the MLG wheel well, and corrective action if necessary; and installation of clamps between the wire bundles and hydraulic tube. We are issuing this AD to prevent chafing damage, which could result in electrical arcing that can cause a hole in the hydraulic tube and consequent loss of hydraulic fluid, possibly resulting in a fire in the MLG wheel well.

### Comments

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

### Support for the NPRM

The Air Line Pilots Association, International and an anonymous commenter supported the NPRM.

### Request for Clarification

The European Aviation Safety Agency (EASA) requested that we respond to the following questions.

- EASA stated that the NPRM looks very similar to AD 2013–19–03, Amendment 39–17585 (78 FR 59798, September 30, 2013) (''AD 2013–19–03''). EASA asked if there is a more fundamental problem with wiring harnesses in the landing gear bay in the Model 737 fleet.

We agree that the unsafe conditions identified in this AD and in AD 2013–19–03 are similar; however, the reasons for the unsafe conditions, and the associated corrective actions in these ADs, differ. This difference is due to the occurrence of wire chafing in different locations in the landing gear bay. The underlying issue is limited space for the electrical system routing in the landing gear bay.

- EASA asked whether there is sufficient accessibility to inspect the affected area.

We have determined that there is sufficient space to inspect the landing gear bay.

- EASA asked why the spacer is only an optional action.

The source of service information that we reference in this AD, Boeing Alert Service Bulletin 737–29A1119, Revision 1, dated June 23, 2016 (''ASB 737–29A1119 R1''), specifies that the spacer addition is optional for cases where additional spacing is needed to allow adequate clearance.

- EASA asked what measures have been put in place to ensure the safety of

the fleet, pending the proposed inspection.

We consider that the standard operational procedures that are in place regarding loss of system B hydraulic pressure or a wheel well fire to be adequate to ensure the safety of the fleet, pending the completion of the actions required in this AD.

• EASA asked if the wire chafing issue is one of design with regulations, or non-compliance of the product with the design data.

We have determined that the issue is due to nonconformance to the design data.

No changes to the final rule are necessary in regard to the questions asked by EASA.

**Requests To Reference New Service Information**

All Nippon Airways (ANA), Boeing, Japan Airlines, Qantas Airways, Southwest Airlines, and United Airlines (UA) requested that we reference Boeing Service Bulletin Information Notice 737–29A1119 IN 01, dated August 25, 2015; and Boeing Service Bulletin Information Notice 737–29A1119 IN 02, dated November 02, 2015; and new service information ASB 737–29A1119 R1. ANA commented that Boeing will not ship the top kits of needed parts until the release of ASB 737–29A1119 R1. UA requested that ASB 737–29A1119 R1 incorporate the Required for Compliance (RC) format.

We agree with the commenters' requests to incorporate ASB 737–29A1119 R1 as an appropriate source of service information. This service information incorporates the revisions in the Boeing information notices referenced by the commenters. In ASB 737–29A1119 R1, the part number of the subject wiring harness clamp has been corrected, the work instructions have been rewritten to improve operator usability, and the RC steps have been added. We have revised paragraphs (c), (g)(1), and (g)(2) of this AD to specify ASB 737–29A1119 R1. We have added a new paragraph (h) to this AD to give credit for actions done prior to the effective date of this AD using Boeing Alert Service Bulletin 737–29A1119, dated August 4, 2015, and redesignated subsequent paragraphs accordingly. We have also added new paragraph (i)(4) to this AD to address the RC language specified in ASB 737–29A1119 R1.

**Request To Revise Paragraph (g) of the Proposed AD**

One commenter, Evki Meto, requested that we revise paragraph (g)(1) of the proposed AD, which proposed inspecting for chafing damage. The commenter requested that we expand the inspection to look for any damage. No reason was provided by the commenter.

We disagree with the commenter's request. We have determined that the inspection in paragraph (g) of this AD should emphasize chafing damage, as that damage relates to the unsafe condition being addressed by this AD. We have not changed this AD in this regard.

**Request To Revise Compliance Time**

KLM Royal Dutch Airlines (KLM) requested that we revise the 24-month compliance time to 30 months. KLM stated that it intends to do the modification during C-check maintenance, but will not be able to comply without impact to its maintenance program with the 24-month compliance time due to its C-check maintenance interval, which is 30 months.

We do not agree with the commenter's request. In developing an appropriate compliance time, we considered the safety implications, parts availability, and normal maintenance schedules for timely accomplishment of the required actions. Further, we arrived at the compliance time with manufacturer concurrence. In consideration of all of these factors, we determined that the compliance time of 24 months represents an appropriate interval in which the inspections can be done in a timely manner within the fleet, while still maintaining an adequate level of safety. Under the provisions of paragraph (i) of this AD, however, we will consider requests for approval of an alternative compliance time if sufficient data are submitted to substantiate that an alternate compliance time would provide an acceptable level of safety. We have not changed this AD in this regard.

**Effect of Winglets on Accomplishment of the Proposed Actions**

Aviation Partners Boeing stated that the installation of winglets per Supplemental Type Certificate (STC) ST00830SE does not affect the accomplishment of the manufacturer's service instructions.

We agree with the commenter that STC ST00830SE does not affect the accomplishment of the manufacturer's service instructions. Therefore, the installation of STC ST00830SE does not affect the ability to accomplish the actions required by this AD. We have not changed this AD in this regard.

**Conclusion**

We reviewed the relevant data, considered the comments received, and determined that air safety and the public interest require adopting this AD with the changes described previously and minor editorial changes. We have determined that these minor changes:

• Are consistent with the intent that was proposed in the NPRM for correcting the unsafe condition; and

• Do not add any additional burden upon the public than was already proposed in the NPRM.

We also determined that these changes will not increase the economic burden on any operator or increase the scope of this AD.

**Related Service Information Under 1 CFR Part 51**

We reviewed ASB 737–29A1119 R1. The service information describes procedures for doing an inspection for chafing damage of the wire bundles and hydraulic tube in the right side of the MLG wheel well, corrective actions, and installation of clamps and an optional spacer between the wire bundles and hydraulic tube. This service information is reasonably available because the interested parties have access to it through their normal course of business or by the means identified in the **ADDRESSES** section.

**Costs of Compliance**

We estimate that this AD affects 1,270 airplanes of U.S. registry.

We estimate the following costs to comply with this AD:

ESTIMATED COSTS

| Action | Labor cost | Parts cost | Cost per product | Cost on U.S. operators |
|---|---|---|---|---|
| Inspection and Installation | 2 work-hours × $85 per hour = $170 | $9 | $179 | $227,330 |

We have received no definitive data that would enable us to provide cost estimates for the on-condition actions specified in this AD.

## Authority for This Rulemaking

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

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

## Regulatory Findings

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

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

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

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

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

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

## List of Subjects in 14 CFR Part 39

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

## Adoption of the Amendment

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

## PART 39—AIRWORTHINESS DIRECTIVES

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

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

### § 39.13 [Amended]

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

**2016–22–14 The Boeing Company:** Amendment 39–18703; Docket No. FAA–2016–0462; Directorate Identifier 2015–NM–144–AD.

**(a) Effective Date**

This AD is effective December 14, 2016.

**(b) Affected ADs**

None.

**(c) Applicability**

This AD applies to The Boeing Company Model 737–600, 737–700, 737–700C, 737–800, 737–900, and 737–900ER series airplanes, certificated in any category, as identified in Boeing Alert Service Bulletin 737–29A1119, Revision 1, dated June 23, 2016 (''ASB 737–29A1119 R1'').

**(d) Subject**

Air Transport Association (ATA) of America Code 29, Hydraulic power.

**(e) Unsafe Condition**

This AD was prompted by a report of wire chafing damage, which caused an electrical arc to an adjacent hydraulic tube located on the forward bulkhead of the main landing gear (MLG) wheel well, resulting in a hole in a hydraulic tube and consequent total loss of system B hydraulic fluid. We are issuing this AD to prevent chafing damage, which could result in electrical arcing that can cause a hole in the hydraulic tube and consequent loss of hydraulic fluid, possibly resulting in a fire in the MLG wheel well.

**(f) Compliance**

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

**(g) Inspection and Corrective Action and Clamp Installation**

Within 24 months after the effective date of this AD: Do the actions specified in paragraphs (g)(1) and (g)(2) of this AD.

(1) Do a detailed inspection for chafing damage of the wire bundles and hydraulic tube in the right side of the MLG wheel well, and do all applicable corrective actions, in accordance with the Accomplishment Instructions of ASB 737–29A1119 R1. Do all applicable corrective actions before further flight.

(2) Install new clamps and an optional spacer between the wire bundles and hydraulic tube in the right side of the MLG wheel well, in accordance with the Accomplishment Instructions of ASB 737–29A1119 R1.

**(h) Credit for Previous Actions**

This paragraph provides credit for the actions specified in paragraph (g) of this AD, if those actions were performed before the effective date of this AD using Boeing Alert Service Bulletin 737–29A1119, dated August 4, 2015. This service information is not incorporated by reference in this AD.

**(i) Alternative Methods of Compliance (AMOCs)**

(1) The Manager, Seattle Aircraft Certification Office (ACO), FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in paragraph (j)(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, to make those findings. To be approved, the repair method, modification deviation, or alteration deviation must meet the certification basis of the airplane and the approval must specifically refer to this AD.

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

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

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

**(j) Related Information**

(1) For more information about this AD, contact Sean J. Schauer, Aerospace Engineer, Systems and Equipment Branch, ANM–130S, FAA, Seattle Aircraft Certification Office (ACO), 1601 Lind Avenue SW., Renton, WA 98057–3356; phone: 425–917–6479; fax: 425–917–6590; email: *sean.schauer@faa.gov.*

(2) Service information identified in this AD that is not incorporated by reference is available at the addresses specified in paragraphs (k)(3) and (k)(4) of this AD.

**(k) Material Incorporated by Reference**

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

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

(i) Boeing Alert Service Bulletin 737–29A1119, Revision 1, dated June 23, 2016.

(ii) Reserved.

(3) For Boeing 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.*

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

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

Issued in Renton, Washington, on October 25, 2016.

**Dionne Palermo,**

*Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.*

[FR Doc. 2016–26163 Filed 11–8–16; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF COMMERCE

### Bureau of Industry and Security

### 15 CFR Parts 730 and 744

**[Docket No. 161012953–6953–01]**

**RIN 0694–AH15**

### Updated Statements of Legal Authority for the Export Administration Regulations

**AGENCY:** Bureau of Industry and Security, Commerce.

**ACTION:** Final rule.

**SUMMARY:** This rule updates the Code of Federal Regulations (CFR) legal authority paragraphs in the Export Administration Regulations (EAR) to cite the most recent Presidential notice continuing an emergency declared pursuant to the International Emergency Economic Powers Act. This is a non-substantive rule that only updates authority paragraphs of the EAR. It does not alter any right, obligation or prohibition that applies to any person under the EAR.

**DATES:** The rule is effective November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Nancy Kook, Regulatory Policy Division, Bureau of Industry and Security, Telephone: (202) 482–2440.

**SUPPLEMENTARY INFORMATION:**

### Background

The authority for parts 730 and 744 of the EAR rests, in part, on Executive Order 13224 of September 23, 2001—Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten To Commit, or Support Terrorism, 66 FR 49079, 3 CFR, 2001 Comp., p. 786 and on annual notices continuing the emergency declared in that executive order. This rule revises the authority paragraphs for the affected parts of the EAR to cite the most recent such notice, which the President signed on September 15, 2016.

This rule is purely non-substantive and makes no changes other than to revise CFR authority paragraphs for the purpose of making the authority citations current. It does not change the text of any section of the EAR, nor does it alter any right, obligation or prohibition that applies to any person under the EAR.

### Rulemaking Requirements

1. Executive Orders 13563 and 12866 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). This rule does not impose any regulatory burden on the public and is consistent with the goals of Executive Order 13563. This rule has been determined to be not significant for purposes of Executive Order 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This rule does not involve any collection of information.

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

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because they are unnecessary. This rule only updates legal authority citations. It clarifies information and is non-discretionary. This rule does not alter any right, obligation or prohibition that applies to any person under the EAR. Because these revisions are not substantive changes, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness otherwise required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule. Because neither the Administrative Procedure Act nor any other law requires that notice of proposed rulemaking and an opportunity for public comment be given for this rule, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable. Accordingly, no Final Regulatory Flexibility Analysis is required and none has been prepared.

### List of Subjects

*15 CFR Part 730*

Administrative practice and procedure, Advisory committees, Exports, Reporting and recordkeeping requirements, Strategic and critical materials.

*15 CFR Part 744*

Exports, Reporting and recordkeeping requirements, Terrorism.

Accordingly, parts 730 and 744 of the EAR (15 CFR parts 730–774) are amended as follows:

## PART 730—[AMENDED]

■ 1. The authority citation for 15 CFR part 730 is revised to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 10 U.S.C. 7420; 10 U.S.C. 7430(e); 22 U.S.C. 287c; 22 U.S.C. 2151 note; 22 U.S.C. 3201 *et seq.;* 22 U.S.C. 6004; 42 U.S.C. 2139a; 15 U.S.C. 1824a; 50 U.S.C. 4305; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 11912, 41 FR 15825, 3 CFR, 1976 Comp., p. 114; E.O. 12002, 42 FR 35623, 3 CFR, 1977 Comp., p. 133; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12214, 45 FR 29783, 3 CFR, 1980 Comp., p. 256; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12854, 58 FR 36587, 3 CFR, 1993 Comp., p. 179; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 12981, 60 FR 62981, 3 CFR, 1995 Comp., p. 419; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp., p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001

Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; E.O. 13338, 69 FR 26751, 3 CFR, 2004 Comp., p 168; E.O. 13637, 78 FR 16129, 3 CFR, 2014 Comp., p. 223; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of May 3, 2016, 81 FR 27293 (May 5, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016).

## PART 744—[AMENDED]

■ 2. The authority citation for 15 CFR part 744 is revised to read as follows:

**Authority:** 50 U.S.C. 4601 *et seq.;* 50 U.S.C. 1701 *et seq.;* 22 U.S.C. 3201 *et seq.;* 42 U.S.C. 2139a; 22 U.S.C. 7201 *et seq.;* 22 U.S.C. 7210; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of November 12, 2015, 80 FR 70667 (November 13, 2015); Notice of January 20, 2016, 81 FR 3937 (January 22, 2016); Notice of August 4, 2016, 81 FR 52587 (August 8, 2016); Notice of September 15, 2016, 81 FR 64343 (September 19, 2016).

Dated: November 3, 2016.

**Kevin J. Wolf,**

*Assistant Secretary for Export Administration.*

[FR Doc. 2016–27017 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–33–P

## DEPARTMENT OF THE TREASURY

### Financial Crimes Enforcement Network

### 31 CFR Part 1010

**RIN 1506–AB35**

## Imposition of Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern

**AGENCY:** Financial Crimes Enforcement Network (''FinCEN''), Treasury.

**ACTION:** Final rule.

**SUMMARY:** FinCEN is issuing this final rule to prohibit U.S. financial institutions from opening or maintaining a correspondent account for, or on behalf of, North Korean banking institutions. The rule further prohibits U.S. financial institutions from processing transactions for the correspondent account of a foreign bank in the United States if such a transaction involves a North Korean financial institution, and requires institutions to apply special due diligence to guard against such use by North Korean financial institutions.

**DATES:** This final rule is effective December 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** The FinCEN Resource Center, (800) 949–2732.

**SUPPLEMENTARY INFORMATION:**

### I. Statutory Provisions

On October 26, 2001, the President signed into law the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107–56 (the USA PATRIOT Act). Title III of the USA PATRIOT Act amended the anti-money laundering (AML) provisions of the Bank Secrecy Act (BSA), codified at 12 U.S.C. 1829b, 12 U.S.C. 1951–1959, and 31 U.S.C. 5311–5314, 5316–5332, to promote the prevention, detection, and prosecution of international money laundering and the financing of terrorism. Regulations implementing the BSA appear at 31 CFR Chapter X. The authority of the Secretary of the Treasury (the Secretary) to administer the BSA and its implementing regulations has been delegated to the Director of FinCEN.[1]

Section 311 of the USA PATRIOT Act (Section 311), codified at 31 U.S.C. 5318A, grants FinCEN the authority, upon finding that reasonable grounds exist for concluding that a foreign jurisdiction, financial institution, class of transactions, or type of account is of ''primary money laundering concern,'' to require domestic financial institutions and financial agencies to take certain ''special measures'' to address the primary money laundering concern. The special measures enumerated under Section 311 are prophylactic safeguards that defend the U.S. financial system from money laundering and terrorist financing. FinCEN may impose one or more of these special measures in order to protect the U.S. financial system from these threats. Special measures one through four, codified at 31 U.S.C. 5318A(b)(1)–(b)(4), impose additional recordkeeping, information collection, and reporting requirements on covered U.S. financial institutions. The fifth special measure, codified at 31 U.S.C. 5318A(b)(5), allows FinCEN to prohibit or impose conditions on the opening or maintaining of correspondent or payable-through accounts for the identified jurisdiction by U.S. financial institutions. Section 311 identifies factors for the Secretary to consider and requires consultations with Federal agencies before making a finding that reasonable grounds exist for concluding that a jurisdiction, institution, class of transactions or type of account is of primary money laundering concern. The statute also provides similar procedures, including factors to consider and consultation requirements for selecting and imposing the fifth special measure.

### II. FinCEN's Section 311 Rulemaking Regarding North Korea

#### *A. Notice of Finding Regarding North Korea*

In a Notice of Finding (NOF) published in the **Federal Register** on June 2, 2016, FinCEN found that reasonable grounds exist for concluding that the Democratic People's Republic of Korea (DPRK or North Korea) is a jurisdiction of primary money laundering concern pursuant to 31 U.S.C. 5318A.[2] FinCEN's NOF noted four main areas of concern: North Korea (1) uses state-controlled financial institutions and front companies to conduct international financial transactions that support the proliferation of weapons of mass destruction (WMD) and the development of ballistic missiles in violation of international and U.S. sanctions; (2) is subject to little or no bank supervision or anti-money laundering or combating the financing of terrorism (''AML/CFT'') controls; (3) has no mutual legal assistance treaty with the United States; and (4) relies on the illicit and corrupt activity of high-level officials to support its government.

In the NOF, FinCEN also noted that the North Korean government continues to access the international financial system to support its WMD and conventional weapons programs through its use of aliases, agents, foreign individuals in multiple jurisdictions, and a long-standing network of front companies and North Korean embassy personnel which support illicit activities through banking, bulk cash, and trade. Front company transactions originating in foreign-based banks have been processed through correspondent bank accounts in the United States and Europe. Further, the enhanced due diligence required by United Nations Security Council Resolutions (UNSCRs) related to North Korea is undermined by North Korean-linked front companies, which are often registered by non-North Korean citizens, and which conceal their activity through the use of indirect

[1] Therefore, references to the authority of the Secretary of the Treasury under Section 311 of the USA PATRIOT Act apply equally to the Director of FinCEN.

[2] 81 FR 35441 (June 2, 2016).

payment methods and circuitous transactions disassociated from the movement of goods or services.

*B. Notice of Proposed Rulemaking*

In light of this Finding, in a Notice of Proposed Rulemaking (NPRM) published in the **Federal Register** on June 3, 2016, FinCEN (1) proposed a prohibition on covered financial institutions from opening or maintaining a correspondent account in the United States for, or on behalf of, a North Korean banking institution; (2) proposed a prohibition on covered financial institutions from processing a transaction involving a North Korean financial institution through the United States correspondent account of a foreign banking institution; and (3) proposed a requirement for covered financial institutions to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving North Korean financial institutions.[3] The comment period for the NPRM closed on August 2, 2016. The final rule is largely identical to that found in the June 2016 notice, except that the term ''North Korean banking institution'' has been defined in order to clarify the types of institutions subject to the prohibition, and the term ''foreign banking institution'' has been replaced by ''foreign bank,'' with a corresponding change in the term's definition to conform with the definition of ''foreign bank'' under 31 CFR 1010.100(u). The final rule also explicitly incorporates the special due diligence concepts into the prohibition on processing transactions involving North Korean financial institutions. By incorporating these due diligence requirements into the prohibition, the final rule clarifies that if a covered financial institution suspects transactions involve a North Korean financial institution, then the covered financial institution shall take steps to further investigate and prevent such transactions, including steps that do not necessarily lead to the closing of the account.

As further described below, FinCEN is adopting this proposal as a final rule. In so doing, FinCEN considered public comment and the relevant statutory factors, and engaged in the required consultations prescribed by 31 U.S.C. 5318A.

## III. Consideration of Comment

In response to the NPRM and NOF, FinCEN received only one comment. The comment agreed with FinCEN's proposal of a prohibition under the fifth special measure, but recommended that FinCEN also impose an additional special measure under 31 U.S.C. 5318A(b)(2) to require domestic financial institutions to obtain beneficial ownership information of ''property'' held by nationals of North Korea or their representatives that is located in North Korea or that otherwise involves North Korea. The comment explained that such a requirement would help identify and expose networks of non-bank institutions and agents that establish and manage shell or front companies on behalf of the North Korean government.

As described above and in the NOF, FinCEN shares the concerns raised by the comment regarding North Korea's extensive use of deceptive financial practices, including the use of shell and front companies to obfuscate the true originator, beneficiary, and purpose behind its transactions. However, FinCEN's authority, as granted by Congress in 31 U.S.C. 5318A(b)(2), applies only to information concerning the beneficial ownership of ''account[s] opened or maintained in the United States'' and thus would not extend to information relating to the beneficial ownership of property writ large, or to property outside the United States as the comment suggested. Nonetheless, FinCEN believes that the risks to the U.S. financial system posed by North Korea can be addressed through the prohibition on correspondent accounts and the related due diligence. Taken together, these requirements should, by and large, help prevent the flow of illicit funds from North Korea from entering the U.S. financial system. Accordingly, FinCEN believes that the prohibition and due diligence requirements imposed under the fifth special measure sufficiently address both FinCEN's concerns and the concerns raised by the comment.

## IV. Imposition of a Special Measure Against North Korea as a Jurisdiction of Primary Money Laundering Concern

In light of the Finding as detailed in the NOF, and based upon additional consultations with required Federal agencies and departments, and the consideration of public comments, the statutory factors discussed below, and all relevant factors, FinCEN has concluded that the prohibition under the fifth special measure as proposed in the NPRM is the appropriate course of action.[4]

The prohibition on the opening or maintaining of correspondent accounts imposed by the fifth special measure will help guard against the money laundering and WMD proliferation finance risks to the U.S. financial system posed by North Korean financial institutions and their front companies. Imposing a prohibition under the fifth special measure also complements U.S. efforts to satisfy the requirement under UNSCR 2270 Paragraph 33, discussed in section IV.A.1 below, for all UN member states to sever correspondent relationships with North Korean banks.

*A. Discussion of Section 311 Factors*

In determining which special measures to implement to address the finding that DPRK is of primary money laundering concern described in the NOF, FinCEN considered the following factors:

1. Whether Similar Action Has Been or Will Be Taken by Other Nations or Multilateral Groups Against North Korea

FinCEN's action is consistent with steps taken by the international community to address North Korea's illicit financial activity. Between 2006 and 2016, the United Nations Security Council has adopted multiple resolutions, 1718,[5] 1874,[6] 2087,[7] 2094,[8] and 2270,[9] which generally restrict North Korea's financial and operational activities related to its nuclear and missile programs and conventional arms sales. Most recently, in March 2016, the United Nations adopted UNSCR 2270, which imposes additional sanctions on North Korea in response to a January 6, 2016 nuclear test and February 7, 2016 launch using ballistic missile technology. This UNSCR contains provisions that generally require nations to: (1) Prohibit North Korean banks from opening branches in their territory or engaging in certain correspondent relationships with these banks; (2) terminate existing representative offices or subsidiaries, branches, and correspondent accounts with North Korean banks; (3) prohibit their financial institutions from opening new representative offices or subsidiaries, branches, or bank accounts in North Korea; and (4) close existing

[3] 81 FR 35665 (June 3, 2016).

[4] Throughout the rulemaking process, FinCEN has consulted with relevant departments and agencies in accordance with 5318A.

[5] *See* United Nations Security Council Resolution (''UNSCR'') 1718 (*http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1718(2006)*).

[6] *See* UNSCR 1874 (*http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/1874(2009).*

[7] *See* UNSCR 2087 (*http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2087(2013)*).

[8] *See* UNSCR 2094 (*http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2094(2013)*).

[9] *See* UNSCR 2270 (*http://www.un.org/en/ga/search/view_doc.asp?symbol=S/RES/2270(2016)*).

representative offices or subsidiaries, branches, or bank accounts in North Korea if reasonable grounds exist to believe such financial services could contribute to North Korea's nuclear or missile programs, or UNSCR violations.[10]

The Financial Action Task Force (FATF) has issued a series of public statements expressing its concern that North Korea's lack of a comprehensive AML/CFT regime represents a significant vulnerability within the international financial system. The statements further called upon North Korea to address those deficiencies with urgency, and called upon FATF members and urged all jurisdictions to advise their financial institutions to give special attention to business relationships and transactions with North Korea in order to protect their correspondent accounts from being used to evade countermeasures and risk mitigation practices. Starting in February 2011, the FATF called upon its members and urged all jurisdictions to apply effective counter-measures to protect their financial sectors from the money laundering and financing of terrorism risks emanating from North Korea.[11]

2. Whether the Imposition of the Fifth Special Measure Would Create a Significant Competitive Disadvantage, Including Any Undue Cost or Burden Associated With Compliance, for Financial Institutions Organized or Licensed in the United States

The prohibition under the fifth special measure imposed by this rulemaking prohibits covered financial institutions from opening or maintaining a correspondent account in the United States for, or on behalf of, a North Korean banking institution. It also prohibits the use of a foreign bank's U.S. correspondent account to process a transaction involving a North Korean financial institution. As noted in FinCEN's NOF, none of North Korea's financial institutions currently maintain correspondent accounts directly with U.S. banks. Further, as noted above, U.S. financial institutions are currently subject to a range of prohibitions related to sanctions concerning North Korea, which has generally limited their direct exposure to the North Korean financial system. Therefore, FinCEN believes this action will not present an undue regulatory burden on U.S. financial institutions.

Under this final rule, covered financial institutions are also required to apply special due diligence to their foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving North Korean financial institutions. U.S. financial institutions may satisfy their due diligence requirement by transmitting a notice to certain foreign correspondent account holders concerning the prohibition on processing transactions involving a North Korean financial institution through the U.S. correspondent account. U.S. financial institutions generally apply some level of screening and, when required, conduct some level of reporting of their transactions and accounts, often through the use of commercially available software such as that used for compliance with the economic sanctions programs administered by the Office of Foreign Assets Control (OFAC) and to detect potential suspicious activity. FinCEN believes financial institutions should be able to leverage these current screening and reporting procedures to detect transactions involving a North Korean financial institution.

3. The Extent to Which the Action or Timing of the Action Will Have a Significant Adverse Systemic Impact on the International Payment, Clearance, and Settlement System, or on Legitimate Business Activities of North Korea

Financial institutions in North Korea are not major participants in the international payment system and are not relied upon by the international banking community for clearance or settlement services. In addition, given existing domestic and multilateral sanctions, coupled with the FATF's calls for countermeasures to address North Korea's AML/CFT deficiencies, it is unlikely that the imposition of a prohibition under the fifth special measure with respect to North Korea would have a significant adverse systemic impact on the international payment, clearance, and settlement system. In light of the reasons described in this rulemaking for imposing the fifth special measure, and based on available information, FinCEN believes that the need to protect the U.S. financial system outweighs any burden on legitimate North Korean business activity, and, therefore, the imposition of a prohibition under the fifth special measure would not impose an undue burden on such activities.

4. The Effect of the Action on United States National Security and Foreign Policy

The exclusion from the U.S. financial system of jurisdictions that serve as conduits for significant money laundering activity, for the financing of WMD or their delivery systems, and for other financial crimes enhances national security by making it more difficult for proliferators and money launderers to access the U.S. financial system. To the extent that this action serves as an additional tool in preventing North Korea from accessing the U.S. financial system, this action supports and upholds U.S. national security and foreign policy goals. Further, imposing a prohibition under the fifth special measure both complements the U.S. Government's worldwide efforts to expose and disrupt international money laundering, and satisfies the requirement under UNSCR 2270 Paragraph 33 for all UN member states to sever correspondent relationships with North Korean banks.

*B. Consideration of Alternative Special Measures*

FinCEN concludes that a prohibition under the fifth special measure is the only viable measure to protect the U.S. financial system against the money laundering threats posed by the DPRK. In making this determination, FinCEN considered alternatives to a prohibition under the fifth special measure, including the first four special measures and imposing conditions on the opening or maintaining of correspondent accounts. For the reasons explained below, FinCEN believes that a prohibition under the fifth special measure would be the most effective and practical measure to employ to safeguard the U.S. financial system from the risks of illicit finance involving the DPRK.

As noted above, and in the NOF, North Korea is subject to numerous UNSCRs [12] and U.S. sanctions authorities,[13] and it has been

[10] *See* UNSCR 2270.

[11] *See* "Public Statement—21 October 2016," Financial Action Task Force (*http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-october-2016.html*).

[12] *See* UNSCRs 1718, 1874, 2087, 2094, and 2270.

[13] *See, e.g.,* Executive Order ("E.O.") 13382 "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters" (2005) (*https://www.federalregister.gov/articles/2005/07/01/05-13214/blocking-property-of-weapons-of-mass-destruction-proliferators-and-their-supporters*); E.O. 13551 "Blocking Property of Certain Persons with Respect to North Korea" (2010) (*https://www.gpo.gov/fdsys/pkg/FR-2010-09-01/pdf/X10-10901.pdf*); E.O. 13687 "Imposing Additional Sanctions with Respect to North Korea" (2015) (*https://www.federalregister.gov/articles/2015/01/06/2015-00058/imposing-additional-sanctions-with-respect-to-north-korea*); E.O. 13722 "Blocking Property of the Government of North Korea and the Workers' Party of Korea, and Prohibiting Certain

Continued

consistently identified by the FATF for its AML deficiencies.[14] Additionally, the UN has specifically called for enhanced monitoring of financial transactions to prevent the financing of North Korea's nuclear and ballistic missile programs and for the freezing of any assets suspected of supporting these illicit programs. Further, as noted in the NOF and NPRM, FinCEN has issued three advisories since 2005 detailing specific concerns of the deceptive financial practices used by North Korea and North Korean entities and calling on U.S. financial institutions to take appropriate risk mitigation measures.[15] However, North Korea has not taken any substantial action to address the range of concerns and continues to be involved in an array of illicit activities, as reflected in the NOF. Although North Korea is subject to wide-ranging bilateral and multilateral sanctions, it continues to access the international financial system to support its WMD and conventional weapons programs through its use of aliases, agents, foreign individuals in multiple jurisdictions, and a long-standing network of front companies. As such, FinCEN believes that only the most stringent measure—a prohibition under the fifth special measure—would be effective in mitigating the illicit finance risks associated with North Korea.

Special measures one through four enable FinCEN to impose additional recordkeeping, information collection, and information reporting requirements on covered U.S. financial institutions. Special measure five enables FinCEN to impose conditions as an alternative to a prohibition on the opening or maintaining of correspondent accounts. Given North Korea's flagrant disregard for multiple UN resolutions related to the proliferation of WMD, FinCEN does not believe that any condition, additional recordkeeping, or reporting requirement would be an effective measure to safeguard the U.S. financial system. Such measures would not prevent North Korea from accessing directly or indirectly the correspondent accounts of U.S. financial institutions, thus leaving the U.S. financial system vulnerable to processing the types of illicit transfers described in the NOF. Moreover, as OFAC sanctions prohibit a variety of financial transactions with the DPRK, recordkeeping related to transactions with the DPRK would be impractical as would conditioning the opening or maintaining of correspondent accounts. As noted above, because North Korea has a history of engaging in deceptive financial practices to evade international sanctions and is known to utilize networks of front companies to engage in illicit activity, any conditions that would continue to allow the opening or maintaining of correspondent accounts for North Korean banks would not sufficiently protect the U.S. financial system. Therefore, in the case of the jurisdiction of North Korea, FinCEN views a prohibition under the fifth special measure as the only special measure that can adequately protect the U.S. financial system from North Korean illicit financial activity.

## V. Section-by-Section Analysis for Imposition of a Prohibition Under the Fifth Special Measure

### *A. 1010.659(a)—Definitions*

#### 1. North Korean Banking Institution

Section 1010.659(a)(1) of the rule defines a ''North Korean banking institution'' as any bank organized under North Korean law, or any agency, branch, or office located outside the United States of such a bank. This definition is consistent with the definition of ''foreign bank'' at 31 CFR 1010.100(u).

#### 2. North Korean Financial Institution

Section 1010.659(a)(2) of this rule defines a ''North Korean financial institution'' as all branches, offices, or subsidiaries of any foreign financial institution, as defined at 31 CFR 1010.605(f), chartered or licensed by North Korea, wherever located, including any branches, offices, or subsidiaries of such a financial institution operating in any jurisdiction, and any branch or office within North Korea of any foreign financial institution.

#### 3. Foreign Bank

Section 1010.659(a)(3) of this rule states that ''foreign bank'' has the same meaning as provided in 31 CFR 1010.100(u).

#### 4. Correspondent Account

Section 1010.659(a)(4) of this rule defines the term ''correspondent account'' by reference to the definition contained in 31 CFR 1010.605(c)(1)(i). Section 1010.605(c)(1)(i) defines a correspondent account to mean an account established to receive deposits from, or make payments or other disbursements on behalf of, a foreign financial institution, or to handle other financial transactions related to the foreign financial institution. Under this definition, ''payable through accounts'' are a type of correspondent account.

In the case of a U.S. depository institution, this broad definition includes most types of banking relationships between a U.S. depository institution and a foreign bank that are established to provide regular services, dealings, and other financial transactions, including a demand deposit, savings deposit, or other transaction or asset account, and a credit account or other extension of credit. FinCEN is using the same definition of ''account'' for purposes of this rule as was established for depository institutions in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[16]

In the case of securities broker-dealers, futures commission merchants, introducing brokers-commodities, and investment companies that are open-end companies (''mutual funds''), FinCEN is also using the same definition of ''account'' for purposes of this rule as was established for these entities in the final rule implementing the provisions of section 312 of the USA PATRIOT Act requiring enhanced due diligence for correspondent accounts maintained for certain foreign banks.[17]

#### 5. Covered Financial Institution

Section 1010.659(a)(5) of this rule defines ''covered financial institution'' with the same definition used in the final rule implementing the provisions of section 312 of the USA PATRIOT Act,[18] which in general includes the following:

- An insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act (12 U.S.C. 1813(h));
- a commercial bank;

Transactions with Respect to North Korea,'' (2016) (*https://www.gpo.gov/fdsys/pkg/FR-2016-03-18/pdf/FR-2016-03-18.pdf*).

[14] *See* ''Public Statement—21 October 2016,'' Financial Action Task Force (*http://www.fatf-gafi.org/publications/high-riskandnon-cooperativejurisdictions/documents/public-statement-october-2016.html*).

[15] *See* ''Guidance to Financial Institutions on the Provision of Banking Services to North Korean Government Agencies and Associated Front Companies Engaged in Illicit Activities,'' FinCEN (2005) (*https://www.fincen.gov/statutes_regs/guidance/pdf/advisory.pdf*); ''North Korea Government Agencies' and Front Companies' Involvement in Illicit Financial Activities,'' FinCEN (2009) (*https://www.fincen.gov/statutes_regs/guidance/pdf/fin-2009-a002.pdf*); ''Update on the Continuing Illicit Finance Threat Emanating from North Korea,'' FinCEN (2013) (*https://www.fincen.gov/statutes_regs/guidance/pdf/FIN-2013-A005.pdf*).

[16] *See* 31 CFR 1010.605(c)(2)(i).

[17] *See* 31 CFR 1010.605(c)(2)(ii)–(iv).

[18] *See* 31 CFR 1010.605(e)(1).

- an agency or branch of a foreign bank in the United States;
- a Federally insured credit union;
- a savings association;
- a corporation acting under section 25A of the Federal Reserve Act (12 U.S.C. 611);
- a trust bank or trust company;
- a broker or dealer in securities;
- a futures commission merchant or an introducing broker-commodities; and
- a mutual fund.

6. Subsidiary

Section 1010.659(a)(6) of this rule defines ''subsidiary'' as a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

*B. 1010.659(b)—Prohibition on Accounts and Due Diligence Requirements for Covered Financial Institutions*

1. Prohibition on Opening or Maintaining Correspondent Accounts

Section 1010.659(b)(1) and (2) of this rule prohibits covered financial institutions from opening or maintaining in the United States a correspondent account for, or on behalf of, a North Korean banking institution. It also requires covered financial institutions to take reasonable steps to not process a transaction for the correspondent account of a foreign bank in the United States if such a transaction involves a North Korean financial institution. Such reasonable steps are described in 1010.659(b)(3), which sets forth the special due diligence requirements a covered financial institution must take when it knows or has reason to believe a transaction involves a North Korean financial institution. By expressly incorporating these due diligence requirements into the prohibition, the final rule clarifies that if a covered financial institution suspects transactions involve a North Korean financial institution, then the covered financial institution shall take steps to further investigate and prevent such transactions, including steps that do not necessarily lead to the closing of the account.

2. Special Due Diligence for Correspondent Accounts To Prohibit Use

As a corollary to the prohibition set forth in section 1010.659(b)(1) and (2), section 1010.659(b)(3) of this rule requires a covered financial institution to apply special due diligence to all of its foreign correspondent accounts that is reasonably designed to guard against processing transactions involving North Korean financial institutions. As part of that special due diligence, covered financial institutions must notify those foreign correspondent account holders that the covered financial institutions know or have reason to believe provide services to a North Korean financial institution that such correspondents may not provide a North Korean financial institution with access to the correspondent account maintained at the covered financial institution. A covered financial institution may satisfy this notification requirement using the following notice:

> Notice: Pursuant to U.S. regulations issued under Section 311 of the USA PATRIOT Act, see 31 CFR 1010.659, we are prohibited from opening or maintaining in the United States a correspondent account for, or on behalf of, a North Korean banking institution. The regulations also require us to notify you that you may not provide a North Korean financial institution, including any of its branches, offices, or subsidiaries, with access to the correspondent account you hold at our financial institution. If we become aware that the correspondent account you hold at our financial institution has processed any transactions involving a North Korean financial institution, including any of its branches, offices, or subsidiaries, we will be required to take appropriate steps to prevent such access, including terminating your account.

Covered financial institutions should implement appropriate risk-based procedures to identify transactions involving a North Korean financial institution. A covered financial institution may, for example, have knowledge through transaction screening software that a correspondent account processes transactions for a North Korean financial institution. The purpose of the notice requirement is to aid cooperation with correspondent account holders in preventing transactions involving a North Korean financial institution from accessing the U.S. financial system. FinCEN does not require or expect a covered financial institution to obtain a certification from any of its correspondent account holders that access will not be provided to comply with this notice requirement.

Methods of compliance with the notice requirement could include, for example, transmitting a notice by mail, fax, or email. The notice should be transmitted whenever a covered financial institution knows or has reason to believe that a foreign correspondent account holder provides services to a North Korean financial institution.

Special due diligence also includes implementing risk-based procedures designed to identify any use of correspondent accounts to process transactions involving North Korean financial institutions. A covered financial institution is expected to apply an appropriate screening mechanism to identify a funds transfer order that on its face listed a North Korean financial institution as the financial institution of the originator or beneficiary, or otherwise referenced a North Korean financial institution in a manner detectable under the financial institution's normal screening mechanisms. An appropriate screening mechanism could be the mechanisms used by a covered financial institution to comply with various legal requirements, such as the commercially available software programs used to comply with the economic sanctions programs administered by OFAC.

A covered financial institution is also required to implement risk-based procedures to identify indirect use of its correspondent accounts, including through methods used to disguise the originator or originating institution of a transaction. As noted above, and in the NOF, FinCEN is concerned that a North Korean financial institution may attempt to disguise its transactions through the use of front companies, which would not explicitly identify the North Korean institution as an involved party in the transaction. A financial institution may develop a suspicion of such misuse based on other information in its possession, patterns of transactions, or any other method available to it based on its existing systems. Under this rule, a covered financial institution that knows or has reason to believe that a foreign bank's correspondent account is being used to process a transaction involving a North Korean financial institution must take all appropriate steps to attempt to verify and prevent such use. Such steps may include a notification to its correspondent account holder requesting further information regarding a transaction, requesting corrective action to address the perceived risk, and, where necessary, terminating the correspondent account. If a covered financial institution deems it appropriate to terminate a correspondent account, it may re-establish such an account if it determines that the account will not be used to process transactions involving North Korean financial institutions.

3. Recordkeeping and Reporting

Section 1010.659(b)(4) of this rule clarifies that paragraph (b) of the rule does not impose any reporting requirement upon any covered financial institution that is not otherwise required by applicable law or regulation. A

covered financial institution must, however, document its compliance with the notification requirement under section 1010.659(b)(3)(i)(A).

## VI. Regulatory Flexibility Act

When an agency issues a final rule, the Regulatory Flexibility Act (''RFA'') requires the agency to ''prepare and make available for public comment an initial regulatory flexibility analysis'' that will ''describe the impact of the final rule on small entities.'' (5 U.S.C. 603(a)). Section 605 of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the final rule is not expected to have a significant economic impact on a substantial number of small entities.

### *A. Prohibition on Covered Financial Institutions From Opening or Maintaining Correspondent Accounts With Certain Foreign Banks Under the Fifth Special Measure*

#### 1. Estimate of the Number of Small Entities to Whom the Fifth Special Measure Will Apply

For purposes of the RFA, both banks and credit unions are considered small entities if they have less than $550,000,000 in assets.[19] Of the estimated 6,192 banks, 80 percent have less than $550,000,000 in assets and are considered small entities.[20] Of the estimated 6,021 credit unions, 92.5 percent have less than $550,000,000 in assets.[21]

Broker-dealers are defined in 31 CFR 1010.100(h) as those broker-dealers required to register with the Securities and Exchange Commission (SEC). For the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the Small Business Administration (SBA). The SEC has defined the term small entity to mean a broker or dealer that: (1) Had total capital (net worth plus subordinated liabilities) of less than $500,000 on the date in the prior fiscal year as of which its audited financial statements were prepared pursuant to Rule 17a–5(d) or, if not required to file such statements, a broker or dealer that had total capital (net worth plus subordinated debt) of less than $500,000 on the last business day of the preceding fiscal year (or in the time that it has been in business if shorter); and (2) is not affiliated with any person (other than a natural person) that is not a small business or small organization as defined in this release.[22] Based on SEC estimates, 17 percent of broker-dealers are classified as small entities for purposes of the RFA.[23]

Futures commission merchants (FCMs) are defined in 31 CFR 1010.100(x) as those FCMs that are registered or required to be registered as a FCM with the Commodity Futures Trading Commission (CFTC) under the Commodity Exchange Act (CEA), except persons who register pursuant to section 4f(a)(2) of the CEA, 7 U.S.C. 6f(a)(2). Because FinCEN and the CFTC regulate substantially the same population, for the purposes of the RFA, FinCEN relies on the CFTC's definition of small business as previously submitted to the SBA. In the CFTC's ''Policy Statement and Establishment of Definitions of 'Small Entities' for Purposes of the Regulatory Flexibility Act,'' the CFTC concluded that registered FCMs should not be considered to be small entities for purposes of the RFA.[24] The CFTC's determination in this regard was based, in part, upon the obligation of registered FCMs to meet the capital requirements established by the CFTC.

For purposes of the RFA, an introducing broker-commodities dealer is considered small if it has less than $35,500,000 in gross receipts annually.[25] Based on information provided by the National Futures Association, 95 percent of introducing brokers-commodities dealers have less than $35.5 million in adjusted net capital and are considered to be small entities.

Mutual funds are defined in 31 CFR 1010.100(gg) as those investment companies that are open-end investment companies that are registered or are required to register with the SEC. For the purposes of the RFA, FinCEN relies on the SEC's definition of small business as previously submitted to the SBA. The SEC has defined the term ''small entity'' under the Investment Company Act to mean ''an investment company that, together with other investment companies in the same group of related investment companies, has net assets of $50 million or less as of the end of its most recent fiscal year.'' [26] Based on SEC estimates, seven percent of mutual funds are classified as ''small entities'' for purposes of the RFA under this definition.[27]

As noted above, 80 percent of banks, 92.5 percent of credit unions, 17 percent of broker-dealers, 95 percent of introducing broker-commodities dealers, no FCMs, and seven percent of mutual funds are small entities.

### *B. Description of the Projected Reporting and Recordkeeping Requirements of the Fifth Special Measure*

The imposition of the fifth special measure requires covered financial institutions to provide a notification intended to aid cooperation from foreign correspondent account holders in preventing transactions involving North Korean financial institutions from being processed by the U.S. financial system. FinCEN estimates that the burden on institutions providing this notice is one hour. Covered financial institutions are also required to take reasonable measures to detect use of their correspondent accounts to process transactions involving North Korean financial institutions.

All U.S. persons, including U.S. financial institutions, currently must comply with OFAC sanctions, and U.S. financial institutions have suspicious activity reporting requirements. U.S. financial institutions are currently subject to a range of sanctions prohibitions related to North Korea, which has limited their direct exposure to the North Korean financial system. More recently, on March 15, 2016, the President issued Executive Order 13722, which places additional sanctions on North Korea and has the effect of generally prohibiting U.S. financial institutions from processing transactions involving persons located in North Korea and the North Korean government, unless authorized by OFAC or exempt.[28] Therefore, current transactional activity between U.S. financial institutions and North Korean banks is very constricted. Further, North Korea is subject to a range of United Nations sanctions resolutions and it has been consistently recognized by the FATF for its AML deficiencies. The special due diligence that is required

[19] *Table of Small Business Size Standards Matched to North American Industry Classification System Codes,* Small Business Administration Size Standards (SBA Feb. 26, 2016) [hereinafter ''*SBA Size Standards*'']. (*https://www.sba.gov/sites/default/files/files/Size_Standards_Table.pdf*).

[20] Federal Deposit Insurance Corporation, *Find an Institution, http://www2.fdic.gov/idasp/main.asp; select* Size or Performance: Total Assets, *type* Equal or less than $: ''550000'' and *select* Find.

[21] National Credit Union Administration, *Credit Union Data, http://webapps.ncua.gov/customquery/; select* Search Fields: Total Assets, *select* Operator: Less than or equal to, *type* Field Values: ''550,000,000'' and *select* Go.

[22] 17 CFR 240.0–10(c).

[23] 76 FR 37572, 37602 (June 27, 2011) (the SEC estimates 871 small broker-dealers of the 5,063 total registered broker-dealers).

[24] 47 FR 18618, 18619 (Apr. 30, 1982).

[25] SBA Size Standards at 28.

[26] 17 CFR 270.0–10.

[27] 78 FR 23637, 23658 (April 19, 2013).

[28] *See* E.O. 13722 ''Blocking Property of the Government of North Korea and the Workers Party of Korea, and Prohibiting Certain Transactions With Respect to North Korea'' (2016) (*https://www.gpo.gov/fdsys/pkg/FR-2016-03-18/pdf/FR-2016-03-18.pdf*).

under this rule—*i.e.,* the transmittal of notice to certain correspondent account holders, the screening of transactions to identify any use of correspondent accounts, and the implementation of risk-based measures to detect use of correspondent accounts—will not impose a significant additional economic burden upon small U.S. financial institutions.

*C. Certification*

For these reasons, FinCEN certifies that this final rulemaking would not have a significant impact on a substantial number of small businesses.

**VII. Paperwork Reduction Act**

The collection of information contained in this rule is being submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), and has been assigned OMB Control Number 1506–0071. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number.

*A. Information Collection Under the Fifth Special Measure*

The notification requirement in section 1010.659(b)(3)(i)(A) is intended to aid cooperation from correspondent account holders in denying North Korea access to the U.S. financial system. The information required to be maintained by section 1010.659(b)(4)(i) will be used by federal agencies and certain self-regulatory organizations to verify compliance by covered financial institutions with the provisions of 31 CFR 1010.659. The collection of information is mandatory.

*Description of Affected Financial Institutions:* Banks, broker-dealers in securities, futures commission merchants and introducing brokers-commodities, money services businesses, and mutual funds.

*Estimated Number of Affected Financial Institutions:* 5,000.

*Estimated Average Annual Burden in Hours per Affected Financial Institution:* The estimated average burden associated with the collection of information in this rule is one hour per affected financial institution.

*Estimated Total Annual Burden:* 5,000 hours.

**VIII. Executive Order 12866**

Executive Orders 12866 and 13563 direct agencies to assess costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility. It has been determined that this rule is not a ''significant regulatory action'' for purposes of Executive Order 12866.

**List of Subjects in 31 CFR Part 1010**

Administrative practice and procedure, Banks and banking, Brokers, Counter-money laundering, Counter-terrorism, Foreign banking.

**Authority and Issuance**

For the reasons set forth in the preamble, part 1010, chapter X of title 31 of the Code of Federal Regulations, is amended as follows:

## PART 1010—GENERAL PROVISIONS

■ 1. The authority citation for part 1010 continues to read as follows:

**Authority:** 12 U.S.C. 1829b and 1951–1959; 31 U.S.C. 5311–5314, 5316–5332; Title III, sec. 314 Pub. L. 107–56, 115 Stat. 307; sec. 701 Pub. L. 114–74, 129 Stat. 599.

■ 2. Subpart F of part 1010 is amended by adding § 1010.659 to read as follows:

**§ 1010.659 Special measures against North Korea.**

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

(1) *North Korean banking institution* means any bank organized under North Korean law, or any agency, branch, or office located outside the United States of such a bank.

(2) *North Korean financial institution* means all branches, offices, or subsidiaries of any foreign financial institution, as defined at § 1010.605(f), chartered or licensed by North Korea, wherever located, including any branches, offices, or subsidiaries of such a financial institution operating in any jurisdiction, and any branch or office within North Korea of any foreign financial institution.

(3) *Foreign bank* has the same meaning as provided in § 1010.100(u).

(4) *Correspondent account* has the same meaning as provided in § 1010.605(c)(1)(i).

(5) *Covered financial institution* has the same meaning as provided in § 1010.605(e)(1).

(6) *Subsidiary* means a company of which more than 50 percent of the voting stock or analogous equity interest is owned by another company.

(b) *Prohibition on accounts and due diligence requirements for covered financial institutions*—(1) *Opening or maintenance of correspondent accounts for a North Korean banking institution.* A covered financial institution shall not open or maintain in the United States a correspondent account for, or on behalf of, a North Korean banking institution.

(2) *Prohibition on use of correspondent accounts involving North Korean financial institutions.* A covered financial institution shall take reasonable steps to not process a transaction for the correspondent account of a foreign bank in the United States if such a transaction involves a North Korean financial institution.

(3) *Special due diligence of correspondent accounts to prohibit use.* (i) A covered financial institution shall apply special due diligence to its foreign correspondent accounts that is reasonably designed to guard against their use to process transactions involving North Korean financial institutions. At a minimum, that special due diligence must include:

(A) Notifying those foreign correspondent account holders that the covered financial institution knows or has reason to believe provide services to a North Korean financial institution that such correspondents may not provide a North Korean financial institution with access to the correspondent account maintained at the covered financial institution; and

(B) Taking reasonable steps to identify any use of its foreign correspondent accounts by a North Korean financial institution, to the extent that such use can be determined from transactional records maintained in the covered financial institution's normal course of business.

(ii) A covered financial institution shall take a risk-based approach when deciding what, if any, other due diligence measures it reasonably must adopt to guard against the use of its foreign correspondent accounts to process transactions involving North Korean financial institutions.

(iii) A covered financial institution that knows or has reason to believe that a foreign bank's correspondent account has been or is being used to process transactions involving a North Korean financial institution shall take all appropriate steps to further investigate and prevent such access, including the notification of its correspondent account holder under paragraph (b)(3)(i)(A) of this section and, where necessary, termination of the correspondent account.

(4) *Recordkeeping and reporting.* (i) A covered financial institution is required to document its compliance with the

notice requirement set forth in paragraph (b)(3)(i)(A) of this section.

(ii) Nothing in this paragraph (b) shall require a covered financial institution to report any information not otherwise required to be reported by law or regulation.

Dated: November 4, 2016.

**Jamal El-Hindi,**

*Acting Director, Financial Crimes Enforcement Network.*

[FR Doc. 2016–27049 Filed 11–8–16; 8:45 am]

**BILLING CODE 4810–02–P**

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket No. USCG–2016–0954]**

## Eighth Coast Guard District Annual Safety Zones; Duquesne Light/Santa Spectacular; Monongahela River Mile 0.00–0.22, Allegheny River Mile 0.00–0.25, Ohio River Mile 0.0–0.3; Pittsburgh, Pennsylvania

**AGENCY:** Coast Guard, DHS.

**ACTION:** Notice of enforcement of regulation.

**SUMMARY:** The Coast Guard will enforce a safety zone for the Duquesne Light/Santa Spectacular on the Monongahela River mile 0.00–0.22, Allegheny River mile 0.00–0.25, and Ohio River mile 0.0–0.3 extending the entire width of the three rivers. This zone is needed to protect vessels transiting the area and event spectators from the hazards associated with the barge based firework event. During the enforcement period, entry into, transiting, or anchoring in the safety zone is prohibited to all vessels not registered with the sponsor as participants or official patrol vessels, unless specifically authorized by the Captain of the Port (COTP) Pittsburgh or a designated representative.

**DATES:** The regulations in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 66 will be enforced from 8 p.m. until 9:15 p.m. on November 18, 2016.

**FOR FURTHER INFORMATION CONTACT:** If you have questions about this notice of enforcement, call or email MST1 Jennifer Haggins, Marine Safety Unit Pittsburgh, U.S. Coast Guard; telephone 412–221–0807, email *Jennifer.L.Haggins@uscg.mil.*

**SUPPLEMENTARY INFORMATION:** The Coast Guard will enforce the Safety Zone for the annual Pittsburgh Santa Spectacular listed in 33 CFR 165.801 Table 1, Sector Ohio Valley, No. 66 from 8 p.m. to 9:15 p.m. on November 18, 2016. This action is being taken to provide for the safety of life on navigable waterways during the marine event. Entry into the safety zone is prohibited unless authorized by the COTP or a designated representative. Persons or vessels desiring entrance into or passage through the safety zone must request permission from the COTP or a designated representative. If permission is granted, all persons and vessels shall comply with the instructions of the COTP or designated representative. Vessels may safely transit outside the regulated area but may not anchor, block, loiter in, or impede the regulated area.

This notice of enforcement is issued under authority of 33 CFR 165.801 and 5 U.S.C. 552(a). In addition to this notice in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via Local Notice to Mariners and updates via Marine Information Broadcasts.

**L. Mcclain, Jr.,**

*Commander, U.S. Coast Guard, Captain of the Port Pittsburgh.*

[FR Doc. 2016–27003 Filed 11–8–16; 8:45 am]

**BILLING CODE 9110–04–P**

## ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Part 52

**[EPA–R06–OAR–2016–0329; FRL–9954–36–Region 6]**

## Approval and Promulgation of Implementation Plans: Texas; Approval of Substitution for Transportation Control Measures

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; notice of administrative change.

**SUMMARY:** The Environmental Protection Agency (EPA) is making an administrative change to update the Code of Federal Regulations (CFR) to reflect a change made to the Texas State Implementation Plan (SIP) on May 31, 2016, as a result of EPA's concurrence on a substitute transportation control measure (TCM) for the Dallas/Ft. Worth (DFW) portion of the Texas SIP. On August 16, 2016, the State of Texas, through the Texas Commission on Environmental Quality (TCEQ), submitted a revision to the Texas SIP requesting that EPA update its SIP to reflect a substitution of a TCM. The substitution was made pursuant to the TCM substitution provisions contained in the Clean Air Act (CAA). EPA concurred on this substitution on May 31, 2016. In this administrative action, EPA is updating the non-regulatory provisions of the Texas SIP to reflect the substitution. In summary, the substitution was a replacement of a High-Occupancy Vehicle (HOV) Lane TCM within the DFW 8-hour ozone nonattainment area with traffic signalization projects. EPA has determined that this action falls under the ''good cause'' exemption in the Administrative Procedures Act (APA) which, upon finding ''good cause,'' authorizes an agency to make an action effective immediately, thereby avoiding the 30-day delayed effective date otherwise provided for in the APA.

**DATES:** This action is effective November 9, 2016.

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA–R06–OAR–2016–0329. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.,* Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas 75202–2733.

**FOR FURTHER INFORMATION CONTACT:** Jeffrey Riley, 214–665–8542, *riley.jeffrey@epa.gov.*

**SUPPLEMENTARY INFORMATION:** On May 31, 2016, EPA issued a concurrence letter to TCEQ stating that the substitution of the DFW area US67/IH–35E HOV Lane TCM with traffic signalization project TCMs met the CAA section 176(c)(8) requirements for substituting TCMs in an area's approved SIP. *See also* EPA's Guidance for Implementing the CAA section 176(c)(8) Transportation Control Measure Substitution and Addition Provision contained in the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users which was signed into law on August 10, 2005, dated January 2009. The DFW area US67/IH–35E HOV Lane TCM was originally approved into the SIP on September 27, 2005 (70 FR 56374).[1] The

[1] EPA's May 31, 2016 concurrence letter to TCEQ provided an incorrect SIP citation for EPA approval of the US67/IH–35E HOV Lane TCM. September 27, 2005 (70 FR 56374) is the correct SIP citation.

TCM was also included for applicable $NO_X$ and VOC benefits in the May 2007 DFW 1997 8-hour Ozone Attainment Demonstration SIP Revision, which was conditionally approved by EPA on January 14, 2009 (74 FR 1903).

As a part of the concurrence process, the public was provided an opportunity to comment on the proposed TCM substitution. Public notice and comment was provided by the DFW metropolitan planning organization, the North Central Texas Council of Governments (NCTCOG), during a Regional Transportation Council meeting held on May 12, 2016. Public notice for this meeting was published in 20 DFW area newspapers and circulars.

Through this concurrence process, EPA determined that the requirements of CAA section 176(c)(8) were met, including the requirement that the substitute measures achieve equivalent or greater emission reductions than the control measure to be replaced. Upon EPA's concurrence, the HOV Lane substitution took effect as a matter of federal law. A copy of EPA's concurrence letter is included in the Docket for this action. This letter can be accessed at *www.regulations.gov* using Docket ID No. EPA–R06–OAR–2014–0871. In accordance with the requirements for TCM substitution, on August 16, 2016, TCEQ submitted a request for EPA to update the DFW portion of the Texas SIP to reflect EPA's previous approval of the TCM substitution of the HOV Lane with the traffic signalization project TCMs in its SIP (the subject of this administrative change). Today, EPA is taking administrative action to update the non-regulatory provisions of the Texas SIP in 40 CFR 52.2270(e) to reflect EPA's concurrence on the substitution of a TCM for the conversion of the US67/IH–35E HOV Lane to traffic signalization projects:

| Name of nonregulatory SIP provision | Applicable geographic or nonattainment area | State submittal date/effective date |
|---|---|---|
| DFW nine-county area US67/IH–35E HOV Lane TCM to traffic signalization TCMs. Affected counties are Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman, Rockwall. | Dallas-Fort Worth | 8/16/2016 |

Under section 553 of the APA, an agency may find good cause where procedures are ''impractical, unnecessary, or contrary to the public interest.'' The substitution was made through the process included in CAA section 176(c)(8). Effective immediately, today's action codifies provisions which are already in effect. The public had an opportunity to comment on this substitution during the public comment period prior to approval of the substitution. Immediate notice of this action in the **Federal Register** benefits the public by providing the updated Texas SIP Compilation and ''Identification of Plan'' portion of the **Federal Register**.

## Statutory and Executive Order Reviews

### *A. General Requirements*

Under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011), this administrative action is not a ''significant regulatory action'' and is therefore not subject to review by the Office of Management and Budget. This action is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866. Because the Agency has made a ''good cause'' finding that this action is not subject to notice-and-comment requirements under the APA or any other statute as indicated in the Supplementary Information section above, it is not subject to the regulatory flexibility provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), or to sections 202 and 205 of the Unfunded Mandates Reform Act (UMRA) of 1995 (Pub. L. 104–4). In addition, this action does not significantly or uniquely affect small governments or impose a significant intergovernmental mandate, as described in sections 203 and 204 of UMRA.

This administrative action also does not have a substantial direct effect on one or more Indian tribes, on the relationship between the federal government and Indian tribes, or on the distribution of power and responsibilities between the federal government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), nor will it 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, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999).

This administrative action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant. This administrative action does not involve technical standards; thus the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. The administrative action also does not involve special consideration of environmental justice related issues as required by Executive Order 12898 (59 FR 7629, February 16, 1994). This administrative action does not impose an information collection burden under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act (CRA) (5 U.S.C. 801 *et seq.*), as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. Section 808 allows the issuing agency to make a rule effective sooner than otherwise provided by the CRA if the agency makes a good cause finding that notice and public procedure is impracticable, unnecessary or contrary to the public interest. Today's administrative action simply codifies a provision which is already in effect as a matter of law in Federal and approved state programs. 5 U.S.C. 808(2). These announced actions were effective upon EPA's concurrence. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of this action in the **Federal Register**. This update to Texas' SIP Compilation is not a ''major rule'' as defined by 5 U.S.C. 804(2).

## List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by

reference, Nitrogen dioxide, Ozone, Volatile organic compounds.

Dated: October 27, 2016.

**Samuel Coleman,**

*Acting Regional Administrator, Region 6.*

40 CFR part 52 is amended as follows:

## PART 52—[APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS]

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

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

## Subpart SS—Texas

■ 2. In § 52.2270(e), the table titled ''EPA Approved Nonregulatory Provisions and Quasi-Regulatory Measures in the Texas SIP'' is amended by adding an entry at the end of the table to read as follows:

**§ 52.2270 Identification of plan.**

* * * * *

(e) * * *

EPA APPROVED NONREGULATORY PROVISIONS AND QUASI-REGULATORY MEASURES IN THE TEXAS SIP

| Name of SIP provision | Applicable geographic or nonattainment area | State submittal/ effective date | EPA approval date | Comments |
|---|---|---|---|---|
| * * | * * | | * * | * |
| DFW nine-county area US67/IH–35E HOV Lane TCM to traffic signalization TCMs. | Dallas-Fort Worth: Dallas, Tarrant, Collin, Denton, Parker, Johnson, Ellis, Kaufman and Rockwall Counties. | 8/16/2016 | 11/9/2016 [Insert **Federal Register** citation]. | |

* * * * *

[FR Doc. 2016–27057 Filed 11–8–16; 8:45 am]

**BILLING CODE 6560–50–P**

## DEPARTMENT OF TRANSPORTATION

## National Highway Traffic Safety Administration

## 49 CFR Part 571

**[Docket No. NHTSA–2016–0058]**

**RIN 2127–AL24**

## Federal Motor Vehicle Safety Standards; Tire Selection and Rims

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

**ACTION:** Final rule.

**SUMMARY:** This document amends Federal Motor Vehicle Safety Standard (FMVSS) No. 110 to make it clear that special trailer (ST) tires are permitted to be installed on new trailers with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 lbs.) or less. It also excludes these trailers from a requirement that a tire must be retained on its rim when subjected to a sudden loss of tire pressure and brought to a controlled stop from 97 km/h (60 mph). The agency proposed these changes and, after a review of the comments received, has determined that these two revisions are appropriate and will not result in any degradation of motor vehicle safety.

**DATES:** This final rule is effective on November 9, 2016.

*Petitions for reconsideration:* Petitions for reconsideration of this final rule must be received by December 27, 2016.

**ADDRESSES:** Petitions for reconsideration of this final rule must refer to the docket number set forth above and be submitted to the Administrator, National Highway Traffic Safety Administration, 1200 New Jersey Ave. SE., Washington, DC 20590.

**FOR FURTHER INFORMATION CONTACT:** For technical issues, you may contact Patrick Hallan, Office of Crash Avoidance Standards, by telephone at (202) 366–9146, and by fax at (202) 493–2990. For legal issues, you may contact David Jasinski, Office of the Chief Counsel, by telephone at (202) 366–2992, and by fax at (202) 366–3820. You may send mail to both of these officials at the National Highway Traffic Safety Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

**SUPPLEMENTARY INFORMATION:**

### I. Summary of the March 2013 Notice of Proposed Rulemaking

On June 26, 2003, the agency published a final rule amending several Federal Motor Vehicle Safety Standards (FMVSSs) related to tires and rims.[1] That rulemaking was completed as part of a comprehensive upgrade of existing safety standards and the establishment of new safety standards to improve tire safety, as required by the Transportation Recall Enhancement, Accountability, and Documentation Act of 2000 (TREAD Act). That final rule included extensive revisions to the tire standards and to the rim and labeling requirements for motor vehicles.

That final rule expanded the applicability of FMVSS No. 110 to include all motor vehicles with a gross vehicle weight rating (GVWR) of 4,536 kg (10,000 pounds) or less, except for motorcycles. Prior to the enactment of the TREAD Act, FMVSS No. 110 only applied to passenger cars and to non-pneumatic spare tire assemblies for use on passenger cars. In an effort to coordinate the upgraded vehicle standard, intended to apply to all vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, with the standards used on tires for vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, the language in FMVSS No. 110 was amended to require the use of tires meeting the new FMVSS No. 139, New pneumatic radial tires for light vehicles. The only exceptions provided in FMVSS No. 110 were for the use of spare tire assemblies with pneumatic spare tires meeting the requirements of FMVSS No. 109 or non-pneumatic spare tire assemblies meeting the requirements of FMVSS No. 129.

With the expansion of FMVSS No. 110 to include all motor vehicles with a GVWR of 4,536 kg (10,000 pounds) or less, the performance tests and criteria within the standard became applicable to all light vehicles, including light trucks, multipurpose passenger vehicles, buses, and trailers that had previously been subject to the requirements of FMVSS No. 120. However, FMVSS No. 110 specified a minimum performance requirement for rim retention among its many

[1] 68 FR 38116.

requirements. This requirement was not previously included in FMVSS No. 120 and, therefore, was not applicable to light trucks, multipurpose passenger vehicles, buses, and trailers. The effective date for these requirements was September 1, 2007, which provided approximately four years of lead time from publication of the final rule.[2]

After the 2003 rule took effect, the Recreational Vehicle Industry Association (RVIA) shared two concerns with NHTSA that the trailer manufacturing industry had with FMVSS No. 110. First, RVIA and its members stated, from a literal reading of S4.1 of FMVSS No. 110, that special trailer (ST) tires and tires with rim diameter codes of 12 or below cannot be equipped on new trailers that are under 4,536 kg (10,000 pounds) or less because that section only permits FMVSS No. 139-compliant tires to be equipped on trailers. Second, RVIA and its members questioned the need for the rim retention requirement for trailers in S4.4.1(b) and whether the dynamic rapid tire deflation test specified in that section could be conducted on trailers.

After reviewing these concerns, NHTSA issued, on its own initiative, a notice of proposed rulemaking (NPRM) of March 13, 2013, proposing amendments to FMVSS No. 110 to address RVIA's concerns.[3] Specifically, NHTSA proposed to amend FMVSS No. 110 to make clear that ST tires and tires with rim diameter codes of 12 or below can be installed on new trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Second, NHTSA proposed to amend FMVSS No. 110 to exclude these trailers from the requirement that a tire must be retained on its rim when subjected to a sudden loss of tire pressure and brought to a controlled stop from 97 km/h (60 mph). NHTSA tentatively determined that these two revisions would be appropriate and would not result in any degradation of motor vehicle safety.

## II. Summary of Comments

NHTSA received six comments on the proposal.[4] RVIA, the National Marine Manufacturers Association, and the National Association of Trailer Manufacturers were fully supportive of the proposal. The Tire and Rim Association (TRA) suggested two revisions to the proposal, both of which were also supported by the Rubber Manufacturers Association (RMA). First, TRA suggested the addition of farm implement (FI) tires to the list of tire types that are allowed to be equipped on trailers. Second, TRA suggested that, with respect to ST tires, FI tires, and tires with rim diameter codes of 12 or below, NHTSA require such tires to be compliant with FMVSS No. 119 rather than FMVSS No. 109. NHTSA also received a comment from an individual, Mr. Steve Brady. Mr. Brady expressed concern about the safety impact from excluding trailers from the rim retention requirement.

## III. Response to Comments

### *A. Use of ST Tires on Trailers With a GVWR of 4,536 kg (10,000 Pounds) or Less*

As stated in the March 2013 NPRM, NHTSA believes that S4.1 unnecessarily and unintentionally restricts the types of tires that can be used on light trailers. None of the commenters who addressed the issue opposed allowing ST tires and tires with a rim diameter code of 12 of less to be used on light trailers. NHTSA has not identified any increased safety risk associated with the use of ST tires and tires with rim diameter code of 12 or less on light trailers. Accordingly, NHTSA is finalizing its proposal to allow ST tires and tires with a rim diameter code of 12 or less to be equipped on light trailers.

TRA's comments, supported by RMA, suggest two additions to the proposal that require brief explanation. First, TRA suggested that FI tires be added to the list of tires that can be equipped on light trailers. We agree that, as with ST and tires with a rim diameter code of 12 or less, NHTSA did not intend to exclude the use of FI tires on light trailers. Nor have we identified any risks associated with the use of FI tires on light trailers. Accordingly, this final rule adds FI tires to the list of tires that may be equipped on light trailers contained in FMVSS No. 110.

Second, TRA suggested that the language of the proposal requiring that ST tires and tires with a rim diameter code of 12 or less be compliant with FMVSS No. 109 be changed to refer to FMVSS No. 119 instead. TRA's rationale behind this comment was that these tires could not be tested using FMVSS No. 109 because FMVSS No. 109 does not contain inflation pressures to use during testing.

After submitting its comments on this issue, in June 2013, TRA submitted a petition for rulemaking requesting that NHTSA clarify that ST tires, FI tires, and tires with a rim diameter code of 12 or less are subject to the requirements of FMVSS No. 119 and not those in FMVSS No. 109.[5] The broader issue of whether and how ST tires, FI tires, and tires with a rim diameter code of 12 or less can meet FMVSS No. 109 are beyond the scope of this rulemaking. That issue may be addressed in NHTSA's response to TRA's petition. For now, NHTSA believes it is sufficient to refer to both FMVSS No. 109 and FMVSS No. 119 as the standards under which ST tires, FI tires, and tires with a rim diameter code of 12 or less may comply.

Therefore, we have revised our proposal to allow ST tires and tires with a rim diameter code of 12 of less that comply with FMVSS No. 109 to be used on light trailers by adding FI tires to the list of allowable tires and by also noting that such tires may also be compliant with FMVSS No. 119.

### *B. Rim Retention Requirement for Trailers*

The commenters, with the exception of Mr. Brady, expressed support for the proposed amendment to exclude trailers from the rim retention requirement. Mr. Brady opposed excluding trailers from the rim retention requirement. He stated that the test could be performed by towing trailers at 60 mph. He also expressed concern with the number of tire failures identified in the NPRM. He directed NHTSA to complaints about a single ST tire model with 85 complaints. Further, he noted that even if injury rates are low, there can be significant property damage resulting from blowouts. He stated that the proposal appears to have been made to lower costs to manufacturers while exposing the public to risk.

In the NPRM, NHTSA noted that 963 complaints had been received containing both the words ''tire'' and ''trailer'', but 942 of those complaints were related to the towing vehicle. Only 10 complaints were related to the tire issues the towed vehicle and 11 were not sufficiently specific to determine whether the complaint was related to the towing vehicle or the trailer.[6] Of the 10 complaints relating to trailer tires, the agency found that only nine complaints are related to tire failure (either blowout or tread separation) of one or more trailer tires. None of the nine VOQs appear to be related to the rim retention requirement, and there were no reported injuries or fatalities mentioned in any of these cases. The 85 complaints about the single model that Mr. Brady referred to in his comments were among the 963 complaints that

[2] See 71 FR 877 (Jan. 6, 2006).

[3] 78 FR 15920.

[4] All of the comments may be viewed at *http://www.regulations.gov* in Docket No. NHTSA–2013–0030.

[5] See Docket No. NHTSA–2013–0004.

[6] These complaints were discussed in more detail in the NPRM. *See* 78 FR 15922.

were reviewed. Based on all of those complaints, NHTSA tentatively concluded that there was no continued safety need to justify the requirement that trailers comply with the rim retention requirement.

Prior to the TREAD Act rulemaking, only vehicles such as passenger cars were subject to the tire retention requirement in FMVSS No. 110, which requires that a tire must be retained on its rim when subjected to a sudden loss of tire pressure. Light trailers were not included because they were covered by FMVSS No. 120. However, after the TREAD Act rulemaking, light trailers and other vehicles such as light trucks and vans were added to FMVSS No. 110. Although the agency only expressly stated its intent to extend the applicability of the rim retention requirement to light trucks and vans, there was no limitation in the regulatory text that excluded trailers or any other vehicle type subject to FMVSS No. 110 from this requirement. The extension of the applicability of this requirement to trailers resulted in the implementation of the first on-road compliance test that NHTSA would conduct on light trailers.

Although Mr. Brady stated that NHTSA could simply require that a trailer be towed at 60 mph in order to conduct the test, the agency notes that neither the text of S4.4.1(b), nor NHTSA's compliance test procedure contemplate the use of a towing vehicle. Without specificity, light trailer manufacturers cannot know how NHTSA would perform compliance testing of the rim retention requirement on trailers. Consequently, light trailer manufacturers would be responsible for certifying that their trailers comply with the rim retention requirement in any towing-towed vehicle configuration, which creates testing and certification issues.

Based upon NHTSA's review of the nine cases of trailer tire failures discussed in the NPRM, the agency found no injuries or fatalities nor was it apparent that any of these cases could be addressed by the rim retention requirement. Based on that information, NHTSA concludes that there are no data available to document a safety problem related to rim retention of trailer tires. NHTSA also concludes that there is no continued safety need for trailers to comply with the rim retention requirements in S4.4.1(b) of FMVSS No. 110. Accordingly, this final rule implements the proposal to exclude trailers from the rim retention requirement. NHTSA does not believe that this change will have any measurable effect on the safety of light trailers.

## IV. Effective Date

This final rule clarifies which tires can be installed on new light trailers and removes the requirement that trailers meet the rim retention requirement in S4.4.1(b) of FMVSS No. 110. It does not impose any substantive requirements. Instead it removes a restriction on the manufacture of light trailers. Consequently, these amendments may be given immediate effect pursuant to 5 U.S.C. 553(d).

Similarly, good cause exists for these amendments to be made effective immediately pursuant to 49 U.S.C. 30111(d). These amendments would allow light trailers to be equipped with tires designated for use on trailers, and it would relieve trailers from a performance requirement for which NHTSA has no associated test for compliance. We do not believe that these amendments will have any measurable effect on the safety of light trailers.

## V. Rulemaking Analyses and Notices

### *A. Executive Order 12866, Executive Order 13563, and DOT Regulatory Policies and Procedures*

NHTSA has considered the impact of this rulemaking action under Executive Order 12866, Executive Order 13563, and the Department of Transportation's regulatory policies and procedures. This rulemaking is not considered significant and was not reviewed by the Office of Management and Budget under E.O. 12866, ''Regulatory Planning and Review.'' The rulemaking action has also been determined not to be significant under the Department's regulatory policies and procedures. The agency has further determined that the impact of this final rule is so minimal as to not warrant the preparation of a full regulatory evaluation.

This final rule will not impose costs upon manufacturers. It clarifies the types of tires that can be installed on new light trailers and removes the rim retention requirement for light trailers. This final rule might result in cost savings to manufacturers associated with the certification of compliance with the rim retention requirement. However, we are unable to quantify any such cost savings. This final rule is not expected to have any impact on safety.

### *B. Regulatory Flexibility Act*

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.,* as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.,* small businesses, small organizations, and small governmental jurisdictions). The Small Business Administration's regulations at 13 CFR part 121 define a small business, in part, as a business entity ''which operates primarily within the United States.'' (13 CFR 121.105(a)). No regulatory flexibility analysis is required if the head of an agency certifies the rule would not have a significant economic impact on a substantial number of small entities. SBREFA amended the Regulatory Flexibility Act to require Federal agencies to provide a statement of the factual basis for certifying that a rule would not have a significant economic impact on a substantial number of small entities.

NHTSA has considered the effects of this final rule under the Regulatory Flexibility Act. I certify that this final rule will not have a significant economic impact on a substantial number of small entities. This final rule would directly impact manufacturers of trailers with a GVWR of 4,536 kg (10,000 lbs.) or less. Although we believe many manufacturers affected by this final rule are considered small businesses, we do not believe this final rule will have a significant economic impact on those manufacturers. This final rule will not impose any costs upon manufacturers and may result in cost savings. This final rule will relieve light trailer manufacturers of the burden and costs associated with the rim retention requirement.

### *C. Executive Order 13132 (Federalism)*

NHTSA has examined today's final rule pursuant to Executive Order 13132 (64 FR 43255, August 10, 1999) and concluded that no additional consultation with States, local governments or their representatives is mandated beyond the rulemaking process. The agency has concluded that the rulemaking would not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a federalism summary impact statement. The final rule would 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.''

NHTSA rules can preempt in two ways. First, the National Traffic and Motor Vehicle Safety Act contains an express preemption provision: When a

motor vehicle safety standard is in effect under this chapter, a State or a political subdivision of a State may prescribe or continue in effect a standard applicable to the same aspect of performance of a motor vehicle or motor vehicle equipment only if the standard is identical to the standard prescribed under this chapter. 49 U.S.C. 30103(b)(1). It is this statutory command by Congress that preempts any non-identical State legislative and administrative law addressing the same aspect of performance.

The express preemption provision described above is subject to a savings clause under which ''[c]ompliance with a motor vehicle safety standard prescribed under this chapter does not exempt a person from liability at common law.'' 49 U.S.C. 30103(e). Pursuant to this provision, State common law tort causes of action against motor vehicle manufacturers that might otherwise be preempted by the express preemption provision are generally preserved. However, the Supreme Court has recognized the possibility, in some instances, of implied preemption of such State common law tort causes of action by virtue of NHTSA's rules, even if not expressly preempted. This second way that NHTSA rules can preempt is dependent upon there being an actual conflict between an FMVSS and the higher standard that would effectively be imposed on motor vehicle manufacturers if someone obtained a State common law tort judgment against the manufacturer, notwithstanding the manufacturer's compliance with the NHTSA standard. Because most NHTSA standards established by an FMVSS are minimum standards, a State common law tort cause of action that seeks to impose a higher standard on motor vehicle manufacturers will generally not be preempted. However, if and when such a conflict does exist—for example, when the standard at issue is both a minimum and a maximum standard—the State common law tort cause of action is impliedly preempted. See *Geier* v. *American Honda Motor Co.,* 529 U.S. 861 (2000).

Pursuant to Executive Order 13132 and 12988, NHTSA has considered whether this rule could or should preempt State common law causes of action. The agency's ability to announce its conclusion regarding the preemptive effect of one of its rules reduces the likelihood that preemption will be an issue in any subsequent tort litigation.

To this end, the agency has examined the nature (*e.g.,* the language and structure of the regulatory text) and objectives of today's rule and finds that this rule, like many NHTSA rules, prescribes only a minimum safety standard. As such, NHTSA does not intend that this rule preempt state tort law that would effectively impose a higher standard on motor vehicle manufacturers than that established by today's rule. Establishment of a higher standard by means of State tort law would not conflict with the minimum standard announced here. Without any conflict, there could not be any implied preemption of a State common law tort cause of action.

*D. Executive Order 12988 (Civil Justice Reform)*

With respect to the review of the promulgation of a new regulation, section 3(b) of Executive Order 12988, ''Civil Justice Reform'' (61 FR 4729; Feb. 7, 1996), requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect; (2) clearly specifies the effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct, while promoting simplification and burden reduction; (4) clearly specifies the retroactive effect, if any; (5) specifies whether administrative proceedings are to be required before parties file suit in court; (6) adequately defines key terms; and (7) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. This document is consistent with that requirement.

Pursuant to this Order, NHTSA notes as follows. The issue of preemption is discussed above. NHTSA notes further that there is no requirement that individuals submit a petition for reconsideration or pursue other administrative proceedings before they may file suit in court.

*E. Protection of Children From Environmental Health and Safety Risks*

Executive Order 13045, ''Protection of Children from Environmental Health and Safety Risks'' (62 FR 19855, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental, health, or safety risk that the agency has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the agency.

This notice is part of a rulemaking that is not expected to have a disproportionate health or safety impact on children. Consequently, no further analysis is required under Executive Order 13045.

*F. Paperwork Reduction Act*

Under the Paperwork Reduction Act of 1995 (PRA), a person is not required to respond to a collection of information by a Federal agency unless the collection displays a valid OMB control number. There is not any information collection requirement associated with this final rule.

*G. National Technology Transfer and Advancement Act*

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) requires NHTSA to evaluate and use existing voluntary consensus standards in its regulatory activities unless doing so would be inconsistent with applicable law (*e.g.,* the statutory provisions regarding NHTSA's vehicle safety authority) or otherwise impractical. Voluntary consensus standards are technical standards developed or adopted by voluntary consensus standards bodies. Technical standards are defined by the NTTAA as ''performance-based or design-specific technical specification and related management systems practices.'' They pertain to ''products and processes, such as size, strength, or technical performance of a product, process or material.''

Examples of organizations generally regarded as voluntary consensus standards bodies include ASTM International, the Society of Automotive Engineers (SAE), and the American National Standards Institute (ANSI). If NHTSA does not use available and potentially applicable voluntary consensus standards, we are required by the Act to provide Congress, through OMB, an explanation of the reasons for not using such standards.

There are no voluntary consensus standards developed by voluntary consensus standards bodies pertaining to this final rule.

*H. Unfunded Mandates Reform Act*

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires federal agencies to prepare a written assessment of the costs, benefits, and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually (adjusted for inflation with base year of

1995). Before promulgating a NHTSA rule for which a written statement is needed, section 205 of the UMRA generally requires the agency to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows the agency to adopt an alternative other than the least costly, most cost-effective, or least burdensome alternative if the agency publishes with the final rule an explanation of why that alternative was not adopted.

This final rule would not result in any expenditure by State, local, or tribal governments or the private sector of more than $100 million, adjusted for inflation.

*I. National Environmental Policy Act*

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that implementation of this action would not have any significant impact on the quality of the human environment.

*J. Regulation Identifier Number (RIN)*

The Department of Transportation assigns a regulation identifier number (RIN) to each regulatory action listed in the Unified Agenda of Federal Regulations. The Regulatory Information Service Center publishes the Unified Agenda in April and October of each year. You may use the RIN contained in the heading at the beginning of this document to find this action in the Unified Agenda.

*K. Privacy Act*

Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78).

**List of Subjects in 49 CFR Parts 571**

Imports, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR part 571 as follows:

## PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

■ 1. The authority citation for part 571 of Title 49 continues to read as follows:

**Authority:** 49 U.S.C. 322, 30111, 30115, 30117, and 30166; delegation of authority at 49 CFR 1.95.

■ 2. Amend § 571.110 by revising S4.1 and S4.4.1(b) introductory text to read as follows:

**§ 571.110 Tire selection and rims and motor home/recreation vehicle trailer load carrying capacity information for motor vehicles with a GVWR of 4,536 kilograms (10,000 pounds) or less.**

* * * * *

S4.1 *General* (a) Subject to the exceptions set forth in S4.1(b), vehicles shall be equipped with tires that meet the requirements of § 571.139.

(b) Notwithstanding the requirement in S4.1(a),

(1) Passenger cars may be equipped with pneumatic T-type temporary spare tire assemblies that meet the requirements of § 571.109 or non-pneumatic spare tire assemblies that meet the requirements of § 571.129 and S6 and S8 of this standard. Passenger cars equipped with a non-pneumatic spare tire assembly shall also meet the requirements of S4.3(e), S5, and S7 of this standard.

(2) Trailers may be equipped with ST tires, FI tires, or tires with a rim diameter code of 12 or below that meet the requirements of § 571.109 or § 571.119.

* * * * *

S4.4.1 * * *

(b) Except for trailers, in the event of rapid loss of inflation pressure with the vehicle traveling in a straight line at a speed of 97 km/h (60 mph), retain the deflated tire until the vehicle can be stopped with a controlled braking application.

* * * * *

Issued on November 3, 2016 in Washington, DC, under authority delegated in 49 CFR 1.95 and 501.5.

**Mark R. Rosekind,**

*Administrator.*

[FR Doc. 2016–27051 Filed 11–8–16; 8:45 am]

BILLING CODE 4910–59–P

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### 50 CFR Part 648

**[Docket No. 160615524–6999–02]**

**RIN 0648–BG13**

## Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Scup Fishery; Framework Adjustment 9

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

**ACTION:** Final rule.

**SUMMARY:** This action changes the southern and eastern boundaries of the Southern Gear Restricted Area, as recommended by the Mid-Atlantic Fishery Management Council. This rule is intended to increase access to traditional squid fishing areas, while maintaining protection for juvenile scup.

**DATES:** Effective December 9, 2016.

**ADDRESSES:** Copies of the Scup Gear Restricted Area Modification Framework, including the draft Environmental Assessment, and the Regulatory Impact Review prepared by the Mid-Atlantic Fishery Management Council in support of this action are available from Dr. Christopher Moore, Executive Director, Mid-Atlantic Fishery Management Council, 800 North State Street, Suite 201, Dover, DE 19901. The supporting documents are also accessible via the Internet at: *http://www.mafmc.org/actions/scup-gear-restricted-areas-framework* or *http://www.greateratlantic.fisheries.noaa.gov/sustainable/species/scup/index.html*.

**FOR FURTHER INFORMATION CONTACT:** Emily Gilbert, Fishery Policy Analyst, phone: 978–281–9244; email: *Emily.Gilbert@noaa.gov*.

**SUPPLEMENTARY INFORMATION:**

### Background

Scup (*Stenotomus chrysops*) is managed jointly by the Mid-Atlantic Fishery Management Council and the Atlantic States Marine Fisheries Commission through the Summer Flounder, Scup, and Black Sea Bass Fishery Management Plan (FMP). The management unit specified in the FMP for scup is U.S. waters of the Atlantic Ocean from 35°13.3′ N. lat. (the latitude of Cape Hatteras Lighthouse, Buxton, NC) northward to the U.S./Canada

border. Currently, the scup stock is not overfished and it is not experiencing overfishing.

When scup was overfished prior to 2009, the Council and NMFS determined that juvenile scup mortality in small-mesh fisheries (*i.e.,* those fisheries using mesh smaller than the minimum size specified in the scup regulations) was highly problematic. Two seasonal Gear Restricted Areas (GRAs) were implemented to prohibit vessels fishing for squid, black sea bass, or silver hake (also known as whiting) from using mesh smaller than the 5.0-inch (12.7-cm) minimum scup mesh size in the areas during certain times of year. The GRAs were implemented in 2000 (May 24, 2000, 65 FR 33486) and modified several times between 2000 and 2005 (December 27, 2000, 65 FR 81761; March 1, 2001, 66 FR 12902; January 2, 2003, 68 FR 60; January 4, 2005, 70 FR 303). Details on the changes to the GRAs are described in those actions and are not repeated here. Most often the changes were enacted to accommodate access for one of the regulated small-mesh fisheries, while still maintaining an effective level of protection for juvenile scup. The GRAs in their current forms have been in effect since 2003 (Northern GRA) and 2005 (Southern GRA). Scup has been considered rebuilt since 2009 and is currently estimated to be approximately 210 percent of the biomass target. Research by the Northeast Fisheries Science Center suggests that minimizing juvenile mortality in the GRAs likely contributed to the recovery and expansion of the scup population. This action only modifies the Southern GRA. The Northern GRA remains unchanged.

The background on the Council's development of this action is described in the proposed rule and not repeated here (August 18, 2016, 81 FR 55166).

**Final Southern GRA Modifications**

This action removes the southern portions of the GRA that overlap statistical areas 631 and 632. Additionally, this action shifts the eastern boundary of the Southern GRA west, roughly following the outermost points of the proposed Deep-Sea Coral Protection Areas (September 26, 2016, 81 FR 66245). If approved, the Council's pending Deep-Sea Coral Amendment would implement area closures that would further restrict access to several canyon areas year-round. Many of these canyons are partially contained within the current boundaries of the Southern GRA, and this action would align those boundaries. The current and final Southern GRA are shown in the figure below. The updated Southern GRA coordinates are provided in the final regulatory text.

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**Figure 1. Current and Updated Southern Gear Restricted Areas**

BILLING CODE 3510–22–C

The Council designed these modifications to minimize overlap between the GRA and the recommended discrete deep-sea coral areas. The eastern boundary is intended to restore access to the squid fishery in areas approximately 55 to 60 fathoms (100 to 110 m) and deeper. The shift of the southern boundary north is based on analysis suggesting there are very few scup in statistical areas 631 and 632 from January through March. This action will marginally reduce the amount of protection for the scup stock in return for a modest increase in squid availability. The updated Southern GRA is smaller than the current one; slightly reducing coverage of the scup estimated to be covered by the GRA. However, analysis shows that this change will result in a modest increase in access for the squid and whiting fisheries and a slight increase in the availability of black sea bass in the GRA from January 1–March 15. It is important to note, however, that the amount of each stock (by weight) currently estimated to be within the GRA during the winter is only a small fraction of the total stock abundance. As a result, we do not expect the boundary changes to compromise the scup stock or result in overfishing for squid, black sea bass, or whiting.

**Comments and Responses**

We received five comments on the measures outlined in the August 18, 2016 (81 FR 55166), proposed rule. All commenters expressed their support for the boundary modifications, noting the importance of balancing the needs of the squid fishing industry with the ability to protect juvenile scup.

One commenter also suggested that NMFS and the Council continue to monitor the squid fishery in the modified GRA area to see how the squid fishery benefits from these changes and how scup discards may be affected. Although we do not expect this boundary change to compromise the scup stock or result in overfishing for squid, black sea bass, or whiting, we agree that continued review of scup discards in this area is important. The Council can further modify this GRA in a future framework adjustment action if available information indicates the need to do so.

**Changes From Proposed Rule**

The Southern GRA coordinates at § 648.124(a)(1) are slightly adjusted from those presented in the proposed rule to remove an extraneous point and to better align with the coordinates

proposed for the Deep-Sea Coral Protection Areas.

## Classification

Pursuant to section 304(b)(1)(A) of the Magnuson-Stevens Act, the Assistant Administrator has determined that this final rule is consistent with the Summer Flounder, Scup, and Black Sea Bass FMP, other provisions of the Magnuson-Stevens Act, and other applicable law.

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification. As a result, a regulatory flexibility analysis is not required and none has been prepared.

There are no new reporting or recordkeeping requirements contained in any of the alternatives considered for this action.

## List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: November 3, 2016.

**Samuel D. Rauch III,**

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

For the reasons stated in the preamble, 50 CFR part 648 is amended as follows:

## PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

■ 1. The authority citation for part 648 continues to read as follows:

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

■ 2. In § 648.124, revise paragraph (a)(1) to read as follows:

### § 648.124 Scup commercial season and commercial fishery area restrictions.

(a) *Southern Gear Restricted Area*—(1) *Restrictions.* From January 1 through March 15, all trawl vessels in the Southern Gear Restricted Area that fish for or possess non-exempt species as specified in paragraph (a)(2) of this section must fish with nets that have a minimum mesh size of 5.0-inch (12.7-cm) diamond mesh, applied throughout the codend for at least 75 continuous meshes forward of the terminus of the net. For trawl nets with codends (including an extension) of fewer than 75 meshes, the entire trawl net must have a minimum mesh size of 5.0 inches (12.7 cm) throughout the net. The Southern Gear Restricted Area is an area bounded by straight lines connecting the following points in the order stated (copies of a chart depicting the area are available from the Regional Administrator upon request):

SOUTHERN GEAR RESTRICTED AREA

| Point | Latitude | Longitude |
|---|---|---|
| SGA1 | 39°20′ N | 72°37′ W. |
| SGA2 | 39°4.38′ N | 72°47.22′ W. |
| SGA3 | 38°28.65′ N | 73°29.37′ W. |
| SGA4 | 38°29.72′ N | 73°30.65′ W. |
| SGA5 | 38°26.32′ N | 73°33.44′ W. |
| SGA6 | 38°25.08′ N | 73°34.99′ W. |
| SGA7 | 38°13.15′ N | 73°49.77′ W. |
| SGA8 | 38°13.74′ N | 73°50.73′ W. |
| SGA9 | 38°11.98′ N | 73°52.65′ W. |
| SGA10 | 37°29.53′ N | 74°29.95′ W. |
| SGA11 | 37°29.43′ N | 74°30.29′ W. |
| SGA12 | 37°28.6′ N | 74°30.6′ W. |
| SGA13 | 37°6.97′ N | 74°40.8′ W. |
| SGA14 | 37°5.83′ N | 74°45.57′ W. |
| SGA15 | 37°4.43′ N | 74°41.03′ W. |
| SGA16 | 37°3.5′ N | 74°40.39′ W. |
| SGA17 | 37° N | 74°43′ W. |
| SGA18 | 37° N | 75°3′ W. |
| SGA19 | 38° N | 74°23′ W. |
| SGA20 | 39°20′ N | 72°53′ W. |
| SGA1 | 39°20′ N | 72°37′ W. |

* * * * *

[FR Doc. 2016–27020 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–22–P

# Proposed Rules

Federal Register
Vol. 81, No. 217
Wednesday, November 9, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## NUCLEAR REGULATORY COMMISSION

### 10 CFR Part 34

**[Docket No. PRM–34–7; NRC–2016–0182]**

## Individual Monitoring Devices for Industrial Radiographic Personnel

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Petition for rulemaking; notice of docketing and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) has received a petition for rulemaking (PRM), dated July 14, 2016, from Dr. Arny Bereson of the Nondestructive Testing Management Association (NDTMA) and Mr. Walt Cofer of the American Society for Nondestructive Testing (ASNT). The petitioners request that the NRC amend its regulations to authorize use of improved individual monitoring devices for industrial radiographic personnel. The PRM was docketed by the NRC on August 12, 2016, and has been assigned Docket No. PRM–34–7. The NRC is examining the issues raised in PRM–34–7 to determine whether they should be considered in rulemaking.

**DATES:** Submit comments by January 23, 2017. Comments received after this date will be considered if it is practical to do so, but the NRC is able to assure consideration only for comments received on or before this date.

**ADDRESSES:** You may submit comments by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0182. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *Email comments to: Rulemaking.Comments@nrc.gov.* If you do not receive an automatic email reply confirming receipt, then contact us at 301–415–1677.
- *Fax comments to:* Secretary, U.S. Nuclear Regulatory Commission at 301–415–1101.
- *Mail comments to:* Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, ATTN: Rulemakings and Adjudications Staff.
- *Hand deliver comments to:* 11555 Rockville Pike, Rockville, Maryland 20852, between 7:30 a.m. and 4:15 p.m. (Eastern Time) Federal workdays; telephone: 301–415–1677.

For additional direction on obtaining information and submitting comments, see ''Obtaining Information and Submitting Comments'' in the **SUPPLEMENTARY INFORMATION** section of this document.

**FOR FURTHER INFORMATION CONTACT:** Edward Lohr, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–0253, email: *Edward.Lohr@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2016–0182 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2016–0182.
- *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–2016–0182 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. The Petitioners

The petition was filed jointly by Dr. Arny Bereson and Mr. Walt Cofer on behalf of NDTMA and the ASNT. The petitioners state, among other things, that the NDTMA is a ''U.S. non-profit organization dedicated to nondestructive testing (NDT) management, technology and regulation.'' In addition, the petitioners state that the ASNT is a ''U.S. non-profit technical society for NDT professionals that provides a forum for exchange of NDT technical information, NDT educational materials and programs, and standards and services for the qualification and certification of NDT personnel. The ASNT promotes NDT as a profession and facilitates NDT research and technology applications. As an independent certifying entity, the ASNT operates the only non-state-administered radiographer radiation safety certification program in the U.S.A.''

### III. The Petition

The petitioners request that the NRC amend its regulations to authorize use of particular individual monitoring devices for industrial radiographic personnel. Specifically, the petitioners

request authorization to use ''improved electronic personnel monitoring dosimeters'' and ''dual-function alarming rate meters and electronic dosimeters.'' The PRM is available in ADAMS under Accession No. ML16228A045.

## IV. Discussion of the Petition

The petitioners propose that the NRC (1) amend parts 20 and 34 of title 10 of the *Code of Federal Regulations* (10 CFR); and (2) change the guidance in NUREG–1556, Vol. 2, ''Consolidated Guidance About Materials Licenses; Program-Specific Guidance About Industrial Radiography Licenses'' (ADAMS Accession No. ML16062A091), to reflect the changes in the proposed amendments.

The petitioners propose NRC amend 10 CFR 34.47(a) to authorize the use of dual-function electronic dosimeters (ED) and alarm ratemeters (ARM) in place of separate devices. The petitioners state that the proposed revisions would conform to the requirements in 10 CFR 30.33, ''in that the equipment in question (dual-function ED/ARM, digital dosimeter) is adequate to protect health and minimize the danger to workers and the public.'' The petitioners also state that the dual-function ED and ARM digital dosimeters ''provide improved efficiencies, lower costs, and enhanced safety features.''

The petitioners are also proposing NRC amend 10 CFR 34.47(a)(3) to replace the reference to '' 'other personnel dosimeters' with TLDs and OSLDs,'' in order to leave open the option to use digital dosimeters without replacement. The petitioners note that ''[t]his option should be mentioned in NUREG–1556, Vol. 2.''

## V. Specific Request for Comment

The NRC is seeking comments and supporting rationale from the public on the following three questions:

1. Please comment on how the use of a dual-function device could achieve the current safety purpose of using independent devices, or if that requirement should be changed. Please reference publicly-available technical, scientific, or other data or information to support your position.

2. Please comment on whether changes similar to those proposed in the petition should be applied to other radiation protection regulatory requirements, such as 10 CFR parts 36 and 39. Please explain your position.

3. Please comment on what experiences or challenges users have encountered in the use of these dosimeters. Please reference publicly-available technical, scientific, or other data or information to support your position.

## VI. Conclusion

The NRC has determined that the petition meets the threshold sufficiency requirements for docketing a PRM under 10 CFR 2.802, ''Petition for rulemaking—requirements for filing,'' and the PRM has been docketed as PRM–34–7. The NRC will examine the issues raised in PRM–34–7, to determine whether they should be considered in the rulemaking process. The NRC is requesting public comments on the petition for rulemaking.

Dated at Rockville, Maryland, this 3rd day of November, 2016.

For the Nuclear Regulatory Commission.

**Annette L. Vietti-Cook,**

*Secretary of the Commission.*

[FR Doc. 2016–27046 Filed 11–8–16; 8:45 am]

BILLING CODE 7590–01–P

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## DEPARTMENT OF ENERGY

## 10 CFR Part 460

**[Docket No. EERE–2016–BT–TP–0032]**

**RIN 1904–AC11**

## Energy Conservation Program: Test Procedures for Manufactured Housing

**AGENCY:** Office of Energy Efficiency and Renewable Energy, Department of Energy.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The U.S. Department of Energy (DOE) is publishing a proposed rule to establish test procedures for manufactured housing (MH). This test procedure would support standards DOE is directed to establish by the Energy Independence and Security Act of 2007. DOE proposes to establish test procedures applicable to manufactured homes for determining compliance with the following metrics that were included in a June 17, 2016, notice of proposed rulemaking: The *R*-value of insulation; the *U*-factor of windows, skylights, and doors; the solar heat gain coefficient of fenestration; *U*-factor alternatives to *R*-value requirements; the air leakage rate of air distribution systems; and mechanical ventilation fan efficacy. DOE will accept comments regarding this proposed rule.

**DATES:** DOE will accept comments, data, and information regarding this notice of proposed rulemaking (NOPR) no later than December 9, 2016. See section V, ''Public Participation,'' for details.

**ADDRESSES:** Any comments submitted must identify the ''Test Procedures NOPR for Manufactured Housing'' and provide docket number EERE–2016–BT–TP–0032 and/or regulatory information number (RIN) number 1904–AC11. Comments may be submitted using any of the following methods:

(1) *Federal eRulemaking Portal: www.regulations.gov.* Follow the instructions for submitting comments.

(2) *Email: ManufacturedHousing2016TP0032@ee.doe.gov.* Include the docket number and/or RIN in the subject line of the message.

(3) *Mail:* Mr. Joseph Hagerman, U.S. Department of Energy, Building Technologies Office, Mailstop EE–5B, 1000 Independence Avenue SW., Washington, DC 20585–0121. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

(4) *Hand Delivery/Courier:* Mr. Joseph Hagerman, U.S. Department of Energy, Building Technologies Office, 950 L'Enfant Plaza SW., Suite 600, Washington, DC 20024. Telephone: (202) 586–2945. If possible, please submit all items on a CD, in which case it is not necessary to include printed copies.

Due to potential delays in DOE's receipt and processing of mail sent through the U.S. Postal Service, DOE encourages respondents to submit electronically to ensure timely receipt.

For detailed instructions on submitting comments and additional information on the rulemaking process, see section V of this document (Public Participation).

*Docket:* The docket, which includes **Federal Register** notices, comments, and other supporting documents/materials, is available for review at *www.regulations.gov.* All documents in the docket are listed in the *www.regulations.gov* index. However, some documents listed in the index, such as those containing information that is exempt from public disclosure, may not be publicly available.

The docket Web page can be found at *http://www.regulations.gov/#!docketDetail;D=EERE-2016-BT-TP-0032.* The docket Web page will contain simple instructions on how to access all documents, including public comments, in the docket. See section V.A for information on how to submit comments through *www.regulations.gov.*

For further information on how to submit a comment or review other public comments and the docket, send an email to *Manufactured_Housing@ee.doe.gov.*

**FOR FURTHER INFORMATION CONTACT:** Mr. Joseph Hagerman, U.S. Department of Energy, Office of Energy Efficiency and Renewable Energy, Building Technologies Office, EE–2J, 1000 Independence Avenue SW., Washington, DC 20585–0121. Telephone: (202) 586–4549. Email: *joseph.hagerman@ee.doe.gov.* For information on legal issues presented in this document, contact: Ms. Kavita Vaidyanathan, U.S. Department of Energy, Forrestal Building, Office of the General Counsel (GC–33), 1000 Independence Avenue SW., Washington, DC 20585; (202) 586–0669; *kavita.vaidyanathan@hq.doe.gov.*

**SUPPLEMENTARY INFORMATION:** DOE proposes to incorporate by reference the following industry standards into 10 CFR part 460:

(1) ANSI/NFRC [1] 100–2014, (''ANSI/NFRC 100''), Procedure for Determining Fenestration Product *U*-factors.

(2) NFRC 200–2014, (''NFRC 200''), Procedure for Determining Fenestration Product Solar Heat Gain Coefficient and Visible Transmittance at Normal Incidence.

Copies of ANSI/NFRC 100 and NFRC 200 can be obtained from the National Fenestration Rating Council, 6305 Ivy Lane, Ste. 140, Greenbelt, MD 20770, 301–589–1776. *http://www/nfrc/org/.*

(3) ASTM [2] C518–15, (''ASTM C518–15''), Standard Test Method for Steady State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus.

(4) ASTM C1045–07(2013), (''ASTM C1045–07''), Standard Practice for Calculating Thermal Transmission Properties Under Steady-State Conditions.

(5) ASTM E1554–13, (''ASTM E1554–13''), Standard Test Methods for Determining Air Leakage of Air Distribution Systems by Fan Pressurization.

Copies of ASTM C518–15, ASTM C1045–07, and ASTM E1554–13 can be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500. *http://www.astm.org.*

(6) HVI [3] Publication 916, (''HVI 916''), Air Flow Test Procedure, updated September 29, 2015.

Copies of HVI 916 can be obtained from the Home Ventilating Institute, 4915 Arendell St., Ste. J, PMB 311, Morehead City, NC 28557, 855–484–8368. *http://www.hvi.org.*

[1] American National Standards Institute (ANSI). National Fenestration Rating Council (NFRC).

[2] American Society for Testing and Materials. ASTM.

[3] Home Ventilating Institute. HVI.

See section IV.M for a more detailed discussion of each of these industry standards.

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## I. Authority and Background

### *A. Authority*

The Energy Independence and Security Act of 2007 (EISA, Pub. L. 110–140) directs the U.S. Department of Energy (DOE) to establish energy conservation standards for manufactured housing. EISA directs DOE to base the standards on the most recent version of the International Energy Conservation Code (IECC) and any supplements to that document, except where DOE finds that the IECC is not cost-effective or where a more stringent standard would be more cost-effective, based on the impact of the IECC on the purchase price of manufactured housing and on total lifecycle construction and operating costs. *See* 42 U.S.C. 17071(b)(1).

Section 413 of EISA also provides that DOE may consider the design and factory construction techniques of manufactured housing; base the climate zones under the proposed rule on the climate zones established by HUD in 24 CFR part 3280 rather than the climate zones under the IECC; and provide for alternative practices that, while not meeting the specific standards established by DOE, result in net estimated energy consumption equal to or less than the specific energy conservation standards as proposed. See 42 U.S.C. 17071(b)(2). Finally, section 413 of EISA authorizes DOE to impose civil penalties on any manufacturer that violates a provision of part 460. *See* 42 U.S.C. 17071(c).

DOE is publishing this test procedure NOPR to implement the directive in EISA 2007 to establish energy conservation standards for manufactured housing. Test procedures are necessary to provide for accurate, comprehensive information about energy characteristics of manufactured homes and provide for the subsequent enforcement of the standards. *See* 42 U.S.C. 7254, 17071. The test procedure NOPR proposes applicable test methods to support the energy conservation standards for the proposed thermal envelope requirements, air leakage requirements, and fan efficacy requirements. The test procedure would therefore dictate the basis on which a manufactured home's performance is represented and how compliance with the proposed energy conservation standards, if adopted, would be determined.

### *B. Background*

#### 1. The International Energy Conservation Code

The IECC is a nationally recognized model code, developed under the auspices of, and published by, the International Code Council (ICC), which many state and local governments have adopted in establishing minimum design and construction requirements for the energy efficiency of residential and commercial buildings, including site-built residential and modular homes. The IECC is developed through a consensus process that seeks input from industry stakeholders and is updated on a rolling basis, with new editions of the IECC published

approximately every three years. The IECC was first published in 1998, and it has been updated continuously since that time. The 2015 edition of the IECC (the 2015 IECC) was published in May 2014.

Chapter 3 of the 2015 IECC provides general requirements for the code, including referenced test procedures for determining *U*-factor and solar heat gain coefficient (SHGC) of fenestration, and *R*-values of insulation. *U*-factor is the measure of the rate of heat loss or gain through fenestration. A lower *U*-factor value represents a lower rate of heat loss or gain. SHGC is the fraction of incident solar radiation admitted through fenestration. The lower the SHGC, the less solar heat fenestration transmits. *R*-value is the measure of a building component's ability to resist heat flow (thermal resistance). A higher *R*-value represents a greater ability to resist heat flow and generally corresponds with a thicker level of insulation.

Chapter 4 of the 2015 IECC sets forth specifications for residential energy efficiency, including specifications for building thermal envelope energy conservation, thermostats, duct insulation and sealing, mechanical system piping insulation, circulating hot water system piping, and mechanical ventilation. Chapter 4 of the 2015 IECC was developed for residential buildings generally and are is not specific to manufactured housing.

The 2015 IECC references NFRC 100 to determine the *U*-factor of fenestration, generally, and NFRC 200 to determine the SHGC of fenestration. To measure the *R*-value of insulation, the 2015 IECC references the *R*-value rule established by the U.S. Federal Trade Commission (*i.e.,* 16 CFR part 460). Chapter 3 of the 2015 IECC does not address test procedures for determining *U*-factor alternatives to *R*-values, air leakage rates of duct work, or mechanical ventilation fan efficacy.

2. Development of Proposed Energy Conservation Standards

On June 17, 2016, DOE published a NOPR to establish energy conservation standards for manufactured housing (hereafter the June 2016 energy conservation standards NOPR). *See* 81 FR 39756. The proposed standards were based upon consideration of information ascertained from consultation with HUD, state agencies, the manufactured housing industry, and the public. The NOPR also was based on consensus recommendations from a working group established under the Appliance Standards and Rulemaking Federal Advisory Committee (ASRAC) in accordance with the Federal Advisory Committee Act and the Negotiated Rulemaking Act. *See* 79 FR 41456; 5 U.S.C. 561–70, App. 2. The manufactured housing working group (MH working group) consisted of representatives of interested stakeholders with a directive to consult, as appropriate, with a range of external experts on technical issues in development of a term sheet with recommendations on proposed energy conservation standards. The MH working group's recommendations were based on the 2015 IECC and did not address proposed systems of compliance or enforcement. Further detail on the MH working group, stakeholder comments, and the rulemaking history was provided in the June 2016 energy conservation standards NOPR. *See* 81 FR 39756, 39761–39766.

A public meeting regarding the manufactured housing energy conservation standards was held on July 13, 2016, and the June 2016 energy conservation standards NOPR provided for a comment period ending August 16, 2016. Comments provided to the June 2016 energy conservation standards NOPR and prior opportunities for comment, and the transcript from the public meeting, are available for public viewing at the *regulations.gov* Web page.[4]

In the June 2016 energy conservation standards NOPR, DOE proposed two compliance options for building thermal envelope requirements: A prescriptive option and a performance option. *See* 81 FR 39765, 39804. Under the prescriptive option DOE proposed minimum *R*-value requirements for ceiling, wall, and floor insulation; maximum *U*-factors for windows, skylights, and doors; and maximum SHGC requirements for glazed fenestration. The proposed prescriptive option also would provide manufacturers with the option of relying on *U*-factor alternatives to the *R*-value requirements. Under the performance option, DOE proposed a maximum $U_o$ (*i.e.,* overall thermal transmittance) for the building thermal envelope allowing manufacturers to optimize the performance of the various components of the manufactured house to meet the standards presumably with the least cost.

In the June 2016 energy conservation standards NOPR, DOE did not propose test procedures for determining *R*-value, *U*-factor, or SHGC, for use under the prescriptive or performance option.[5] DOE did propose to reference the test procedure incorporated in the current HUD regulations for determining *U*-factor alternatives under the performance option, *i.e.,* ''Overall *U*-Values and Heating/Cooling Loads-Manufactured Home.'' Conner, C.C., Taylor, Z.T., Pacific Northwest Laboratory, published February 1, 1992 (Battelle Method). However, DOE did not propose a test procedure for determining *U*-factor alternatives under the prescriptive option.

DOE also proposed standards for the maximum air leakage rate for duct systems and minimum mechanical ventilation system fan efficiencies. 81 FR 39756, 39806. DOE did not include test procedures for these proposed requirements.

## II. Synopsis of the Notice of Proposed Rulemaking

In this NOPR, DOE proposes test procedures to support the proposed manufactured housing thermal envelope requirements, air leakage requirements, and fan efficacy requirements proposed in a new part of the Code of Federal Regulations (CFR) under 10 CFR part 460. *See* 81 FR 39756. The proposed test procedures are used as the basis for manufacturers to show compliance with the energy conservation standards, once finalized and compliance is required. This notice describes a method of test for each energy-related metric, how manufacturers select units for testing, the method by which representations are developed for each model, and the potential impacts of the proposed test procedures. Representations refer to any instance in which a manufacturer describes the ratings associated with the energy efficiency metric(s) are measured by the DOE test procedure.

While DOE has proposed test methods for manufactured housing, DOE has not included or proposed any additional compliance or enforcement provisions at this time. DOE anticipates that it will address issues related to certification, compliance, and enforcement of the proposed standards in a separate rulemaking. DOE will address any associated costs resulting from the compliance or enforcement as part of that rulemaking.

DOE's proposed actions relating to the test procedure are addressed in detail in the following sections of this notice.

## III. Discussion of Proposed Test Procedures

The following sections focus on DOE's test procedure proposal,

[4] *See http://www.regulations.gov/#!docketDetail;D=EERE-2009-BT-BC-0021.*

[5] The June 2016 energy conservation standards NOPR proposes prescriptive default values for the *U*-factor and SHGC of certain fenestration products and doors.

including metrics being measured, industry standards incorporated by reference, and effective date.

*A. Applicability to All Manufactured Home Designs and Construction*

To support the June 2016 energy conservation standards NOPR, this test procedure applies to all manufactured homes meeting the proposed definition of manufactured home. In June 2016 energy conservation standards NOPR, DOE defined manufactured home as a structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in the structure. *See* 81 FR 39756 at 39799, 39780 (June 17, 2016) for the full proposed definition of manufactured home.

Typically, manufactured homes are one-story, single- or multi-section homes. However, multi-story manufactured homes can be manufactured, and other less common constructions may also exist or be possible to manufacture. DOE requests comment on whether the proposed test procedures in section III.C apply to all constructions and designs of manufactured homes, and whether alternative test procedures are needed for certain manufactured housing constructions or designs. See section V.B for a list of issues on which DOE seeks comment.

*B. Energy Efficiency Metrics*

In this test procedure NOPR, DOE proposes test methods to determine the represented values for the proposed energy efficiency metrics in the manufactured housing energy conservation standards. *See* 81 FR 39756. Table III–1, Table III–2, Table III–3, Table III–4, and Table III–5 summarize the proposed energy conservation standards that would require test methods. MH manufacturers have the option of either using the prescriptive or performance path when designing a compliant manufactured home. All homes must follow the duct air leakage, hot water pipe insulation, and mechanical ventilation fan efficacy requirements. Additional prescriptive installation requirements (that do not involve testing) and other limitations are also outlined in the energy conservation standard NOPR. *See* 81 FR 39756.

TABLE III–1—PRESCRIPTIVE PATH

| Climate zone | Ceiling *R*-value | Wall *R*-value | Floor *R*-value | Window *U*-factor | Skylight *U*-factor | Door *U*-factor | Glazed fenestration SHGC [6] |
|---|---|---|---|---|---|---|---|
| 1 | 30 | 13 | 13 | 0.35 | 0.75 | 0.40 | 0.25. |
| 2 | 30 | 13 | 13 | 0.35 | 0.75 | 0.40 | 0.33. |
| 3 | 30 | 21 | 19 | 0.35 | 0.55 | 0.40 | 0.33. |
| 4 | 38 | 21 | 30 | 0.32 | 0.55 | 0.40 | No Rating. |

TABLE III–2—U-FACTOR ALTERNATIVES FOR PRESCRIPTIVE PATH

| Climate zone | Ceiling *U*-factor [7] | Wall *U*-factor | Floor *U*-factor |
|---|---|---|---|
| 1 | 0.0446 | 0.0943 | 0.0776 |
| 2 | 0.0446 | 0.0943 | 0.0776 |
| 3 | 0.0446 | 0.0628 | 0.0560 |
| 4 | 0.0377 | 0.0628 | 0.0322 |

TABLE III–3—PERFORMANCE PATH

| Climate zone | Single-section $U_o$ | Multi-section $U_o$ |
|---|---|---|
| 1 | 0.087 | 0.084 |
| 2 | 0.087 | 0.084 |
| 3 | 0.070 | 0.068 |
| 4 | 0.059 | 0.056 |

TABLE III–4—MECHANICAL VENTILATION FAN EFFICACY

| Fan type description | Minimum efficacy (cubic feet per minute [cfm]/ Watt) |
|---|---|
| Range hoods (all air flow rates) | 2.8 |
| In-line fans (all air flow rates) | 2.8 |
| Bathroom and utility room fans (10 cfm ≤ air flow rate < 90 cfm) | 1.4 |
| Bathroom and utility room fans (air flow rate ≥ 90 cfm) | 2.8 |

TABLE III–5—OTHER ENERGY CONSERVATION STANDARDS

| Requirement description | Minimum requirement |
|---|---|
| Duct Air Leakage | 4 cubic feet per minute per 100 square feet of conditioned floor area. |
| Hot Water Pipe Insulation. | *R*-3. |

The test methods that are proposed in this NOPR are for the following metrics: (1) *R*-value of insulation, (2) *U*-factor of fenestration, (3) $U_o$ value performance path, (4) Alternate *U*-factor of insulation, (5) SHGC of fenestration, (6)

[6] The SHGC requirements listed in this table also apply to the performance path.

[7] The *U*-factor alternatives can be used in place of the *R*-values listed in Table III–1.

Duct air leakage, and (7) Mechanical ventilation fan efficacy.

*C. Incorporation by Reference of Industry Standard(s) for Proposed Metrics*

To determine represented values for the proposed energy efficiency metrics described in section III.A, DOE proposes to incorporate by reference industry-accepted test standards. Additionally, as described in section I.A, EISA directs that the proposed energy conservation standards be based on the most recent version of the IECC. Therefore, to align this test procedure with the proposed energy conservation standards, DOE has aligned the test methods in this test procedure with those specified by the 2015 IECC while accounting for the unique aspects of manufactured housing design and construction. Also, by aligning with industry-accepted test methods, it is expected that the DOE test procedures will be less burdensome than if DOE were to establish new test procedures for manufactured housing manufacturers (MH manufacturers).

While the MH manufacturer would be responsible for complying with the proposed energy conservation standards, if finalized, DOE expects that MH manufacturers would choose to get the testing data from the entities manufacturing the components for manufactured homes. For the *R*-value of insulation, *U*-factor and SHGC of fenestration, and the mechanical ventilation fan efficacy, DOE anticipates that MH manufacturers would be able to rely on testing performed by and data supplied by the component manufacturers, DOE does not expect these particular proposed testing procedures to have a large cost impact on manufactured home entities. Instead, this specifies a pathway to demonstrate compliance with the proposed energy conservation standards. This NOPR proposes test methods to determine represented values for each of these energy efficiency metrics, based on current industry practice. As such, DOE anticipates that MH manufacturers would be able to rely on values currently being determined by component manufacturers and that are provided as part of the component specification sheets. DOE does expect that the MH manufacturer would have to perform the calculations to determine the $U_o$ value if following the performance path (in proposed section § 460.102(c)), and the alternate *U*-factor of insulation, in addition to having to perform the test for the total duct air leakage as this depends on the manufactured home design as a whole and not just the individual components.

In the following sections, DOE describes the industry test standards being proposed to be incorporated by reference in this NOPR to determine represented values for the proposed energy efficiency metrics. DOE proposes that the regulatory text for the test procedure NOPR is inserted within the same sections of the proposed regulatory text from the energy conservation standards.

1. *R*-Value of Insulation

DOE proposes to cross-reference U.S. Federal Trade Commission (FTC) regulations at 16 CFR part 460 (''FTC *R*-value rule'') to determine the *R*-value of insulation, with certain exceptions. The FTC *R*-value rule references industry standards for testing insulation, which are specific to the type of insulation and intended use. The rule is required for the labeling and advertising of home insulation. As such, the FTC *R*-value rule is widely used in industry to determine *R*-value of insulation. Additionally, FTC requires maintenance of records of the test procedures relied upon for compliance with the FTC *R*-value rule. *See* 16 CFR 460.9. Furthermore, the 2015 IECC references the same FTC *R*-value rule in section R303.1.4 for determination of *R*-value of insulation.

The FTC *R*-value rule provides a specification to test the insulation at a mean temperature of 75 degrees Fahrenheit and with a temperature differential of 50 degrees Fahrenheit plus or minus 10 degrees Fahrenheit. DOE proposes to test at the same conditions in this NOPR.

The exceptions to the FTC *R*-value rule that DOE is proposing include the following:

(1) For all types of insulation except aluminum foil, heat flux would be measured only in accordance with ASTM C518–15, with the heat meter apparatus in the horizontal orientation. *R*-value would be calculated in accordance with ASTM C1045–07 (based upon heat flux measured according to ASTM C518–15,

(2) In the case that uniform ceiling insulation thickness is not possible due to the truss heel height at the eaves of the roof, the ceiling insulation *R*-value would be the *R*-value listed on the insulation manufacturer's label (developed in accordance with 16 CFR 460.12(b)(2)) corresponding to the minimum weight or number of bags of insulation installed by the manufactured home manufacturer.

The following sections provide further discussion on each of the exceptions. In general, DOE requests comment on the percentage of insulation models used by the MH market that are already rated using the proposed test procedures, the cost of transitioning to these test procedures for those models that have not been tested in accordance with the proposed test procedure, and to what alternative test procedure these insulation models are testing in accordance with.

a. *R*-Value for All Types of Insulation Except Aluminum Foil

DOE is proposing to include the following exception for measuring the heat flux to calculate *R*-value for all types of insulation except aluminum foil: For all types of insulation except aluminum foil, heat flux would be measured only in accordance with ASTM C518–15, with the heat meter apparatus in the horizontal orientation. Then, *R*-value would be calculated in accordance with ASTM C1045–07 based upon heat flux measured according to ASTM C518–15.

The FTC *R*-value rule provides a number of industry standards as options for testing all types of insulation except aluminum foil. They include the following: ASTM C177–04, ''Standard Test Method for Steady-State Heat Flux Measurements and Thermal Transmission Properties by Means of the Guarded-Hot-Plate Apparatus''; ASTM C518–04, ''Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus.''; ASTM C1114–00, ''Standard Test Method for Steady-State Thermal Transmission Properties by Means of the Thin-Heater Apparatus.''; and, ASTM C1363–97, ''Standard Test Method for the Thermal Performance of Building Assemblies by Means of a Hot Box Apparatus.'' [8]

DOE reviewed each of the industry standards to determine the differences between the standards, and whether any one of the standards could be used to test all types of insulation except aluminum foil. The primary difference among the industry standards is with respect to the apparatus used for measuring heat flow through the insulation sample, which could lead to slightly different measured values. Based on a review of specification sheets of insulation from multiple manufacturers, DOE determined that insulation manufacturers most commonly use ASTM C518 to test insulation for heat flux measurement. DOE understands that this is because

[8] The FTC regulations cite specific versions of the ASTM test methods; however, the FTC regulations also require use of any updates to the referenced ASTM test methods unless a person affected by the change can petitions the FTC not to adopt the change. *See* 16 CFR 460.7.

ASTM C518–15 is comparable with the other listed test procedures, but is more cost-effective, and less time consuming. DOE's understanding was supported by a discussion with a test lab that performs insulation testing. In addition, the same test lab informed DOE that it uses ASTM C518–15 more often than any other standard to test insulation. Therefore, it is DOE's understanding that ASTM C518–15 is the most widely-used industry standard to test all types of insulation except aluminum foil. To minimize the potential test burden on MH manufacturers, and reduce potential for variation in measured heat flux to calculate *R*-value for DOE's compliance or enforcement process, DOE is proposing to cross-reference the FTC *R*-value rule, but specify the use of the ASTM C518–15 option only.

Within ASTM C518, there are provisions to use the heat meter apparatus either in the horizontal or vertical orientation. Based on discussions with the test lab, DOE proposes to test only in the horizontal orientation, as this orientation is what is widely used in the industry. Additionally, it is DOE's understanding that the horizontal orientation provides a more conservative *R*-value result because in a horizontal position, convective heat flow within the sample will make the sample less resistant to heat transfer, leading to a lower *R*-value than a vertical test.

DOE seeks comment on the proposal to incorporate by reference only ASTM C518–15 for determinations of *R*-value of insulation for all types of insulation except aluminum foil. In addition, DOE also seeks comment regarding testing only using the horizontal orientation. See section V.B for a list of issues on which DOE seeks comment.

b. Ceiling Insulation *R*-Value

In the case that uniform ceiling insulation thickness is not possible due to the truss heel height at the eaves of the roof, DOE proposes that the ceiling insulation *R*-value for loose-fill insulation would be the *R*-value listed on the insulation manufacturer's label (developed in accordance with 16 CFR 460.12(b)(2)) corresponding to the minimum weight or number of bags of insulation installed by the manufactured home manufacturer. To calculate the minimum weight of insulation, DOE proposes the MH manufacturer multiply the minimum weight per square foot of insulation for the required ceiling insulation *R*-value (developed in accordance with 16 CFR 460.12(b)(2)) by the surface area of the ceiling in square feet. To calculate the number of bags of insulation, DOE proposes the MH manufacturer multiply the number of bags of insulation per 1,000 square feet for the required ceiling insulation *R*-value (developed in accordance with 16 CFR 460.12(b)(2)) by the surface area of the ceiling in square feet divided by 1,000 square feet.

In the June 2016 energy conservation standards NOPR, DOE proposed that ceiling insulation must have either a uniform thickness or a uniform density. 81 FR 39756, 39804. However, DOE understands that there might be instances, specifically near the truss heel at the eaves of the roof, where uniform thickness might not be possible. The FTC *R*-value rule does not address determining the *R*-value in such an application-specific instance. Therefore, in this case, DOE proposes to determine the ceiling insulation *R*-value corresponding to the mass or number of bags of insulation installed by the MH manufacturer. The FTC labeling requirements in 16 CFR 460.12(b)(2) require this information to be provided by insulation manufacturers.

DOE seeks comment on the proposed exception that if uniform ceiling insulation thickness is not possible due to the truss heel height at the eaves of the roof, the ceiling insulation *R*-value is based on the *R*-value listed on the insulation manufacturer's label corresponding to the mass or number of bags of insulation installed by the manufactured home manufacturer. See section V.B for a list of issues on which DOE seeks comment.

The test procedure for the determination of *R*-value of insulation is proposed in 10 CFR 460.102(d)(1) of the regulatory text.

2. *U*-Factor of Fenestration

DOE proposes to incorporate by reference ANSI/NFRC 100 to determine the *U*-factor of fenestration. ANSI/NFRC 100 is an industry-accepted standard, which is based on simulation software to measure energy performance ratings. This standard provides specifications for simulation and testing, which include temperature, wind speed and solar irradiance. If simulation does not apply to a particular fenestration product, ANSI/NFRC 100 requires that NFRC 102 be used as a testing alternative to determine the tested total fenestration product *U*-factor.[9] NFRC 102 measures the thermal transmittance of fenestration systems mounted vertically in the thermal chamber.

Under ANSI/NFRC 100, an NFRC accredited laboratory is required to perform the simulation. For simulation under ANSI/NFRC 100, accredited laboratories must attend a certification workshop and pass examinations to achieve the status of NFRC Certified Simulator. In addition, NFRC accredited laboratories must maintain their simulation certification every year by participating in annual inter-laboratory comparison and by attending mandatory training workshops.

NFRC standards are widely used by industry, in a variety of capacities. Many component manufacturers affix an NFRC label to their fenestration products, which includes the *U*-factor, SHGC, visible transmittance and air leakage values. While component manufacturers are not required to certify using the NFRC test standard, the NFRC program has a large number of participants (more than 500 manufacturers), and NFRC-certified products are frequently used to comply with local energy code requirements. In addition, a fenestration product must be NFRC-certified to meet the criteria for becoming an ENERGY STAR product. Lastly, the 2015 IECC references ANSI/NFRC 100 in section R303.1.3 for fenestration product rating.

The test procedure for the determination of *U*-factor of fenestration is proposed in 10 CFR 460.102(d)(3) of the regulatory text.

DOE seeks comment on whether ANSI/NFRC 100 is an appropriate industry standard to determine the *U*-factor of fenestration. DOE also requests comment on the percentage of fenestration models used by the MH market that are already rated using the proposed test procedures, the cost of transitioning those fenestration models that have not been tested in accordance with the proposed test procedure, and to what alternative test procedure these fenestration models are testing in accordance with . DOE notes that any fenestration redesign cost for complying with the proposed MH fenestration requirements is addressed as part of the energy conservation standard. 81 FR 39756 (June 17, 2016). See section V.B for a list of issues on which DOE seeks comment.

3. $U_o$ Value, Performance Path

In the June 2016 energy conservation standards NOPR, DOE proposed that

[9] Section 4.1.2 of NFRC 100 states that if an individual product cannot be simulated in accordance with section 4.3.1, the testing alternative [NFRC 102] shall be used. Section 4.5 states that an accredited laboratory will have to state in the simulation report that it cannot simulate an individual product to a reasonable accuracy. Section 4.1.2 of NFRC 100 provides some examples of products that cannot be simulated, including non-planar products, for example, domed skylights without frames or flashing, and certain complex glazed products.

$U_o$ [10] would be determined in accordance with the Battelle Method. 81 FR 39756, 39804. The Battelle Method currently is referenced in the HUD Code for calculation of overall thermal transmittance. *See* 24 CFR 3280.508. In this test procedure NOPR, DOE continues to propose the Battelle Method, but with certain exceptions.

The Battelle Method requires several inputs to calculate $U_o$, which include the *R*-value of insulation and the *U*-factor of fenestration products. In sections III.C.1 and III.C.2, DOE proposes to incorporate by reference certain industry test standards to measure the *R*-value of insulation and the *U*-factor of fenestration products, respectively. In this NOPR, DOE continues to propose that $U_o$ must be determined in accordance with the Battelle Method. However, to provide consistency between the prescriptive option and performance option, DOE proposes that for the $U_o$ calculation, the *R*-value of insulation must be determined as proposed in section III.C.1, and the *U*-factor of fenestration products must be determined as proposed in section III.C.2. The methods in proposed sections III.B.1 and III.B.2 would be used instead of the methods referenced by the Battelle Method.

The additional instructions for the calculation of $U_o$ are proposed in 10 CFR 460.102(e)(1)(i)–(ii) of the regulatory text.

4. *U*-Factor Alternatives to *R*-Value of Insulation

DOE proposes to calculate the *U*-factor alternatives to *R*-value requirements in accordance with section 3.1 from the Battelle Method, with the additional instructions described in section III.C.3. Section 3.1 of the Battelle Method provides a step-by-step method to calculate the component *U*-factors. In Step 1, the Battelle method states that window U-factors must be determined according to sections 4.2.1 and 4.2.2, and Step 3 requires determining *R*-value for each material of each heat flow path. As discussed in section III.C.3, DOE is proposing reliance on the test methods for determining *U*-factor and *R*-values referenced in the proposed regulation in place of the test methods used in the Battelle method. Therefore, DOE is proposing the same approach to calculate the *U*-factor alternatives to *R*-value requirements.

The calculation of the *U*-factor alternatives to *R*-value of insulation is proposed in 10 CFR 460.102(d)(5) of the regulatory text.

DOE seeks comment on whether section 3.1 from Overall *U*-Values and Heating/Cooling Loads—Manufactured Homes is appropriate to calculate the *U*-factor alternative to *R*-value of insulation. See section V.B for a list of issues on which DOE seeks comment.

5. SHGC of Fenestration

DOE proposes to incorporate by reference NFRC 200 to determine the SHGC for fenestration. Similar to ANSI/NFRC 100, NFRC 200 is also an industry-accepted standard, which is based on simulation software to measure energy performance ratings. This standard provides specifications for simulation and testing conditions. Under NFRC 200, an NFRC accredited laboratory is required to perform the simulation. The NFRC laboratory accreditation process is described in section III.C.2. If simulation cannot be performed to a reasonable accuracy, as determined by the NFRC accredited laboratory, NFRC 200 requires that NFRC 201 be used as a testing alternative to determine the component or total fenestration product SHGC. NFRC 201 measures the fenestration SHGC installed in a solar calorimeter.

The NFRC test standards are also used for the NFRC label, which includes the *U*-factor, SHGC, visible transmittance and air leakage values. Further details regarding the NFRC label is provided in section III.C.2. Furthermore, the 2015 IECC references NFRC 200 in section R303.1.3 for fenestration product rating.

The test procedure for the determination of the SHGC of fenestration is proposed in 10 CFR 460.102(d)(7) and 10 CFR 460.102(e)(2) of the regulatory text.

DOE seeks comment on whether NFRC 200 is an appropriate industry standard to determine the SHGC of fenestration. DOE also requests comment on the percentage of fenestration models used by the MH market that are already rated using the proposed test procedures, the cost of transitioning to these test procedures for fenestration models not already following the proposal, and to what alternative test procedure these fenestration models are testing in accordance with. DOE notes that any fenestration redesign cost for complying with the proposed MH fenestration requirements is addressed as part of the energy conservation standard. 81 FR 39756 (June 17, 2016). See section V.B for a list of issues on which DOE seeks comment.

6. Duct Air Leakage

DOE proposes to incorporate by reference ASTM E1554–13 to determine the total air leakage standard for duct systems. In this NOPR, DOE proposes that duct air leakage per 100 square feet of conditioned floor area ($Q_{duct\ leakage,total}$) would be determined according to the following equation:

$$Q_{duct\ air\ leakage} = \frac{Q_{duct\ leakage,total}}{A_{floor,conditioned}} \times 100$$

Where:

$Q_{duct\ air\ leakage}$ = duct air leakage per 100 square feet of conditioned floor area, (cubic feet per minute per 100 square feet of conditioned floor area)

$Q_{duct\ leakage,total}$ = measured total air leakage of the duct system, determined in accordance with ASTM E1554–13, Test Method D, as calculated in section 9.4 (cubic feet per minute)

$A_{floor,conditioned}$ = total conditioned floor area (square feet)

ASTM E1554–13 is the industry standard for measuring duct air leakage via pressurization.[11] ASTM E1554–13 prescribes four test methods for measuring air leakage from a duct system (Test Methods A through D). Test Methods A, B, and C determine air leakage only to the outside of the building, while Test Method D measures total air leakage, including leakage to the inside of the building. Of the methods provided in ASTM E1554–13, DOE has initially determined that Test Method D produces the ratings needed to determine total air leakage. Further, Test Method D is consistent with the test conditions described in section R403.3.3 of the 2015 IECC (the basis of the proposal in the June 2016 energy conservation standards NOPR), which calls for measurement of total air leakage of the duct system. The 2015

[10] $U_o$ is a measurement of the heat loss or gain rate through the building thermal envelope of a manufactured home; therefore, a lower $U_o$ corresponds with a more insulated building thermal envelope.

[11] ''Field Test Best Practices—Duct Pressurization Testing.'' National Renewable Energy Laboratory Building Research. *https://buildingsfieldtest.nrel.gov/duct_pressurization_testing.*

IECC describes certain test conditions for duct testing to determine total air leakage from the duct system (pressure differential of 0.1 inch w.g. [25 Pa] and sealing all registers during testing). However, the 2015 IECC does not prescribe a specific procedure for duct testing. Therefore, DOE proposes that duct air leakage per 100 square feet of conditioned floor area be determined in accordance with Test Method D of ASTM E1554, as calculated in section 9.4 of the ASTM standard.

DOE expects that testing will be performed by the MH manufacturer in the factory before being installed in the field for both single- and multi-section homes. For multi-section homes, in many cases it will be impractical and/or costly to assemble the homes (by connecting the duct systems). For this reason, DOE proposes that the MH manufacturer test each section of the multi-section home separately. As with single section homes, the manufacturer would follow ASTM E1554–13, Test Method D, and seal all interior air vents and registers. In addition, the manufacturer would seal any duct openings that are intended to connect ducts between sections of the home, unless that duct opening is being used as an inlet to pressurize the duct system. The MH manufacturer would then compute the total duct air leakage for the entire home based on the summation of the leakage measured for each section.

The test procedure for determination of total duct air leakage is proposed in 10 CFR 460.201(b) of the regulatory text.

DOE seeks comment on whether ASTM E1554–13, Test Method D, is an appropriate industry standard to determine total duct air leakage for both single- and multi-section homes. DOE also seeks comment on its proposal for determining the total duct air leakage of multi-section homes by measuring the duct air leakage of each section separately, and whether alternative methods should be considered. See section V.B for a list of issues on which DOE seeks comment.

7. Mechanical Ventilation Fan Efficacy

DOE proposes to incorporate by reference HVI 916 to determine the mechanical ventilation fan efficacy. HVI 916 is published by the Home Ventilating Institute (HVI), and used for HVI-certified ratings programs. DOE has initially determined that the HVI 916 air flow test procedure establishes uniform methods for laboratory testing of powered home ventilating equipment for airflow rate (in cubic feet per minute per Watt, or cfm/W). HVI 916 describes the test equipment and the test methods for specific HVI classification groups.

DOE also sought to propose a fan efficacy test procedure consistent with the basis of the proposed energy conservation standard. While the 2015 IECC (the basis of the proposed fan efficacy standards) does not provide any specific test methods to determine fan efficacy, the prescribed efficacy levels in the 2015 IECC are based on the current ENERGY STAR specifications. HVI 916 is one of the referenced test methods for ENERGY STAR, so through incorporating by reference HVI 916, DOE ensures that the test procedure produces ratings on which the energy conservation standard is based.

ENERGY STAR provides another test method to determine airflow rating in addition to HVI 916, *i.e.,* ANSI/Air Movement and Control Associations International, Inc. (AMCA) 210–07, (''ANSI/AMCA 210–07''), ''Laboratory Methods of Testing Fans for Aerodynamic Performance Rating''.[12] ANSI/AMCA 210–07 provides general test methods to determine airflow rate for several different types of fans, not just home ventilation fans. However, this NOPR is focused only with the mechanical ventilation fan efficacy requirement, and HVI 916 is a test standard that is specific to home ventilation fans. Additionally, HVI 916 references ANSI/AMCA 210 as the primary standard for HVI airflow test and calculation within the standard. Therefore, because HVI 916 is specific to home ventilation fans and also references the general fan test standard, incorporating by reference HVI 916 is sufficient to determine mechanical ventilation fan efficacy.

DOE is also proposing to use test conditions specified by ENERGY STAR instead of the corresponding test conditions specified in HVI 916. DOE is specifying these test conditions to keep consistent with how the industry is currently testing fans to certify to ENERGY STAR (for consistency with the basis of DOE's proposed fan efficacy standard). Specifically, ENERGY STAR includes test conditions specifying test static pressures, test speeds, and testing configurations when using HVI 916. The test conditions that DOE proposes in this test procedure are the following:

(1) Bathroom and utility room fans with more than one speed that are vented externally, and in-line fans with more than one speed, must be tested and meet the performance criteria at each speed. A fan of this type that has a rotary speed dial or similar mechanism that allows for a theoretically infinite number of speeds must be tested and meet the applicable efficacy of this specification at its minimum and maximum speeds.

(2) Fans must be tested at the following static pressures to determine the airflow and efficacy: For ducted fans, conduct tests at 0.1 inch water gauge static pressure; for direct discharge (non-ducted) fans, conduct tests at 0.03 inch water gauge static pressure; for in-line fans,[13] conduct tests at 0.2 inch water gauge static pressure.

(3) Test range hood fans at working speed, as specified in HVI 916 (incorporated by reference; see 10 CFR 460.3), to determine the airflow and efficacy. Range hoods must meet the minimum efficacy requirements in each possible configuration (horizontal and vertical) at working speed.

(4) When calculating efficacy, only measure the fan motor electrical energy consumption. Energy used for other fan auxiliaries (*e.g.,* lights, sensors, heaters, timers, or night lights) is not included in the determination of fan efficacy. Therefore, to measure fan power, switch off all fan auxiliaries.

DOE is also aware that ENERGY STAR includes a qualification criteria beyond efficacy requirements for the installed fan performance, with the exception of in-line, direct discharge fans and range hood models. This qualification criteria requires that ducted products be tested at 0.25 inch water gauge static pressure in addition to 0.1 inch water gauge static pressure, and that the airflow delivered at 0.25 inch water gauge static pressure shall be equal to or greater than 70 percent of tested airflow delivered at 0.1 inch water gauge static pressure. This additional qualification criteria was added to ENERGY STAR specifications to allow for quality assurance of installed efficacy. DOE has only included testing at 0.1 inch water gauge static pressure because the energy conservation standard is based on fan performance at 0.1 inch water gauge static pressure.

The test procedure for determination of mechanical ventilation fan efficacy is proposed in 10 CFR 460.204(c) of the regulatory text.

DOE seeks comment on incorporating by reference only HVI 916 to determine mechanical ventilation fan efficacy. In addition, DOE seeks comment on the number of speeds, and the static

[12] Energy Star Ventilation Fans Key Product Criteria. *https://www.energystar.gov/products/heating_cooling/fans_ventilating/key_product_criteria.*

[13] An in-line fan is a fan designed to be located within the building structure and that requires ductwork on both intake and exhaust.

pressures being proposed. DOE also requests comment on the percentage of mechanical ventilation fan units used by the MH market that are already rated using the proposed test procedures, the cost of transitioning to these test procedures for manufacturers not already following the proposal, and to what alternative test procedure these mechanical ventilation fan units are testing in accordance with. See section V.B for a list of issues on which DOE seeks comment.

*D. Sampling Plan and Represented Value*

As previously discussed, DOE potentially will address the certification requirements [14] for MH manufacturers in a separate rulemaking. DOE is considering that for some of the requirements, the basis on which a manufactured home's performance is represented and how the manufactured home's performance would be compared to energy conservation standards would be the average of values generated from testing at least one unit. In this notice, DOE proposes that to the extent that a represented value for the purpose of certification is based on an average value, the represented value must be based on a sample size of at least one tested unit. DOE is requesting comments on the certification costs and requirements associated with conducting these manufactured home performance test(s). The represented value would be the arithmetic mean of the test values and that testing of at least one sample would be required. Samples for testing would be required to be selected at random.

For testing applicable to components, DOE is proposing that the individual components tested would not be required to be selected from components actually installed by the MH manufacturer in a manufactured home. DOE is not proposing to require that a MH manufacturer directly perform the testing of components. DOE expects that MH manufacturers would be able to rely on testing performed by the component manufacturer. DOE expects that the tests can be performed on components prior to installation in the home. As such, DOE is proposing that the individual components selected for testing be representative of the components installed in the manufactured home.

DOE is further proposing that any representation made by a MH manufacturer of the performance of a manufactured home or a component, as compared to an energy conservation standard established by DOE, could not be more favorable than the mean value derived from sampling. For example, if a MH manufacturer were to make a representation of the efficacy of a mechanical ventilation fan, for which a minimum standard is proposed, the MH manufacturer would be prohibited from representing the fan as more efficient than the mean value calculated from sampled units, and as less efficient than the energy conservation standard. DOE is also clarifying that the proposed energy conservation standards should also be computed with the mean values for those standards that are expressed as functions.

DOE requests comment on the proposed sampling plan and method for calculating a represented value. DOE is particularly seeking comment on the proposed minimum sample size.

*E. Test Procedure Effective Date*

If adopted, the effective date for this manufactured housing test procedure would be 30 days after publication of the test procedure final rule in the **Federal Register**.

## IV. Procedural Issues and Regulatory Review

*A. Review Under Executive Order 12866*

The Office of Management and Budget (OMB) has determined that this test procedure rulemaking is a ''significant regulatory actions'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, 58 FR 51735 (Oct. 4, 1993). Accordingly, this action was subject to review under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget.

*B. Review Under the Regulatory Flexibility Act*

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires preparation of an initial regulatory flexibility analysis (IFRA) for any rule that by law must be proposed for public comment, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. As required by Executive Order 13272, ''Proper Consideration of Small Entities in Agency Rulemaking,'' 67 FR 53461 (August 16, 2002), DOE published procedures and policies on February 19, 2003, to ensure that the potential impacts of its rules on small entities are properly considered during the DOE rulemaking process. 68 FR 7990. DOE has made its procedures and policies available on the Office of the General Counsel's Web site: *http://energy.gov/gc/office-general-counsel.*

DOE reviewed the proposals for testing various categories of manufactured homes as proposed in this NOPR under the provisions of the Regulatory Flexibility Act and the procedures and policies published on February 19, 2003. DOE preliminarily certifies that the proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities. The factual basis for this certification is set forth in the following paragraphs. DOE will transmit the certification and supporting statement of factual basis to the Chief Counsel for Advocacy of the SBA for review under 5 U.S.C. 605(b).

1. Review of Manufactured Housing Manufacturers

For the manufacturers of manufactured homes, the Small Business Administration (SBA) has set a size threshold, which defines those entities classified as ''small businesses'' for the purposes of the statute. DOE used the SBA's small business size standards to determine whether any small entities would be subject to the requirements of the rule. 13 CFR part 121. The size standards are listed by NAICS code and industry description and are available at *http://www.sba.gov/content/table-small* business-size-standards. The covered manufacturers are classified under NAICS 321991, ''Manufactured Home (Mobile Home) Manufacturing.'' The SBA sets a threshold of 1,250 employees or less for an entity to be considered as a small business for this category.

To assess the potential impacts of this rulemaking on small entities, DOE conducted a focused inquiry of the companies that could be small business manufacturers of manufactured homes. During its market survey, DOE used available public information to identify potential small manufacturers. DOE's research involved individual company Web sites and market research tools (*e.g.,* Hoovers reports [15]) to create a list of companies that manufacture homes covered by this rulemaking. DOE also asked stakeholders and industry representatives if they were aware of any other small manufacturers.

DOE identified thirty-seven manufacturers of manufactured homes. Of the thirty-seven, DOE identified thirty-one manufacturers that qualified as domestic small businesses.

[14] Certification requirements refer to the administrative process of demonstrating compliance to DOE. This process would rely on data generated in accordance with this proposed test procedure, including the sampling plan.

[15] Hoovers. *http://www.hoovers.com/.*

2. Burden of Conducting the Proposed DOE MH Test Procedure

DOE currently does not have a test procedure for manufactured housing. As described in the preamble, this test procedure proposes test methods for the following metrics: (1) *R*-value of insulation, (2) *U*-factor of fenestration, (3) $U_o$ value, performance path, (4) Alternate *U*-factor of insulation, (5) SHGC of fenestration, (6) Duct air leakage, and (7) Mechanical ventilation fan efficacy.

For the *R*-value of insulation, *U*-factor and SHGC of fenestration, and mechanical ventilation fan efficacy, DOE anticipates that MH manufacturers would be able to use values currently provided by component manufacturers as part of the component specification sheets (because DOE's proposed test procedure matches current industry practice). Insulation manufacturers are required to test and label the *R*-value of insulation under the FTC *R*-value rule. It is DOE's understanding based on a review of the market that fenestration manufacturers routinely provide the *U*-factor and SHGC values of their products. Similarly, DOE understands that manufacturers of mechanical ventilation fans routinely provide the fan efficacy of their products consistent with the test procedures proposed in this notice. Therefore, DOE does not anticipate added test costs for MH manufacturers related to these metrics.

For the $U_o$ value—performance path and the alternate *U*-value of insulation calculations, DOE proposes using the Battelle Method, which is currently referenced in the HUD Code for calculation of overall thermal transmittance. Because MH manufacturers are already required to perform these calculations for the HUD Code, DOE believes there would be no added test cost for these calculations as proposed in this NOPR. Therefore, in this IRFA, DOE is only assessing the potential impacts of duct air leakage test method on small manufacturers.

To determine the costs of the duct air leakage, DOE obtained input from the MH working group and estimates from publically available literature. During discussions of the MH working group, manufacturers expressed a view they would likely test every home's duct leakage to minimize risk of non-compliance with duct leakage standards. *See* 9/22/2014 WG Transcript, EERE–2009–BT–BC–0021–0102 at pp. 318–338. Hammon and Modera estimated a testing cost range of $131 to $163 per home in 1996, derived from a survey of 12 builders and 19 HVAC subcontractors.[16] For this analysis, DOE used the high limit of this range, $163 per home in 1996 dollars, inflated to $233 per home in 2015 dollars using the GDP price deflator from the United States Bureau of Economic Analysis.

DOE estimated the average number of homes produced per small manufacturer to be 682 homes. DOE determined this based on manufacturer interviews, manufactured housing shipments per year, and number of small manufacturers. Based on interviews, DOE determined that the top five large manufacturers control 70 percent of the market. Therefore, DOE assumed that the small manufacturers represented the remainder of the market, which is 30 percent. Based on the manufacturer housing institute (MHI) shipment data for 2015, there were 70,519 manufactured home shipments for that year. Therefore, the total number of manufactured homes produced by small manufacturers is 21,156. Based on thirty-one small manufacturers, DOE calculated the average number of homes produced per small manufacturer to be 682 homes. Therefore, to test each home at a cost of $233 per unit, the average total cost of testing is $158,906 per manufacturer.

DOE requests comment on the estimate of duct testing costs of $233 per home and any costs data or information on the duct testing cost for all types of manufactured housing covered by the rule including single section, multi-section, and multi-story manufactured housing. DOE also requests comment on testing burden specific to small MH manufacturers, and whether testing alternatives are available to reduce testing burden for all manufacturers. See section V.B for a list of issues on which DOE seeks comment.

*C. Review Under the Paperwork Reduction Act of 1995*

This rulemaking does not include any information collection requirements subject to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

*D. Review Under the National Environmental Policy Act of 1969*

In this notice, DOE proposes test procedures that it expects will be used for energy conservation standards for manufactured homes. DOE has determined that this rule falls into a class of actions that are categorically excluded from review under the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*) and DOE's implementing regulations at 10 CFR part 1021. Specifically, this proposed rule would establish test procedures without affecting the amount, quality or distribution of energy usage, and, therefore, would not result in any environmental impacts. Thus, this rulemaking is covered by Categorical Exclusion A6 under 10 CFR part 1021, subpart D, which applies to any rulemaking that is strictly procedural. Accordingly, neither an environmental assessment nor an environmental impact statement is required.

*E. Review Under Executive Order 13132*

Executive Order 13132, ''Federalism,'' 64 FR 43255 (August 4, 1999) imposes certain requirements on agencies formulating and implementing policies or regulations that preempt State law or that have Federalism implications. The Executive Order requires agencies to examine the constitutional and statutory authority supporting any action that would limit the policymaking discretion of the States and to carefully assess the necessity for such actions. The Executive Order also requires agencies to have an accountable process to ensure meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications. On March 14, 2000, DOE published a statement of policy describing the intergovernmental consultation process it will follow in the development of such regulations. 65 FR 13735.

DOE has examined this action and has determined that it would not pre-empt State law. This action impacts testing procedures applicable to energy efficiency requirements for manufacturers of manufactured homes. No further action is required by Executive Order 13132.

*F. Review Under Executive Order 12988*

Regarding the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (Feb. 7, 1996), imposes on Federal agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity, (2) write regulations to minimize litigation, (3) provide a clear legal standard for affected conduct rather than a general standard, and (4) promote simplification and burden reduction. Section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation (1) clearly specifies the

[16] Hammon, R.W. and Modera, M.P. ''Improving the Energy Efficiency of Air Distribution Systems in New California Homes.'' *Proceedings of the 1996 ACEEE Summer Study on Energy Efficiency in Buildings.* Vol. 2. 1996.

preemptive effect, if any, (2) clearly specifies any effect on existing Federal law or regulation, (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction, (4) specifies the retroactive effect, if any, (5) adequately defines key terms, and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in sections 3(a) and 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the proposed rule meets the relevant standards of Executive Order 12988.

*G. Review Under the Unfunded Mandates Reform Act of 1995*

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) requires each Federal agency to assess the effects of Federal regulatory actions on State, local, and Tribal governments and the private sector. Pub. L. 104–4, sec. 201 (codified at 2 U.S.C. 1531). For a proposed regulatory action likely to result in a rule that may cause the expenditure by State, local, and Tribal governments, in the aggregate, or by the private sector of $100 million or more in any one year (adjusted annually for inflation), section 202 of UMRA requires a Federal agency to publish a written statement that estimates the resulting costs, benefits, and other effects on the national economy. (2 U.S.C. 1532(a), (b)) The UMRA also requires a Federal agency to develop an effective process to permit timely input by elected officers of State, local, and Tribal governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity for timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. On March 18, 1997, DOE published a statement of policy on its process for intergovernmental consultation under UMRA. 62 FR 12820; also available at *http://energy.gov/gc/office-general-counsel.* DOE examined this proposed rule according to UMRA and its statement of policy and determined that the rule contains neither an intergovernmental mandate, nor a mandate that may result in the expenditure of $100 million or more in any year, so these requirements do not apply.

*H. Review Under the Treasury and General Government Appropriations Act, 1999*

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a Family Policymaking Assessment for any rule that may affect family well-being. This rulemaking would not have any impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has concluded that it is not necessary to prepare a Family Policymaking Assessment.

*I. Review Under Executive Order 12630*

DOE has determined, under Executive Order 12630, ''Governmental Actions and Interference with Constitutionally Protected Property Rights'' 53 FR 8859 (March 18, 1988), that this proposed regulation would not result in any takings that might require compensation under the Fifth Amendment to the U.S. Constitution.

*J. Review Under Treasury and General Government Appropriations Act, 2001*

Section 515 of the Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516 note) provides for agencies to review most disseminations of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed this proposed rule under the OMB and DOE guidelines and has concluded that it is consistent with applicable policies in those guidelines.

*K. Review Under Executive Order 13211*

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001), requires Federal agencies to prepare and submit to OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that (1) is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy; or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use.

The proposed regulatory action to establish test procedures for measuring the energy efficiency of manufactured housing is not a significant regulatory action under Executive Order 12866. Moreover, it would not have a significant adverse effect on the supply, distribution, or use of energy, nor has it been designated as a significant energy action by the Administrator of OIRA. Therefore, it is not a significant energy action, and, accordingly, DOE has not prepared a Statement of Energy Effects.

*L. Review Under Section 32 of the Federal Energy Administration Act of 1974*

Under section 301 of the Department of Energy Organization Act (Pub. L. 95–91; 42 U.S.C. 7101), DOE must comply with section 32 of the Federal Energy Administration Act of 1974, as amended by the Federal Energy Administration Authorization Act of 1977. (15 U.S.C. 788; FEAA) Section 32 essentially provides in relevant part that, where a proposed rule authorizes or requires use of commercial standards, the notice of proposed rulemaking must inform the public of the use and background of such standards. In addition, section 32(c) requires DOE to consult with the Attorney General and the Chairman of the Federal Trade Commission (FTC) concerning the impact of the commercial or industry standards on competition.

The test procedures for manufactured homes proposed in this document incorporate testing methods contained in certain sections of the following commercial standards: *ANSI/NFRC 100–2014,* Procedure for Determining Fenestration Product *U*-factors; *NFRC 200–2014,* Procedure for Determining Fenestration Product Solar Heat Gain Coefficient and Visible Transmittance at Normal Incidence; *ASTM C518–15,* Standard Test Method for Steady State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus; *ASTM C1045–07(2013),* Standard Practice for Calculating Thermal Transmission Properties Under Steady-State Conditions; *ASTM E1554–13,* Standard Test Methods for Determining Air Leakage of Air Distribution Systems by Fan Pressurization; and *HVI Publication 916,* Air Flow Test Procedure, updated September 29, 2015.

DOE has evaluated these standards and is unable to conclude whether they fully comply with the requirements of

section 32(b) of the FEAA (*i.e.,* whether they were developed in a manner that fully provides for public participation, comment, and review.) DOE will consult with both the Attorney General and the Chairman of the FTC concerning the impact of these test procedures on competition, prior to prescribing a final rule.

*M. Description of Materials Incorporated by Reference*

In this NOPR, DOE proposes to incorporate by reference the test standard published by National Fenestration Rating Council, titled *ANSI/NFRC 100–2014, (''ANSI/NFRC 100''), Procedure for Determining Fenestration Product U-factors.* ANSI/NFRC 100 is an industry-accepted test procedure that measures the *U*-factor of fenestration and doors. Copies of ANSI/NFRC 100 be obtained from the National Fenestration Rating Council, 6305 Ivy Lane, Ste. 140, Greenbelt, MD 20770, or by going to *http://www/nfrc/org/.*

In this NOPR, DOE also proposes to incorporate by reference the test standard published by National Fenestration Rating Council, titled *NFRC 200–2014, (''NFRC 200''), Procedure for Determining Fenestration Product Solar Heat Gain Coefficient and Visible Transmittance at Normal Incidence.* NFRC 200 is an industry-accepted test procedure that measures the solar heat gain coefficient of fenestration. Copies of NFRC 200 be obtained from the National Fenestration Rating Council, 6305 Ivy Lane, Ste. 140, Greenbelt, MD 20770, or by going to *http://www/nfrc/org/.*

Additionally, DOE proposes to incorporate by reference the test standard published by the American Society for Testing and Materials, titled *ASTM C518–15, (''ASTM C518''), Standard Test Method for Steady State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus.* ASTM C518 is an industry-accepted test procedure for measuring values used to calculate the *R*-value of insulation that is typically used in manufactured homes. Copies of ASTM C518 may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or by going to *http://www.astm.org.*

Also proposed to be incorporated by reference is the test standard published by the American Society for Testing and Materials, titled *ASTM C1045–07(2013), (''ASTM C1045''), Standard Practice for Calculating Thermal Transmission Properties Under Steady-State Conditions.* ASTM C1045 is an industry-accepted test procedure for calculating the *R*-value of insulation that is typically used in manufactured homes. Copies of ASTM C1045 may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or by going to *http://www.astm.org.*

DOE also proposes to incorporate by reference Method D, as calculated in section 9.4, of the test standard published by the American Society for Testing and Materials, titled *ASTM E1554–13, (''ASTM E1554''), Standard Test Methods for Determining Air Leakage of Air Distribution Systems by Fan Pressurization.* ASTM E1554 is an industry-accepted test procedure for measuring air leakage of air distribution systems (*e.g.,* duct work employed in manufactured homes). Copies of ASTM C1554 may be obtained from the American Society for Testing and Materials, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, or by going to *http://www.astm.org.*

Finally, DOE is proposing to incorporate by reference the test standard published by the Home Ventilating Institute, titled *HVI Publication 916, (''HVI 916''), Air Flow Test Procedure,* updated September 29, 2015. HVI 916 is an industry-accepted test procedure for determining mechanical ventilation fan efficacy. Copies of HVI 916 may be obtained from the Home Ventilating Institute, 4915 Arendell St., Ste. J, PMB 311, Morehead City, NC 28557, or by going to *http://www.hvi.org.*

## V. Public Participation

*A. Submission of Comments*

DOE will accept comments, data, and information regarding this proposed rule no later than the date provided in the **DATES** section at the beginning of this proposed rule. Interested parties may submit comments using any of the methods described in the **ADDRESSES** section at the beginning of this notice.

*Submitting comments via regulations.gov.* The *www.regulations.gov* Web page will require you to provide your name and contact information. Your contact information will be viewable to DOE Building Technologies staff only. Your contact information will not be publicly viewable except for your first and last names, organization name (if any), and submitter representative name (if any). If your comment is not processed properly because of technical difficulties, DOE will use this information to contact you. If DOE cannot read your comment due to technical difficulties and cannot contact you for clarification, DOE may not be able to consider your comment.

However, your contact information will be publicly viewable if you include it in the comment or in any documents attached to your comment. Any information that you do not want to be publicly viewable should not be included in your comment, nor in any document attached to your comment. Persons viewing comments will see only first and last names, organization names, correspondence containing comments, and any documents submitted with the comments.

Do not submit to *www.regulations.gov* information for which disclosure is restricted by statute, such as trade secrets and commercial or financial information (hereinafter referred to as Confidential Business Information (CBI)). Comments submitted through *www.regulations.gov* cannot be claimed as CBI. Comments received through the Web site will waive any CBI claims for the information submitted. For information on submitting CBI, see the Confidential Business Information section.

DOE processes submissions made through *www.regulations.gov* before posting. Normally, comments will be posted within a few days of being submitted. However, if large volumes of comments are being processed simultaneously, your comment may not be viewable for up to several weeks. Please keep the comment tracking number that *www.regulations.gov* provides after you have successfully uploaded your comment.

*Submitting comments via email, hand delivery, or mail.* Comments and documents submitted via email, hand delivery, or mail also will be posted to *www.regulations.gov.* If you do not want your personal contact information to be publicly viewable, do not include it in your comment or any accompanying documents. Instead, provide your contact information on a cover letter. Include your first and last names, email address, telephone number, and optional mailing address. The cover letter will not be publicly viewable as long as it does not include any comments.

Include contact information each time you submit comments, data, documents, and other information to DOE. If you submit via mail or hand delivery, please provide all items on a CD, if feasible. It is not necessary to submit printed copies. No facsimiles (faxes) will be accepted.

Comments, data, and other information submitted to DOE electronically should be provided in PDF (preferred), Microsoft Word or

Excel, WordPerfect, or text (ASCII) file format. Provide documents that are not secured, written in English and free of any defects or viruses. Documents should not contain special characters or any form of encryption and, if possible, they should carry the electronic signature of the author.

*Campaign form letters.* Please submit campaign form letters by the originating organization in batches of between 50 to 500 form letters per PDF or as one form letter with a list of supporters' names compiled into one or more PDFs. This reduces comment processing and posting time.

*Confidential Business Information.* According to 10 CFR 1004.11, any person submitting information that he or she believes to be confidential and exempt by law from public disclosure should submit via email, postal mail, or hand delivery two well-marked copies: One copy of the document marked confidential including all the information believed to be confidential, and one copy of the document marked non-confidential with the information believed to be confidential deleted. Submit these documents via email or on a CD, if feasible. DOE will make its own determination about the confidential status of the information and treat it according to its determination.

Factors of interest to DOE when evaluating requests to treat submitted information as confidential include (1) a description of the items, (2) whether and why such items are customarily treated as confidential within the industry, (3) whether the information is generally known by or available from other sources, (4) whether the information has previously been made available to others without obligation concerning its confidentiality, (5) an explanation of the competitive injury to the submitting person which would result from public disclosure, (6) when such information might lose its confidential character due to the passage of time, and (7) why disclosure of the information would be contrary to the public interest.

It is DOE's policy that all comments may be included in the public docket, without change and as received, including any personal information provided in the comments (except information deemed to be exempt from public disclosure).

*B. Issues on Which DOE Seeks Comment*

Although DOE welcomes comments on any aspect of this proposal, DOE is particularly interested in receiving comments and views of interested parties concerning the following issues:

(1) DOE requests comment on whether the proposed test procedures apply to all constructions and designs of manufactured homes including multi-section and multi-story homes, and whether alternative test procedures should be considered for certain MH constructions or designs. See section III.A.

(2) DOE seeks comment on the proposal to incorporate by reference only ASTM C518–15 for determination of the R-value of insulation for all types of insulation except aluminum foil. In addition, DOE also seeks comment regarding testing only using the horizontal orientation. See section III.C.1.a.

(3) DOE seeks comment on the proposed exception that if uniform ceiling insulation thickness is not possible due to the truss heel height at the eaves of the roof, the ceiling insulation R-value is based on the R-value listed on the insulation manufacturer's label corresponding to the mass or number of bags of insulation installed by the manufactured home manufacturer. See section III.C.1.c.

(4) DOE requests comment on the percentage of insulation materials used by the MH market that are already rated using the proposed test procedures; the cost of transitioning to these test procedures for manufacturers not already following the proposal; to what alternative test procedure these insulation models are testing in accordance with; and other potential test procedure options.

(5) DOE seeks comment on whether ANSI/NFRC 100 is an appropriate industry standard to determine the U-factor of fenestration. DOE also requests comment on the percentage of fenestration units used by the MH market that are already rated using the proposed test procedures; the cost of transitioning to these test procedures for manufacturers not already following the proposal; to what alternative test procedure these fenestration models are testing in accordance with; and other potential test procedure options. See section III.C.2.

(6) DOE seeks comment on whether section 3.1 from Overall U-Values and Heating/Cooling Loads—Manufactured Homes is appropriate to determine the U-factor alternative to R-value of insulation. See section III.C.4.

(7) DOE seeks comment on whether NFRC 200 is an appropriate industry standard to determine the SHGC of fenestration. DOE also requests comment on the percentage of fenestration units used by the MH market that are already rated using the proposed test procedures; the cost of transitioning to these test procedures for manufacturers not already following the proposal; to what alternative test procedure these fenestration models are testing in accordance with; and other potential test procedure options. See section III.C.5.

(8) DOE seeks comment on whether ASTM E1554–13, Test Method D, is an appropriate industry standard to determine total duct leakage requirements for both single- and multi-section homes. DOE also requests comment on the cost of carrying out the duct leakage test procedure on a per-home basis for both single-section, multi-section, and multi-story homes. See section III.C.6.

(9) DOE seeks comment on the proposal to sum the measured duct air leakage of each section of a multi-section home to calculate the total duct air leakage for multi-section homes. DOE also seeks comment on other alternative assemblies for determining total duct air leakage testing for multi-section homes. See section III.C.6.

(10) DOE seeks comment on incorporating by reference only HVI 916 to determine mechanical ventilation fan efficacy. In addition, DOE seeks comment on the number of speeds, and the static pressures being proposed. DOE also requests comment on the percentage of mechanical ventilation fan units used by the MH market that are already rated using the proposed test procedures; the cost of transitioning to these test procedures for manufacturers not already following the proposal; to what alternative test procedure these mechanical ventilation fan units are testing in accordance with; and other potential test procedure options. See section III.C.7.

(11) DOE seeks comment on the proposed sampling plan and method for calculating a represented value. DOE is particularly seeking comment on the proposed minimum sample size. See section III.D.

(12) DOE requests comment on the tentative conclusion that the proposed test procedure will not have a significant economic impact on a substantial number of small entities. See section IV.B.

(13) DOE requests comment on the estimate of duct testing costs of $233 per home. See section IV.B.

(14) DOE requests comment on any duct leakage testing alternatives that are available to reduce testing burden for all manufacturers as well as any burden reducing alternatives for the other proposed test requirements. See section V.B.

## VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this proposed rule.

## List of Subjects in 10 CFR Part 460

Administrative practice and procedure, Buildings and facilities, Energy conservation, Housing standards, Incorporation by reference, Reporting and recordkeeping requirements.

Issued in Washington, DC, on October 21, 2016.

**Kathleen B. Hogan,**

*Deputy Assistant Secretary for Energy Efficiency, Energy Efficiency and Renewable Energy.*

For the reasons stated in the preamble, DOE is proposing to amend part 460, as proposed to be added at 81 FR 39756 (June 17, 2016), of chapter II of title 10, Code of Federal Regulations as set forth below:

## PART 460—ENERGY CONSERVATION STANDARDS FOR MANUFACTURED HOMES

■ 1. The authority citation for part 460 continues to read as follows:

**Authority:** 42 U.S.C. 17071; 42 U.S.C. 7101 *et seq.*

■ 2. Section 460.3 is amended by:

■ a. Redesignating paragraph (c) as paragraph (d);

■ b. Adding a new paragraph (c); and

■ c. Adding paragraphs (e) and (f).

The additions read as follows:

### § 460.3 Materials incorporated by reference.

* * * * *

(c) *ASTM. American Society for Testing and Materials,* 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959, 610–832–9500, or *http://www.astm.org.*

(1) *ASTM C518–15, (''ASTM C518–15''), Standard Test Method for Steady State Thermal Transmission Properties by Means of the Heat Flow Meter Apparatus.* IBR approved for § 460.102 of subpart B.

(2) *ASTM C1045–07 (2013), (''ASTM C1045–07''), Standard Practice for Calculating Thermal Transmission Properties under Steady-State Conditions.* IBR approved for § 460.102 of subpart B.

(3) *ASTM E1554–13, (''ASTM E1554–13''),* Standard Test Methods for Determining Air Leakage of Air Distribution Systems by Fan Pressurization. IBR approved for § 460.204 of subpart C.

* * * * *

(e) *HVI.* Home Ventilating Institute, 4915 Arendell St., Ste. J, PMB 311, Morehead City, NC 28557, 855–484–8368, or *http://www.hvi.org.*

(1) *HVI Publication 916, (''HVI 916''), Air Flow Test Procedure,* Updated September 29, 2015. IBR approved for § 460.201 of subpart C.

(2) [Reserved]

(f) *NFRC.* National Fenestration Rating Council, 6305 Ivy Lane, Ste. 140, Greenbelt, MD 20770, 301–589–1776, or *http://www.nfrc.org/.*

(1) *ANSI/NFRC 100–2014, (''ANSI/NFRC 100''), Procedure for Determining Fenestration Product U-factors.* IBR approved for § 460.102 of subpart B.

(2) *NFRC 200–2014, (''NFRC 200''), Procedure for Determining Fenestration Product Solar Heat Gain Coefficient and Visible Transmittance at Normal Incidence.* IBR approved for § 460.102 of subpart B.

■ 3. Section 460.102 is amended by:

■ a. Adding paragraphs (d)(1), (2), (4), and (5);

■ b. Revising paragraph (d)(3) and (d)(6);

■ c. Adding paragraph (d)(7);

■ d. Revising paragraph (d)(8);

■ e. Adding paragraphs (e)(1)(i) and (ii), and (e)(2);

■ f. Revising paragraph (e)(3).

The revisions and additions read as follows:

### § 460.102 Building thermal envelope requirements.

* * * * *

(d) *Determination of compliance with § 460.102(b).*

(1) The *R*-value of insulation must be determined in accordance with the FTC *R*-value rule at 16 CFR part 460, in units of h·ft² ·°F/Btu, with the following exceptions:

(i) For all types of insulation except aluminum foil, heat flux would be measured only in accordance with ASTM C518–15 (incorporated by reference; see § 460.3), with the heat meter apparatus in the horizontal orientation. Calculate *R*-value of insulation except aluminum foil in accordance with ASTM C1045–07 (incorporated by reference; see § 460.3) based upon heat flux measured according to ASTM C518–15.

(ii) In the case that uniform ceiling insulation thickness is not possible due to the truss heel height at the eaves of the roof, the ceiling insulation *R*-value would be the *R*-value listed on the insulation manufacturer's label (developed in accordance with 16 CFR 460.12(b)(2)) corresponding to the minimum weight or number of bags of insulation installed by the manufactured home manufacturer. To calculate the minimum weight of insulation, multiply the minimum weight per square foot of insulation for the required ceiling insulation *R*-value (developed in accordance with 16 CFR 460.12(b)(2)) by the surface area of the ceiling in square feet. To calculate the number of bags of insulation, multiply the number of bags of insulation per 1,000 square feet for the required ceiling insulation *R*-value (developed in accordance with 16 CFR 460.12(b)(2)) by the surface area of the ceiling in square feet divided by 1,000 square feet.

(2) To show compliance with paragraph (b) of this section for *R*-value of insulation:

(i) Randomly select a sample of insulation of at least one unit.

(ii) Test the insulation in accordance with the test procedure at paragraph (d)(1) of this section.

(iii) Determine the represented value of *R*-value by calculating the arithmetic mean of the sample ($X_1$), calculated as follows:

$$x_1 = \frac{1}{n_1}\left(\sum_{i=1}^{n_1} x_i\right)$$

where $X_i$ is the measured R-value of unit i and $N_1$ is the total number of units.

Round representations of *R*-value calculated in this paragraph (d)(3)(iii) to the nearest whole number. Calculations of represented values must be rounded only after the calculation is completed.

(iv) The represented value of *R*-value must be equal to or greater than the value calculated under paragraph (d)(3)(iii) of this section, and equal to or greater than the standard described in § 460.204(a).

(v) If multiple layers of insulation are used, the total *R*-value is the sum of the *R*-value of each layer of insulation that comprise the component (as calculated in paragraphs (d)(2)(i) through (iii) of this section).

(3) Determine the *U*-factor of fenestration products and doors in accordance with ANSI/NFRC 100 (incorporated by reference; see § 460.3) in units of Btu/h·ft² ·°F. Alternatively, use the prescriptive default values specified for the corresponding fenestration products and doors in Tables 460.102–4 and 460.102–5.

(4) To show compliance with paragraph (b) of this section for *U*-factor of fenestration products and doors:

(i) Randomly select a sample of fenestration products or doors of at least one unit.

(ii) Test the fenestration product or door (or use the prescriptive default value) in accordance with the test procedure at this paragraph (d)(4).

(iii) Determine the represented value of *U*-factor by calculating the arithmetic

mean of the sample. Round representations of *U*-factor calculated in paragraph (d)(5)(iii) of this section to two significant digits. Calculations of represented values must be rounded only after the calculation is completed.

(iv) The represented value of *U*-factor must be equal to or greater than the value calculated under paragraph (d)(5)(iii) of this section, and equal to or less than the standard described in paragraph (b) of this section.

(5) Calculate the *U*-factor alternatives to *R*-value Requirements in accordance with section 3.1 from Overall *U*-Values and Heating/Cooling Loads—Manufactured Homes (incorporated by reference; see § 460.3) with the exceptions provided in paragraph (e)(1) of this section, in units of Btu/h·ft$^2$ ·°F.

(6) To show compliance with the *U*-factor alternatives to *R*-value Requirements (if this alternative is used):

(i) Randomly select a select a sample of manufactured homes (at least one home).

(ii) Calculate the *U*-factor alternatives in accordance with the test procedure at this paragraph (d)(6).

(iii) Determine the represented value of *U*-factor alternative by calculating the arithmetic mean of the sample. Round representations of *U*-factor alternative calculated in paragraph (d)(7)(iii) of this section to two significant digits. Calculations of represented values must be rounded only after the calculation is completed.

(iv) The represented value of the *U*-factor alternatives must be equal to or greater than the value calculated under paragraph (c)(3) of this section, and equal to or less than the standard described in paragraph (b) of this section.

(7) Determine the SHGC of glazed fenestration products in accordance with NFRC 200 (incorporated by reference; see § 460.3). Alternatively, use the prescriptive glazed fenestration SHGC default values specified for the corresponding glazed fenestration in Tables 460.102 through 460–106.

(8) To show compliance with paragraph (b) of this section with respect to glazed fenestration SHGC:

(i) Randomly select a sample of glazed fenestration products of at least one unit.

(ii) Test the glazed fenestration products in accordance with paragraph (d)(6) of this section.

(iii) Determine the represented value of SHGC by calculating the arithmetic mean of the sample. Round representations of SHGC calculated in paragraph (d)(7)(iii) of this section to two significant digits. Calculations of represented values must be rounded only after the calculation is completed.

(iv) The represented value of SHGC must be equal to or greater than the value calculated under paragraph (d)(7)(iii) of this section, and equal to or less than the standard described in paragraph (b) of this section.

(e) * * *

(1) * * *

(i) Determine the represented value of R-value of insulation in accordance with paragraphs (d)(3)(i) through (iii) of this section.

(ii) Determine the represented value of *U*-factor of fenestration products and doors in accordance with paragraphs (d)(5)(i) through (iii) of this section.

(2) To show compliance with paragraph (c) of this section with respect to $U_o$:

(i) Randomly select a sample of manufactured homes (at least one home).

(ii) Determine the $U_o$ of each home in accordance with paragraph (e)(1) of this section.

(iii) Determine the represented value of $U_o$ by calculating the arithmetic mean of the sample. Round representations of $U_o$ calculated in paragraph (e)(2)(iii) of this section to two significant digits. Calculations of represented values must be rounded only after the calculation is completed.

(iv) The represented value of $U_o$ must be equal to or greater than the value calculated under paragraph (e)(2)(iii) of this section, and equal to or less than the standard described in paragraph (c) of this section.

(3) Determine the represented value of SHGC of glazed fenestration products in accordance with paragraphs (d)(8)(i) through (iii) of this section.

■ 4. Section 460.201 is amended by adding paragraphs (b) and (c) to read as follows:

**§ 460.201 Duct system.**

* * * * *

(b) Determine the total air leakage per 100 square feet of conditioned floor area according to the following equation:

$$Q_{duct\ air\ leakage} = \frac{Q_{duct\ leakage,total}}{A_{floor,conditioned}} \times 100$$

Where:

$Q_{duct\ air\ leakage}$ = total air leakage per 100 square feet of conditioned floor area, (cubic feet per minute per 100 square feet of conditioned floor area)

$Q_{duct\ leakage,total}$ = measured total air leakage of the duct system, determined in accordance with ASTM E1554–13, Method D, as calculated in section 9.4 (cubic feet per minute) (incorporated by reference; see § 460.3)

$A_{floor,conditioned}$ = total conditioned floor area (square feet)

(1) For multi-section homes, $Q_{duct\ leakage,total}$ is the summation of the air leakage of the duct system for each section of the manufactured home measured individually.

(2) When measuring the duct leakage of an individual section of a multi-section manufactured home, follow ASTM E1554–13, Method D, and also seal any duct openings used to connect ducts between the sections of the home, unless the duct opening is being used as the inlet to pressurize the duct system.

(c) To show compliance with paragraph (a) of this section:

(1) Randomly select a sample of manufactured homes (at least one home).

(2) Test the manufactured home duct system in accordance with the test procedure at paragraph (b) of this section.

(3) Determine the represented value of total air leakage per 100 square feet of conditioned floor area by calculating the arithmetic mean of the sample. Round representations of total air leakage per 100 square feet of conditioned floor area calculated in paragraph (c)(3) of this section to one significant digit. Calculations of represented values must be rounded only after the calculation is completed.

(4) The represented value must be equal to or less than the value calculated under paragraph (c)(3) of this section, and equal to or greater than the standard described in § 460.204(a).

■ 5. Section 460.204 is amended by adding paragraphs (c) and (d) to read as follows:

**§ 460.204 Mechanical ventilation fan efficacy.**

* * * * *

(c) Determine the fan airflow (cfm) and efficacy (cfm/W) in accordance with HVI 916 (incorporated by reference; see § 460.3), with the following exceptions.

(1) Bathroom and utility room fans with more than one speed, and in-line fans with more than one speed, must be tested and meet the performance criteria at each speed. A fan of this type that has a rotary speed dial or similar mechanism that allows for a theoretically infinite number of speeds must be tested and meet the applicable efficacy of this specification at its minimum and maximum speeds.

(2) Fans must be tested at the following static pressures to determine the airflow and efficacy: For ducted fans, conduct tests at 0.1 inch water gauge static pressure; for direct discharge (non-ducted) fans, conduct tests at 0.03 inch water gauge static pressure; for in-line fans, conduct tests at 0.2 inch water gauge static pressure.

(3) Test ducted range hood fans at working speed, as specified in HVI 916 (incorporated by reference; see § 460.3), to determine the airflow and efficacy. Range hoods must meet the minimum efficacy requirements in each possible configuration (horizontal and vertical) at working speed.

(4) When calculating efficacy, only measure the fan motor electrical energy consumption. Energy used for other fan auxiliaries (*e.g.,* lights, sensors, heaters, timers, or night lights) is not included in the determination of fan efficacy. Therefore, to measure fan power, switch off all fan auxiliaries.

(d) To show compliance with paragraph (a) of this section:

(1) Randomly select a sample of whole-house mechanical ventilation system fan(s) of at least one unit.

(2) Test the whole-house mechanical ventilation system fan(s) in accordance with the test procedure at paragraph (c) of this section.

(3) Determine the represented value of fan efficacy by calculating the arithmetic mean of the sample. Round representations of fan efficacy calculated in paragraph (c)(3) of this section to two significant digits. Calculations of represented values must be rounded only after the calculation is completed.

(4) The represented value must be equal to or less than the value calculated under paragraph (d)(3) of this section, and equal to or greater than the standard described in paragraph (a) of this section.

[FR Doc. 2016–26008 Filed 11–8–16; 8:45 am]

**BILLING CODE 6450–01–P**

## NATIONAL CREDIT UNION ADMINISTRATION

## 12 CFR Part 701

**RIN 3133–AE31**

## Chartering and Field of Membership Manual

**AGENCY:** National Credit Union Administration (NCUA).

**ACTION:** Proposed rule with request for comments.

**SUMMARY:** The NCUA Board proposes to amend its chartering and field of membership rules to give applicants for community charter approval, expansion or conversion the option, in lieu of a presumptive community, to submit a narrative to establish common interests or interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. The Board also proposes to increase up to 10 million the population limit on a community consisting of a statistical area or a portion thereof. Finally, when such an area is subdivided into metropolitan divisions, the Board will permit a credit union to designate a portion of the area as its community without regard to division boundaries.

**DATES:** Comments must be received on or before December 9, 2016.

**ADDRESSES:** You may submit comments by any of the following methods (Please send comments by one method only):

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *NCUA Web site: http://www.ncua.gov/RegulationsOpinionsLaws/proposed_regs/proposed_regs.html.* Follow the instructions for submitting comments.
- *Email:* Address to *regcomments@ncua.gov.* Include ''[Your name] Comments on Notice of Proposed Rulemaking re Community Common Bond'' in the email subject line.
- *Fax:* (703) 518–6319. Use the subject line described above for email.
- *Mail:* Address to Gerard S. Poliquin, Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.
- *Hand Delivery/Courier:* Same as mail address.

*Public Inspection:* You may view all public comments on NCUA's Web site at *http://www.ncua.gov/Legal/Regs/Pages/PropRegs.aspx* as submitted, except for those we cannot post for technical reasons. NCUA will not edit or remove any identifying or contact information from the public comments submitted. You may inspect paper copies of comments in NCUA's law library at 1775 Duke Street, Alexandria, Virginia 22314, by appointment weekdays between 9 a.m. and 3 p.m. To make an appointment, call (703) 518–6546 or send an email to *OGCMail@ncua.gov.*

**FOR FURTHER INFORMATION CONTACT:** Matthew Biliouris, Deputy Director, or Robert Leonard, Director, Division of Consumer Access, or Rita Woods, Director, Division of Consumer Access South, Office of Consumer Financial Protection and Access, at the above address or telephone (703) 518–1140; or Senior Staff Attorney Steven Widerman or Staff Attorney Marvin Shaw, Office of General Counsel, at the above address or telephone (703) 518–6540.

**SUPPLEMENTARY INFORMATION:**

### I. Background

*A. Overview*

NCUA's Chartering and Field of Membership Manual, incorporated as Appendix B to part 701 of its regulations (''Chartering Manual''),[1] implements the field of membership (''FOM'') requirements established by the Federal Credit Union Act (''the Act'') for federal credit unions (each an ''FCU'').[2] An FOM consists of those persons and entities eligible for membership according to an FCU's type of charter.

In adopting the Credit Union Membership Access Act of 1998 (''CUMAA''), Congress reiterated its longstanding support for credit unions, noting their ''specif[ic] mission of meeting the credit and savings needs of consumers, especially persons of modest means.''[3] As amended by CUMAA, the FCU Act provides a choice among three charter types: A single group sharing a single occupational or associational common bond;[4] a multiple common bond of groups that each have a distinct occupational or associational common bond among group members;[5] and a community common bond among ''persons or organizations within a well-defined local community, neighborhood, or rural district.''[6]

As amended in 1998, the FCU Act directs the Board to define what constitutes a well-defined local

[1] Appendix B to 12 CFR part 701 (''Appendix B'').

[2] 12 U.S.C. 1759.

[3] Public Law 105–219, § 2, 112 Sta. 913 (Aug 7, 1998).

[4] 12 U.S.C. 1759(b)(1).

[5] *Id.* § 1759(b)(2)(A).

[6] *Id.* § 1759(b)(3).

community (''WDLC''), neighborhood, or rural district for purposes of ''making any determination'' regarding a community credit union,[7] and to establish applicable criteria for any such determination.[8] To qualify as a WDLC, neighborhood, or rural district, the Board requires the proposed area to have ''specific geographic boundaries,'' such as those of ''a city, township, county (single or multiple portions of a county) or their political equivalent, school districts or a clearly identifiable neighborhood.'' [9] The boundaries themselves may consist of political borders, streets, rivers, railroad tracks, or other static geographical features.[10] The Board continues to emphasize interaction or common interests among residents within those boundaries as essential features of a local community.

Until 2010, the Chartering Manual required FCUs to submit for NCUA approval a narrative, supported by documentation, that presents indicia of common interests or interaction among residents of a proposed community (the ''narrative model''). In 2010, the Board abandoned the narrative model in favor of an objective model that gives credit unions a choice between two ''presumptive communities'' that each by definition qualifies as a WDLC (the ''presumptive community model'').[11] The first of these is a ''Single Political Jurisdiction . . . or any contiguous portion thereof'' (each an ''SPJ''), regardless of population.[12] The other is a single Core Based Statistical Area as designated by the U.S. Census Bureau (''Census'') or a well-defined portion thereof (each a ''CBSA''), subject to a 2.5 million population limit.[13]

In the case of a CBSA that the Office of Management and Budget (''OMB'') has subdivided into metropolitan divisions, a community consisting of a portion of the CBSA must conform to the boundaries of such divisions. Under either ''presumptive community'' option, an FCU must be able to serve its entire proposed community, as demonstrated by its business and marketing plans that must accompany an application to approve a new community charter, an expansion or a conversion.[14]

In a final rule published elsewhere in this volume of the **Federal Register**, the Board comprehensively overhauled the Chartering Manual. With respect to community charters, the final rule, among other things, affirmed the 2.5 million population cap that applies to a ''presumptive community'' consisting of a CBSA or portion thereof,[15] and recognized an OMB-designated Combined Statistical Area or a portion thereof as a ''presumptive community'' subject to the same population limit.[16]

The final rule also permitted the addition of an adjacent area to an existing ''presumptive community'' based on a narrative presenting indicia that residents on both sides of the perimeter share common interests and interact with each other, subject to the same population limit. The Board narrowly reinstated the narrative model for this singular purpose. To achieve that purpose, the final rule directed the Office of Consumer Financial Protection and Access (''OCFPA'') to issue guidance identifying indicia corresponding to the criteria that an FCU's narrative should address to support the addition of an adjacent area,[17] and which the Board will consider in deciding an FCU's application to do so.

*B. Why is NCUA proposing this rule?*

NCUA is proposing this rule to consider three recommendations from commenters that exceeded the scope of the Board's 2015 proposal to comprehensively overhaul the Chartering Manual.[18] First, despite the ease and convenience of the ''presumptive community'' model as a safe harbor to establish a WDLC, it may be too limiting if it confines FCUs to ''presumptive community'' options that may be unsuited to their purposes and ability, leaving them with no recourse but to accept an area other than the one they ideally seek to serve. General use of the narrative model in seeking approval to charter, to expand, or to convert to, a community charter would address such a dilemma.

Second, the Board seeks to explore the possibility of increasing up to 10 million the population limit that applies to a local community other than an SPJ, to permit approval of a community within that maximum to the extent of an FCU's ability and commitment to adequately serve that community without compromising either the safety and soundness of the FCU's operations or the cohesion of the community.[19]

Finally, when an FCU seeks to serve a portion of a Combined Statistical Area as its WDLC, that portion is *not* required to conform to the boundaries of the CBSA components that form the Combined Statistical Area. In contrast, when an FCU seeks to serve a portion of a CBSA as its community—notwithstanding that a CBSA is far more compact than a Combined Statistical Area—the existing rule nonetheless requires such portion of a CBSA to conform to the boundaries of the metropolitan divisions within, if any. Permitting a credit union to designate a portion of a CBSA as its community without regard to division boundaries would address this disparity in treatment of a community consisting of a portion of a CBSA versus that of a Combined Statistical Area.

Consistent with the Board's responsibility under CUMAA to facilitate access to credit union services, the objective of the three proposals in this rule is to give FCUs greater flexibility in providing services to consumers who are eligible for FCU membership, particularly those of modest means.

## II. Summary of the Proposed Rule

*A. General Applicability of Narrative Model To Establish a Well-Defined Local Community*

The proposed rule would permit general use of the narrative model—which the final rule makes available solely to add an adjacent area to an

[7] *Id.* § 1759(g)(1)(A).

[8] *Id.* § 1759(g)(1)(B).

[9] Appendix B, Ch. 2, section V.A.2.

[10] Appendix B, Ch. 2, section V.A.5.

[11] As explained in the final rule that discontinued use of the subjective model, the Board ''does not believe it is beneficial to continue the practice of permitting a community charter applicant to provide a narrative statement with documentation to support the credit union's assertion that an area containing multiple political jurisdictions meets the standards for community interaction and/or common interests to qualify as a WDLC. As [the proposed rule] noted, the narrative approach is cumbersome, difficult for credit unions to fully understand, and time consuming. . . . While not every area will qualify as a WDLC under the statistical approach, NCUA stated it believes the consistency of this objective approach will enhance its chartering policy, assure the strength and viability of community charters, and greatly ease the burden for any community charter applicant.'' 75 FR 36257, 36260 (June 25, 2010).

[12] Appendix B, Ch. 2, section V.A.2.

[13] *Id.* ''A total population cap of 2.5 million is appropriate in a multiple political jurisdiction context to demonstrate cohesion in the community.'' 75 FR 36257, 36260 (June 25, 2010).

[14] Appendix B, Ch. 2, § V.A.4.

[15] The final rule also modified the ''statistical area'' definition to specify that in the case of a community consisting of a portion of either a CBSA or a Metropolitan Division within, the portion *by itself* must have a population of 2.5 million or fewer, regardless whether the CBSA or Metropolitan Division *as a whole* exceeds the limit. Appendix B, Ch. 2, section V.A.2.

[16] Appendix B, Ch. 2, § V.A.2. OMB Bulletin No. 15–01 to Heads of Executive Departments and Establishments (July 15, 2015) at: *https://www.whitehouse.gov/sites/default/files/omb/bulletins/2015/15-01.pdf.*

[17] 80 FR 76748, 76772 (Dec. 10, 2015) (referring to the presence of an economic hub, quasi-governmental agencies, Government designated programs, shared public services and facilities, and colleges and universities).

[18] 80 FR 76748.

[19] *See* note 13 *supra.*

existing or a new community[20]—to seek NCUA approval to initially form, to expand, or to convert to, a community charter. In lieu of reliance on a ''presumptive community,'' the proposed rule would permit an FCU to submit a narrative, supported by appropriate documentation, to demonstrate that the community it proposes to serve qualifies as a WDLC based on common interests or interaction among the area's residents.

The Act gives the Board broad discretion to define a WDLC for purposes of ''making *any determination*'' regarding a community credit union,[21] and to establish criteria to apply to any such determination.[22] Under that authority, the Board proposes, in a new appendix to the Chartering Manual, a set of ''Narrative Criteria to Identify a Well-Defined Local Community'' that an FCU should address in the narrative it submits to support its application to charter, expand, or convert to, a community credit union.

NCUA's experience with community charter applications under the pre-2010 narrative model indicates that these particular thirteen criteria generally were the most useful and compelling, when properly addressed and documented, to demonstrate common interests or interaction among residents of a proposed community. An area need not meet all of the narrative criteria to qualify as a local community; rather, the totality of circumstances within the criteria a credit union elects to address must indicate a sufficient presence of common interests or interaction among the area's residents. The new appendix explains each criterion in order to guide applicants in the prudent use of their resources, with minimal burden, to assess whether an area qualifies as a local community and, if so, to develop an effective and well-documented narrative to justify Board approval of its application.[23]

Accordingly, the Board will consider the following criteria, and the supporting documentation for each, in evaluating the presence of interaction and/or common interest among residents sufficient to establish that an area is a WDLC:

1. Presence of a Central Economic Hub

The proposed community includes an economic hub. An economic hub is evident when one political jurisdiction (city or county) within a proposed local community has a relatively large percentage of the community's population or is the primary location for employment. The application needs to identify the major employers and their locations within the proposed community.

2. Community-Wide Quasi-Governmental Agency Services

The existence of organizations such as economic development commissions, regional planning boards, and labor or transportation districts can be important factors to consider. The more closely their service area matches the entire area, the greater the showing of interaction and/or common interests.

3. Governmental Designations With Community

Designation of the proposed community by a government agency as a region or distinct district—such a regional transportation district, a water district, or a tourism district—is a factor that can be considered in determining whether the area is a local community. The more closely the designation matches the area's geographic boundaries, the greater the value of that evidence in demonstrating interaction and/or common interests.

4. Shared Public Services and Facilities

The existence of shared services and facilities, such as police, fire protection, park districts, public transportation, airports, or public utilities, can contribute to a finding that an area is a community. The more closely the service area matches the geographic boundaries of the community, and the higher the percentage of residents throughout the community using those services or facilities, the more valuable the data.

5. Hospitals and Major Medical Facility Services

Data on medical facilities should include admittance or discharge statistics providing the ratio of use by residents of each political jurisdiction. The greater the percentage of use by residents throughout the proposed community, the higher the value of this data in showing interaction. The application can also support the importance of an area hospital with documentation that correlates the facility's target area with the proposed local community and/or discusses the relative distribution of hospitals over a larger area.

6. College and University Enrollment

College enrollment data can be a useful factor in establishing a local community. The higher the percentages of student enrollment at a given campus by residents throughout each part of the community, the greater the value in showing interaction. Additionally, the greater the participation by the college in community initiatives (*e.g.,* partnering with local governments), and the greater the service area of these initiatives, the stronger the value of this factor.

7. Multi-Jurisdictional Mutual Aid Agreements

The existence of written agreements among law enforcement and fire protection agencies in the area to provide services across multiple jurisdictions can be an important factor.

8. Organizations' and Clubs' Membership and Services

The more closely the service area of an organization or club matches the proposed community's boundaries, and the greater the percentage of membership and services throughout the proposed community, the more relevant the data.

9. Newspaper Subscriptions

A newspaper that has a substantial subscription base in an area can be an indication of common interests. The higher the household penetration figures throughout the area, the greater the value in showing common interests. Subscription data may include print copies as well as on-line access.

10. Attendance at Entertainment and Sporting Events

Data to show the percentage of residents from each political jurisdiction who attend the events. The higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction. For sporting events, as well as some entertainment events, data on season ticket holders and memberships may be available. As with overall attendance figures, the higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction.

11. Local Television and Radio Audiences

A television or radio station broadcasting in an area can be an indication of common interests. Objective data on viewer and listener audiences in the proposed community can support the existence of a community.

[20] Appendix B, Ch. 2, § V.A.2.

[21] 12 U.S.C. 1759(g)(1)(A) (emphasis added).

[22] *Id.* § 1759(g)(1)(B).

[23] Appendix 6 to Appendix B.

12. Community-Wide Shopping Patterns

The narrative must identify the location of the major shopping centers and malls and include the percentage of shoppers coming from each part of the community. The larger the percentage of shoppers from throughout the community, the stronger the case for interaction. While of lesser value than the shopping data, identification of the shopping center's target area can be persuasive. The target area should closely match the geographic boundaries of the proposed community.

13. Geographic Isolation

Some communities face varying degrees of geographic isolation. As such, travel outside the community can be limited by mountain ranges, forests, national parks, deserts, bodies of waters, etc. This factor, and the relative degree of isolation, may help bolster a finding of interaction or common interests.

*B. Increase in Statistical Area Population Limit to 10 Million*

The proposed rule would increase to 10 million the 2.5 million population limit that presently applies to a community consisting of a CBSA or Combined Statistical Area (each a ''statistical area'') or other area an FCU designates, subject to an FCU's ability and commitment to adequately serve the area. Despite having just affirmed a 2.5 million population limit, the Board anticipates that many areas that would qualify as a WDLC will experience population growth over time. The Board therefore believes that its policy should anticipate and accommodate inevitable growth, to the extent permissible under the Act, in order to maximize the potential membership base available to community credit unions.

Three grounds justify a population limit of 10 million. First, it would conform to the population of the most populous SPJ the Board has approved (Los Angeles County) and, notwithstanding that an SPJ is not subject to a population cap, the FCU that serves that community has not experienced adverse safety or soundness consequences attributable to its population size.[24]

Second, the Board believes the population limit on a community consisting of a statistical area must be sufficiently accommodating to minimize the disparity between such communities and those comprised of an SPJ, which is unbound by any population limit.

Third, a 10 million population limit would narrow the inherent imbalance between the population cap that applies to FCUs and the uncapped state credit unions in at least the nine states with a population between 2.5 and 10 million. The laws of these states allow their credit unions to serve a state-wide FOM.

To fully consider an increase in the population limit on a community consisting of a statistical area, the Board seeks the benefit of public comments addressing the following issues affecting a statistical area—

- Whether to apply any population limit at all if the area is completely or primarily urban according to Census data.
- Whether to designate a particular metric on which to rely in setting and adjusting a population limit.
- Whether to apply any population limit at all to a CBSA or Statistical Area given that neither one is defined, by the Census or OMB respectively, according to maximum population.
- Whether to apply a population limit equivalent to the most populous/largest SPJ NCUA has approved (*i.e.,* Los Angeles County, as explained above).
- Whether to apply a population limit equivalent to either the average or median population among either all CBSAs with a population in excess of 2.5 million, or all Combined Statistical Areas with population in excess of 2.5 million.
- Whether to apply a population limit equivalent to the greater of either 2.5 million or a specific percentage of the population of the CBSA or Combined Statistical Area, and if so, what the percentage should be.
- Whether to apply a population limit equivalent to the most populous/largest Metropolitan Statistical Area that is totally or partially encompassed by the proposed community.
- Whether to apply a population limit equivalent to the most populous/largest SPJ that is totally or partially encompassed by the proposed community.
- Whether to apply a population limit that, to ensure service to persons of modest means, excludes individuals living in a household that either is low- or moderate-income; that earns less than 200 percent of the national poverty level; or in which the principal wage-earner earns no more than the federal minimum wage (based on a 40-hour work week for 50 weeks per year); or is based on a combination of these metrics.
- Whether to delegate to NCUA staff the authority to set a population limit not exceeding a specified ceiling, and what that ceiling population should be (*e.g.,* 2.5 million, 5 million, 10 million), with the Board retaining authority to approve a limit in excess of the delegated ceiling.
- Whether to apply the same population limit regardless whether an FCU's initial application to *charter,* or to *convert* to, a community credit union includes an area adjacent to its statistical area, versus a subsequent application to *expand* an FCU's *existing* community to add such an adjacent area.
- Whether NCUA should establish a process to give the public notice and an opportunity to comment on an FCU's application for approval of a statistical area with a population in excess 2.5 million.
- Whether, in view of technological advances since CUMAA, such as the internet, the Board should consider whether, and how, online social communities qualify as WDLCs.
- Whether there are other definitions of ''community'' that would be a relevant gauge for community credit unions (*e.g.,* the area's student population eligible to attend its local community college, the population eligible to benefit from its quasi-government agency services and facilities).
- Whether to reinstate the narrative model for use by FCUs seeking approval serve a statistical area within certain population parameters (*e.g.,* between 2.5 and 10 million).
- Whether to discard the ''presumptive community'' model and reinstate the narrative model for general applicability, or to give FCUs the option to elect either model to support the area each proposes to serve as its community.
- Whether to add certain criteria to, or to delete or modify certain ones from, the new appendix of ''Narrative Criteria to Identify a Well-Defined Local Community,'' and how to evaluate the narrative criteria to determine whether an area qualifies as a WDLC.

*C. Portion of CBSA as a Well-Defined Local Community Regardless of Internal Boundaries*

When an FCU seeks to serve a portion of a single CBSA as its WDLC, the existing rule requires such portion to conform to the boundaries of the Metropolitan Divisions, if any, within the CBSA. In contrast, when an FCU seeks to serve a portion of a Combined Statistical Area as its WDLC—notwithstanding that it is far more expansive than a CBSA—that portion is *not* required to conform to the boundaries of the adjoining CBSAs that form a Combined Statistical Area, nor to the boundaries of any Metropolitan

[24] The FCU that serves the Los Angeles County community has approximately 32,000 members, representing a community penetration rate of 3 percent.

Divisions within those CBSAs. To correct this inconsistency in the treatment of a portion of a CBSA versus that of a Combined Statistical Area, the proposed rule would permit a credit union to designate a portion of a CBSA as its community without regard to division boundaries.

## III. Regulatory Procedures

*Regulatory Flexibility Act*

The Regulatory Flexibility Act requires NCUA to prepare an analysis to describe any significant economic impact a regulation may have on a substantial number of small entities.[25] For purposes of this analysis, NCUA considers small credit unions to be those having under $100 million in assets.[26] Although this rule is anticipated to economically benefit FCUs that choose to charter, expand or convert to a community charter, NCUA certifies that it will not have a significant economic impact on small credit unions.

*Paperwork Reduction Act*

The Paperwork Reduction Act of 1995 (PRA) applies to collections of information through which an agency creates a paperwork burden on regulated entities or the public, or modifies an existing burden.[27] For purposes of the PRA, a paperwork burden may take the form of either a reporting or a recordkeeping requirement, both referred to as information collections. The Office of Management and Budget (OMB) previously approved the current information collection requirements for the Chartering and Field of Membership Manual and assigned them control number 3133–0015.

Regarding a community common bond, the proposed rule gives community charter applicants the option, in lieu of a presumptive community, to submit a narrative to establish common interests and interaction among residents of the area it proposes to serve, thus qualifying the area as a well-defined local community. For that purpose, the rule includes guidance in identifying compelling indicia of interaction or common interests that would be relevant in drafting a narrative summarizing the indicia that community residents meet the requirements of a well-defined local community. In addition, the proposed rule increases to as much as 10 million the population limit on a community consisting of a statistical area, and when such an area is subdivided into Metropolitan Divisions, the rule permits a credit union to designate a portion of the area as its community without regard to division boundaries.

NCUA has determined that the procedure for an FCU to assemble and document a narrative summarizing the evidence to support its community charter application would create a new information collection requirement. As required, NCUA is applying to OMB for approval to amend the current information collection to account for the new procedure.

Prior to 2010, when NCUA moved to an objective model of presumptive communities, FCUs had the following three choices for a community charter: Previously approved areas; single political jurisdictions; and multiple political jurisdictions. For applications involving multiple statistical areas, NCUA required FCUs to submit for NCUA approval a narrative, supported by documentation, that presents indicia of common interests or interaction among residents of the proposed community.

In the five-year period preceding the move to an objective model of presumptive communities, NCUA processed an average of twenty-five FOM applications involving multiple statistical areas. Based on this historical trend, NCUA estimates that, on average, it would take an FCU's staff approximately 160 hours to collect the evidence of interaction or common interests and to develop a narrative to support its application to expand or to convert. Accordingly, NCUA estimates the aggregate information collection burden on existing and would-be FCUs that elect to use the narrative option to form, expand, or convert to a community charter would be 160 hours times 25 FCUs for a total of 4,000 hours. NCUA is proposing to amend the current information collection control number 3133–0015 to account for these additional burden hours.

Organizations and individuals wishing to submit comments on this information collection requirement should direct them to the Office of Information and Regulatory Affairs, OMB, Attn: Shagufta Ahmed, Room 10226, New Executive Office Building, Washington, DC 20503, with a copy to the Secretary of the Board, National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

NCUA will consider comments by the public on this proposed collection of information in:

- Evaluating whether the proposed collection of information is necessary for the proper performance of the functions of the NCUA, including whether the information will have a practical use;
- Evaluating the accuracy of NCUA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of 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).

*Executive Order 13132*

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

*Assessment of Federal Regulations and Policies on Families*

NCUA has determined that this proposed rule will not affect family well-being within the meaning of Section 654 of the Treasury and General Government Appropriations Act, 1999.[28]

**List of Subjects in 12 CFR Part 701**

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on October 27, 2016.

**Gerard S. Poliquin,**

*Secretary of the Board.*

For the reasons stated above, NCUA proposes to amend 12 CFR part 701, Appendix B as follows:

[25] 5 U.S.C. 603(a).

[26] 80 FR 57512 (Sept. 24, 2015).

[27] 44 U.S.C. 3507(d); 5 CFR part 1320.

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

## PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

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

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

■ 2. Appendix B to part 701 is amended as follows:

■ a. Section V.A.2. of Chapter 2 is revised.

■ b. Appendix 6 to Appendix B is added.

The revision and addition read as follows:

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

* * * * *

*V.A.2—Definition of Well-Defined Local Community and Rural District*

In addition to the documentation requirements in Chapter 1 to charter a credit union, a community credit union applicant must provide additional documentation addressing the proposed area to be served and community service policies.

An applicant has the burden of demonstrating to NCUA that the proposed community area meets the statutory requirements of being: (1) Well-defined, and (2) a local community or rural district.

''Well-defined'' means the proposed area has specific geographic boundaries. Geographic boundaries may include a city, township, county (single, multiple, or portions of a county) or a political equivalent, school districts, or a clearly identifiable neighborhood. Although state boundaries are well-defined areas, states themselves do not meet the requirement that the proposed area be a local community.

The well-defined local community requirement is met if:

- Single Political Jurisdiction—The area to be served is a recognized Single Political Jurisdiction, *i.e.,* a city, county, or their political equivalent, or any single portion thereof.
- Statistical Area—A statistical area is all or an individual portion of one of the following:
- A Core-Based Statistical Area designated by the U.S. Census Bureau, including a Metropolitan Statistical Area, with a population of 10 million or fewer; or
- A Combined Statistical Area designated by the U.S. Office of Management and Budget, with a population of 10 million or fewer.
- To meet the well-defined local community requirement, an individual portion of a statistical area need not conform to internal boundaries within the area, such as metropolitan division boundaries within a Core-Based Statistical Area, and the boundaries of adjoining Core-Based Statistical Areas that form a Combined Statistical Area.
- Compelling Evidence of Interaction or Common Interests—In lieu of a statistical area as defined above, this option is available when a credit union seeks to initially charter a community credit union; to expand an existing community; or to convert to a community charter, subject in any case to the same population limit established for a statistical area. Under this option, the credit union must demonstrate a sufficient level of interaction or common interests among area residents to qualify the area as a local community. For that purpose, an applicant must submit for NCUA approval a narrative, supported by appropriate documentation, establishing that the area's residents meet the requirements of a local community.

To assist a credit union in developing its narrative, Appendix 6 of this Manual identifies criteria a narrative should address, and which NCUA will consider in deciding a credit union's application to: Initially charter a community credit union; to expand an existing community, including by an adjacent area addition; or to convert to a community charter. In any case, the credit union must demonstrate, through its business and marketing plans, its ability and commitment to serve the entire community for which it seeks NCUA approval.

* * * * *

## Appendix 6

**Narrative Criteria To Identify a Well-Defined Local Communty**

This Appendix applies when the community a federal credit union (''FCU'') proposes to serve is not a ''presumptive community'', under either option in chapter 2, section V.A.2. of Appendix B to Part 701, and thus would not qualify as a well-defined local community (''WDLC''). In that event, this Appendix prescribes the criteria an FCU should address in the narrative it develops and submits to the Board to demonstrate that residents of the community it proposes to serve share common interests and/or interact with each other. The narrative should address the criteria below as the FCU deems appropriate, as well as any other criteria it believes are persuasive, to establish to the Board's satisfaction the presence, among residents of the proposed community, of indicia of common interests and/or interaction sufficient to qualify the area as a WDLC.

**1. Central Economic Hub**

The proposed community includes an economic hub. An economic hub is evident when one political jurisdiction (city or county) within a proposed local community has a relatively large percentage of the community's population or is the primary location for employment. The application needs to identify the major employers and their locations within the proposed community.

| | |
|---|---|
| Most Persuasive | At least 25 percent of the workers living in the proposed community commute to work in the central economic hub. |
| Persuasive | Over 15 percent of the workers living in the proposed community commute to work in the central economic hub. |
| Not Persuasive | Less than 15 percent of the workers living in the proposed community commute to work in the central economic hub. |

**2. Quasi-Governmental Agencies**

The existence of organizations such as economic development commissions, regional planning boards, and labor or transportation districts can be important factors to consider. The more closely their service area matches the entire area, the greater the showing of interaction and/or common interests.

| | |
|---|---|
| Most Persuasive | The quasi-governmental agency covers the proposed community exclusively and in its entirety, derives its leadership from the area, represents collaboration that transcends traditional county boundaries, and has meaningful objectives that advance the residents' common interests in economic development and/or improving quality of life. |
| Persuasive | The quasi-governmental agency substantially matches the proposed community and carries out objectives that affect the relevant common interests for the entire area's residents. |
| Not Persuasive | The quasi-governmental agency does not match the proposed community and carries out only incidentally relevant objectives or carries out meaningful objectives in localized sections of the proposed community. |

**3. Governmental Designations**

Designation of the proposed community by a government agency as a region or distinct district—such a regional transportation district, a water district, or a tourism district—is a factor that can be considered in determining whether the area is a local community. The more closely the designation matches the area's geographic boundaries, the greater the value of that evidence in demonstrating interaction and/or common interests.

| | |
|---|---|
| Most Persuasive | A division of a federal or state agency specifically designates the proposed service area as its area of coverage or as a target area for specific programs. |
| Persuasive | A division of a federal or state agency designates a regional area that includes the coverage area, but offers special programs tailored to the common interests shared by the residents of the proposed service area. |
| Not Persuasive | A division of a federal or state agency designates an area as a coverage area that encompasses several local communities. |

**4. Shared Public Services/Facilities**

The existence of shared services and facilities, such as police, fire protection, park districts, public transportation, airports, or public utilities, can contribute to a finding that an area is a community. The more closely the service area matches the geographic boundaries of the community, and the higher the percentage of residents throughout the community using those services or facilities, the more valuable the data.

| | |
|---|---|
| Most Persuasive | Statistical evidence documents how residents from the entire proposed service area mutually benefit from a public facility.<br>Formal agreements exist that transcend traditional county lines and provide for a common need shared by all of the residents, such as common police or fire protection. |
| Persuasive | Public facilities exist that cross county lines and cover the majority of the area's population, but do not cover the area in its entirety. |
| Not Persuasive | The applicant cites public facilities that serve areas that do not correlate with the proposed service area. |

**5. Hospitals and Major Medical Facilities**

Data on medical facilities should include admittance or discharge statistics providing the ratio of use by residents of each political jurisdiction. The greater the percentage of use by residents throughout the proposed community, the higher the value of this data in showing interaction. The application can also support the importance of an area hospital with documentation that correlates the facility's target area with the proposed local community and/or discusses the relative distribution of hospitals over a larger area.

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|---|---|
| Most Persuasive | The applicant provides statistics demonstrating residents from throughout the proposed community use hospitals in the major population or employment center. |
| Persuasive | Statistical data are not available, but the application demonstrates through other documentation a medical facility is the only viable option for a significant portion of the proposed community's residents. |
| Not Persuasive | The area has multiple health care facilities at geographically dispersed locations with duplicative services. |

**6. Colleges and Universities**

College enrollment data can be a useful factor in establishing a local community. The higher the percentages of student enrollment at a given campus by residents throughout each part of the community, the greater the value in showing interaction. Additionally, the greater the participation by the college in community initiatives (*e.g.,* partnering with local governments), and the greater the service area of these initiatives, the stronger the value of this factor.

| | |
|---|---|
| Most Persuasive | The application provides statistical data showing the institutions of higher learning cited attract significant numbers of students from throughout the proposed community. |
| Persuasive | The statistical data regarding where students live is either inconclusive or unavailable. However, qualitative information exists to demonstrate the institutions' relevance to the entire proposed community, such as unique educational initiatives to support economic objectives benefiting all residents and/or partnerships with local businesses or high schools. |
| Not Persuasive | The statistical data tends to support the institutions recruit students from a broad based area transcending the proposed community's boundaries. |

**7. Mutual Aid Agreements**

The existence of written agreements among law enforcement and fire protection agencies in the area to provide services across multiple jurisdictions can be an important factor.

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|---|---|
| Most Persuasive | The mutual aid agreements cover the proposed community exclusively and in its entirety, represents collaboration that transcends political boundaries such as city or county limits. |
| Persuasive | The mutual aid agreements substantially matches the proposed community. |
| Not Persuasive | The mutual aid agreements do not match the proposed community. |

**8. Organizations and Clubs**

The more closely the service area of an organization or club matches the proposed community's boundaries, and the greater the percentage of membership and services throughout the proposed community, the more relevant the data.

| | |
|---|---|
| Most Persuasive | Statistical data supports that organizations with meaningful objectives serve the entire proposed community. |
| Persuasive | Other qualitative documentation exists to support that organizations with meaningful objectives serve the entire proposed community. |
| Not Persuasive | The applicant lists organizations that either do not cover the proposed community in its entirety or have objectives that are too limited to have a meaningful impact on the residents' common interests. |

**9. Community Newspaper**

A newspaper that is widely read in an area can be an indication of common interests. The higher the household penetration circulation figures throughout the area, the greater the value in showing common interests. Circulation data may include print copies as well as on-line access.

| | |
|---|---|
| Most Persuasive | Statistical evidence indicates a significant portion of residents from throughout the proposed community read the local general interest newspaper. The paper has local stories focusing on the proposed community and has a marketing target area consistent with the proposed community boundaries. |
| Persuasive | Local newspapers and periodicals specifically cater to the proposed community. |
| Not Persuasive | The area lacks a general newspaper that covers the proposed community. There are no specialized publications catering to the entire proposed community. |

**10. Entertainment and Sporting Events**

Data to show the percentage of residents from each political jurisdiction who attend the events. The higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction. For sporting events, as well as some entertainment events, data on season ticket holders and memberships may be available. As with overall attendance figures, the higher the percentage of residents from throughout the proposed community, the stronger the evidence of interaction.

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|---|---|
| Most Persuasive | Statistical data exist to support that the venue attracts residents from throughout the proposed community. |
| Persuasive | Statistical evidence is not available, but other qualitative information documents the importance the venue has for the proposed community. |
| Not Persuasive | The applicant lists local venues without discussing where users originate from or otherwise documenting the relevance for the residents of the entire area. |

**11. Local Television and Radio Stations**

A television or radio station broadcasting in an area can be an indication of common interests. Data on viewership or listenership in the proposed community can support the existence of a community.

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|---|---|
| Most Persuasive | Statistical evidence indicates a significant portion of residents from throughout the proposed community view or listen to the local television and radio stations. The media has local stories focusing on the proposed community and has a marketing target area consistent with the proposed community boundaries. |
| Persuasive | The television and radio stations provide news and sports coverage specifically catering to the proposed community. |
| Not Persuasive | The area lacks television or radio stations serving the proposed community. |

**12. Shopping**

The narrative must identify the location of the major shopping centers and malls and include the percentage of shoppers coming from each part of the community. The larger the percentage of shoppers from throughout the community, the stronger the case for interaction. While of lesser value than the shopping data, identification of the shopping center's target area can be persuasive. The target area should closely match the geographic boundaries of the proposed community.

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| Most Persuasive | The application provides statistics from a reliable third party source that demonstrates the major shopping facility cited in the application is the major shopping facility for the residents of the entire area. |
| Persuasive | The applicant provides documentation supporting how the area's shopping facilities cluster within the area's hub and residents do not have other realistic alternatives to meet their shopping needs. |
| Not Persuasive | The applicant lists large shopping facilities without providing statistics or other documentation that demonstrates relevance to the proposed community. |

**13. Geography**

Some communities face varying degrees of geographic isolation. As such, travel outside the community can be limited by mountain ranges, forests, national parks, deserts, bodies of waters, etc. This factor, and the relative degree of isolation, may help bolster a finding of interaction or common interests.

| | |
|---|---|
| Most Persuasive | Area is geographically isolated and/or distinct from immediate surrounding area. |
| Persuasive | Area has geographic commonalities that influence other aspects of the residents' lives (i.e., tourism, allocation of government resources). |
| Not Persuasive | The area's geographic features do not appear to influence other social or economic characteristics of the area. |

[FR Doc. 2016–26921 Filed 11–8–16; 8:45 am]
BILLING CODE 7535–01–P

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### 14 CFR Part 71

### Proposed Modification of the San Francisco, CA, Class B Airspace Area; Public Meetings

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Notice of meetings.

**SUMMARY:** This notice announces three fact-finding informal airspace meetings to solicit information from airspace users and others concerning a proposal to amend the Class B airspace area at San Francisco, CA. The purpose of these meetings is to provide interested parties an opportunity to present views, recommendations, and comments on any proposed change to the airspace. All comments received during these meetings will be considered prior to any revision or issuance of a notice of proposed rulemaking.

**DATES:** The meetings will be held on Monday, January 30, 2017, from 5:30 p.m. to 8:30 p.m.; Tuesday January 31, 2017 from 5:30 p.m. to 8:30 p.m.; and Wednesday February 1 from 5 p.m. to 8 p.m. Doors open 30 minutes prior to the beginning of each meeting. Comments must be received on or before March 16, 2017.

**ADDRESSES:** The meetings will be held at the following locations:

*January 30, 2017:* Burlingame Public Library, Lane Room, 480 Primrose Rd., Burlingame, CA 94010 (Seating capacity: 80).

*January 31, 2017:* Martin Luther King Library, Room 225, 150 E. San Fernando St., San Jose, CA 95112 (Seating capacity: 150).

*February 1, 2017:* Port of Oakland Building, First-Floor Exhibit Room, 530 Water St., Oakland, CA 94607 (seating capacity: 70).

*Comments:* Send comments on the proposal, in triplicate, to: Tracey Johnson, Manager, Operations Support Group, Western Service Center, Air Traffic Organization, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, WA 98057, or by fax to (425) 203–4505.

**FOR FURTHER INFORMATION CONTACT:** Rick Coté, FAA Support Specialist, Northern California TRACON, 11365 Douglas Road, Mather, CA 95655, (916) 366–4001.

**SUPPLEMENTARY INFORMATION:**

#### Meeting Procedures

(a) The meetings will be informal in nature and will be conducted by one or more representatives of the FAA Northern California TRACON. A representative from the FAA will present a briefing on the planned modification to the Class B airspace at San Francisco, CA. Each participant will be given an opportunity to deliver comments or make a presentation, although a time limit may be imposed to accommodate closing times. Only comments concerning the plan to modify the San Francisco Class B airspace will be accepted.

(b) The meetings will be open to all persons on a space-available basis (seating capacity listed with addresses). There will be no admission fee to attend and participate.

(c) Any person wishing to make a presentation to the FAA panel will be asked to sign in and estimate the amount of time needed for such presentation. This will permit the panel to allocate an appropriate amount of time for each presenter.

(d) Position papers or other handout material relating to the substance of these meetings will be accepted. Participants wishing to submit handout material should present an original and two copies (three copies total) to the presiding officer. There should be additional copies of each handout available for other attendees.

(e) These meetings will not be formally recorded. However, a summary of comments made at the meeting will be filed in the docket.

#### Agenda for the Meetings

—Sign-in

—Presentation of Meeting Procedures

—Informal Presentation of the Planned Class B Airspace Area Modifications

—Solicitation of Public Comments

—Drop box for written comments

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

Issued in Washington, DC, on November 1, 2016.

**Leslie M. Swann,**

*Acting Manager, Airspace Policy Group.*

[FR Doc. 2016–27089 Filed 11–8–16; 8:45 am]
BILLING CODE 4910–13–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### 18 CFR Parts 33 and 35

**[Docket Nos. RM09–16–000 and PL09–3–000]**

### Control and Affiliation for Purposes of Market-Based Rate Requirements Under the Federal Power Act

**AGENCY:** Federal Energy Regulatory Commission, DOE.

**ACTION:** Withdrawal of notice of proposed rulemaking and termination of rulemaking proceeding.

**SUMMARY:** The Federal Energy Regulatory Commission (Commission) is withdrawing a notice of proposed rulemaking, which proposed to amend its regulations pursuant to the Federal Power Act to grant blanket authorizations to acquire 10 percent or more, but less than 20 percent of the outstanding voting securities of a public utility or holding company and amend the definitions of ''affiliate'' in the Commission's regulations. The Commission is also terminating a proceeding on the Electric Power Supply Association's petition requesting guidance.

**DATES:** The notice of proposed rulemaking published on January 28, 2010, at 75 FR 4498, is withdrawn as of November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Regine Baus (Legal Information), Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, (202) 502–8757.

**SUPPLEMENTARY INFORMATION:**

1. On January 21, 2010, the Commission issued a Notice of Proposed Rulemaking (NOPR) in this proceeding.[1] For the reasons set forth below, we are exercising our discretion to withdraw the NOPR and terminate this rulemaking proceeding.

#### I. Background

2. On September 2, 2008, the Electric Power Supply Association (EPSA) filed a petition requesting guidance regarding concepts of control and affiliation as they relate to Commission-jurisdictional transactions under sections 203 and 205 of the Federal Power Act (FPA).[2] EPSA

[1] *Control and Affiliation for Purposes of Market-Based Rate Requirements under Section 205 of the Federal Power Act and the Requirements of Section 203 of the Federal Power Act,* FERC Stats. & Regs. ¶ 32,650 (2010) (NOPR).

[2] Electric Power Supply Association, Petition for Guidance Regarding ''Control'' and ''Affiliation'',

specifically requested that, where an investor directly or indirectly acquires 10 percent or more but less than 20 percent of a public utility's outstanding voting securities and is eligible to file a statement of beneficial ownership with the Securities and Exchange Commission (SEC) on SEC Schedule 13G,[3] such investment would not be deemed to result in a disposition of the public utility's jurisdictional facilities under FPA section 203(a)(1) or to result in affiliation with the public utility for purposes of the Commission's market-based rate requirements under FPA section 205.

3. Commission staff held a workshop to address the issues raised by EPSA in its request. Comments were submitted in response to the workshop. In the course of considering the comments submitted and the discussions at the workshop, the Commission determined that the issues may call for more formal treatment and issued the NOPR in light of the comments and discussions.

4. In the NOPR, in connection with EPSA's proposal to rely on the filing of SEC Schedule 13G to demonstrate conclusively that an investor will not control the public utility in which it has invested, the Commission stated that while it has relied on these filings, in conjunction with other conditions and reporting requirements in the past for various purposes, it believed the Commission could better fulfill its statutory responsibilities if it did not rely exclusively on the Schedule 13G. The Commission stated that the primary regulatory purpose behind the beneficial ownership disclosure requirements under section 13(d) of the 1934 Act is to provide companies and their shareholders with information about large accumulations of a company's stock and that the requirements of section 13(d) do not bar an investor from acquiring control of a company, which is of utmost importance to this Commission.[4]

5. With these concerns in mind, the Commission provided an alternative proposal in the NOPR. The Commission first proposed to amend part 33 of its regulations to grant a blanket authorization under section 203(a)(2) of the FPA, as well as a parallel blanket authorization under section 203(a)(1), for acquisitions of 10 percent or more, but less than 20 percent of the outstanding voting securities of a public utility or holding company, where the acquiring company files a statement certifying that such securities were not acquired and not held for the purpose or with the effect of changing or influencing the control of the public utility and such acquiring company complies with certain conditions designed to limit its ability to exercise control (Affirmation). Under the proposed amendment to part 33, a public utility whose voting securities are acquired, directly or indirectly, in any such transaction would be exempt from the requirements of an ''affiliate'' in part 35. The Commission also proposed to amend subpart H and subpart I of part 35 of the Commission's regulations to define an ''affiliate'' of a specified company as any person that controls, is controlled by, or is under common control with such specified company.

6. The Commission received several comments in response to the proposal in the NOPR. A number of commenters raised concerns about the scope of the proposal, including the content of the proposed Affirmation and the commitments that the Commission proposed an acquiring company would need to agree to. Commenters also raised concerns regarding implementation of the proposal.

## II. Discussion

7. Upon further consideration and after review of the comments received in response to the NOPR, we will withdraw the NOPR and terminate this proceeding. We also terminate the proceeding on EPSA's Petition requesting guidance in Docket No. PL09–3–000.

8. As noted above, in the course of considering the discussions at the workshop to address the issues raised by EPSA in its Petition and the comments received following the workshop, the Commission determined that the issues may call for more formal treatment and issued the NOPR. We appreciate the feedback that the Commission received in response to the NOPR. As previously indicated, the comments submitted raised concerns regarding the scope and implementation of the proposal. Having considered these comments, we are persuaded to not seek to adopt the Affirmation and blanket authorization that the Commission originally proposed.

9. As a result, we withdraw the NOPR and terminate this rulemaking proceeding. We also terminate the proceeding on EPSA's Petition requesting guidance in Docket No. PL09–3–000.

By the Commission.
Issued: October 28, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26540 Filed 11–8–16; 8:45 am]

BILLING CODE 6717–01–P

Docket No. EL08–87–000 (filed Sept. 2, 2008) (Petition). The petition was originally docketed in Docket. No. EL08–87–000 but was subsequently redocketed in Docket No. PL09–3–000. *Elec. Power Supply Ass'n,* Notice Redocketing Proceeding, Docket Nos. EL08–87–000 and PL09–3–000 (Nov. 5, 2008).

[3] Schedule 13G is filed with the SEC pursuant to section 13(d) of the Securities Exchange Act of 1934, 15 U.S.C. 78a *et seq.* (1934 Act), and the SEC's rules thereunder, by any person when such person has acquired beneficial ownership of more than five percent but less than 20 percent of the outstanding voting equity securities of a company that are registered under section 12 of and the 1934 Act and such person certifies that it has not acquired, and does not hold, such securities for the purpose of or with the effect of changing or influencing the control of the issuer. Amendments to Beneficial Ownership Reporting Requirements, File No. S7–16–96, 1998 SEC LEXIS 63, at * 17 n. 20 (Jan. 12, 1998).

[4] *See* NOPR, FERC Stats. & Regs. ¶ 32,650 at P 35.

## RAILROAD RETIREMENT BOARD

### 20 CFR Part 220

**RIN 3220–AB68**

### Providing Evidence of Disability

**AGENCY:** Railroad Retirement Board.

**ACTION:** Notice of proposed rulemaking (NPRM).

**SUMMARY:** We propose to amend our regulations regarding the submission of evidence in disability claims to require you to inform us or submit all evidence known to you that ''relates to'' your disability claims with exceptions for privileged communications and duplicates. This requirement would include the duty to submit all evidence obtained from any source in its entirety, subject to one of these exceptions. These modifications to our regulations would better describe your duty to submit all evidence that relates to your disability claim and will enable us to have a more complete case record which will allow us to make more accurate determinations of your disability status.

**DATES:** Submit comments on or before January 9, 2017.

**ADDRESSES:** You may submit comments, identified by [*3220–AB68*], by any of the following three methods—Internet, fax, or mail. Do not submit the same comments multiple times or by more than one method. Regardless of which method you choose, please state that your comments refer to RIN number 3220–AB68.

Caution: You should be careful to include in your comments only information that you wish to make publicly available as comments are posted without change, with any personal information provided. We

strongly urge you not to include in your comments any personal information, such as Social Security numbers or medical information.

1. *Internet:* Email comments to the Secretary to the Board at *SecretarytotheBoard@rrb.gov.*

2. *Fax:* Fax comments to (312) 751–7102.

3. *Mail:* Address your comments to the Secretary to the Board, Railroad Retirement Board, 844 N. Rush Street, Chicago, Illinois 60611–2092.

Comments are available for public viewing on the Federal eRulemaking portal at *http://www.regulations.gov.*

**FOR FURTHER INFORMATION CONTACT:** Marguerite P. Dadabo, Assistant General Counsel, Railroad Retirement Board, 844 North Rush Street, Chicago, IL 60611–2092, (312) 751–4945, TTD (312) 751–4701.

**SUPPLEMENTARY INFORMATION:**

## Background

The Railroad Retirement Act (Act) gives the Railroad Retirement three member Board (Board) the authority to issue regulations governing the production of evidence used to adjudicate both occupational disability and total and permanent disability claims under the Act.[1]

There has been recent interest by members of Congress in ensuring that Railroad Retirement disability benefits are reserved for only those who are truly disabled under either the standards of the occupational disability or total and permanent disability programs.[2] Additionally, the Social Security Administration (SSA) has recently published new regulations requiring the comprehensive submission of all evidence known to the claimant that 'relates to' the claimant's disability claims with exceptions for privileged communications and duplicates. Previously, Social Security disability claimants were required to submit evidence that was 'material' to the disability determination. The effect of the SSA's new regulations is to require that claimants submit evidence that is both favorable and unfavorable to their claims.[3]

The analogy between total and permanent disability under the Railroad Retirement Act and the Social Security Act (SS Act) is well-established. See, *e.g. Webb* v. *Railroad Retirement Board,* 358 F. 2d 451 (6th Cir. 1966); *Peppers* v. *Railroad Retirement Board,* 728 F. 2d 404 (7th Cir. 1984); *Goodwin* v. *Railroad Retirement Board,* 546 F. 2d 1169 (5th Cir. 1977).

Additionally, the Railroad Retirement Board's (RRB) occupational disability program incorporates the records requirements of the total and permanent disability program.[4] The SSA's regulations specify a broader scope for claimants when providing records in support of his or her disability claim than the RRB's current regulations. Revising the RRB's regulations would allow the RRB to similarly obtain more complete case records and adjudicate disability claims more precisely.

## Proposed Changes

### *Providing Evidence of Disability*

We propose to revise § 220.45(a) to require you to inform the Board about or submit all evidence known to you that relates to your claimed disability.[5] The RRB's current regulations require that the ''[t]he claimant for a disability annuity is responsible for providing evidence of the claimed disability and the effect of the disability on the ability to do work.'' 20 CFR 220.45(a). Additionally, RRB's regulations require that ''[t]he claimant must provide medical evidence showing that he or she has an impairment(s) and how severe it is during the time the claimant claims to be disabled.'' 20 CFR 220.45(b).

The RRB's regulations further state that the Board may ask the claimant to provide evidence about his or her- (1) Age; (2) Education and training; (3) Work experience; (4) Daily activities both before and after the date the claimant says that he or she became disabled; (5) Efforts to work; and (6) Any other evidence showing how the claimant's impairment(s) affects his or her ability to work.'' 20 CFR 220.45(b)(1) through (6).

The proposed rule would amend § 220.45(a) by adding ''you must inform the Board about or submit all evidence known to you that relates to the claimed disability. This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the appeals level, if the evidence relates to the period on or before the date of the hearings officer's decision.''

The proposed rule would also amend § 220.45(b) by expanding the explanation of the kinds of evidence to be submitted and excluding certain information protected by attorney-client privilege or by the attorney work product doctrine.

## Clarity of This Proposed Rule

Executive Order 12866, as supplemented by Executive Order 13563, requires each agency to write all rules in plain language. In addition to your substantive comments on this proposed rule, we invite your comments on how to make it easier to understand.

For example:

- Are the requirements for the rule clearly stated?
- Have we organized the material to meet your needs?
- What else could we do to make the rule easier to understand?
- Does the rule contain technical language or jargon that is not clear?
- Would a different format make the rule easier to understand?

## When will we start to use this rule?

We will not use this proposed rule until we evaluate public comments and publish a final rule in the **Federal Register**. All final rules we issue include an effective date. We will continue to use our current rules until that date. If we publish a final rule, we will include a summary of relevant comments we received, if any, and responses to them. We will also include an explanation of how we will apply the new rule.

## Regulatory Procedures

### *Executive Order 12866, as Supplemented by Executive Order 13563*

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866, as supplemented by Executive Order 13563. Therefore, no regulatory impact analysis is required.

### *Regulatory Flexibility Act*

We certify that this proposed rule would not have a significant economic impact on a substantial number of small entities because it affects individuals only. Therefore, a regulatory flexibility analysis is not required under the Regulatory Flexibility Act, as amended.

[1] *See* 45 U.S.C. 231a(a)(2) and (3).

[2] See, *e.g.,* Is the Railroad Retirement Board Doing Enough to Protect Against Fraud? Hearing Before the H. Comm. on Oversight and Government Reform: Subcommittee on Government Operations, 114th Cong. (2015), *https://www.congress.gov/congressional-record/2015/5/1/daily-digest.*

[3] Submission of Evidence in Disability Claims, 80 FR 14828, March 20, 2015.

[4] See 20 CFR 222.12.

[5] Under the Act, a claimant will be considered to be occupationally disabled if he or she has a current connection to the railroad industry and a permanent physical and mental condition such as to be disabling for work in his or her regular occupation. 45 U.S.C. 231a(a)(1)(iv). A claimant will be considered to be totally and permanently disabled if his or her permanent physical or mental condition is such that he or she is unable to engage in any regular employment. 45 U.S.C. 231a(a)(1)(v).

*Paperwork Reduction Act*

This NPRM imposes no reporting or recordkeeping requirements subject to OMB clearance.

**List of Subjects in 20 CFR Part 220**

Disability benefits, Railroad retirement.

The Railroad Retirement Board proposes to amend title 20, chapter II, subchapter F, part 220 of the Code of Federal Regulations as follows:

## PART 220 DETERMINING DISABILITY

■ 1. The authority citation for part 220 continues to read as follows:

**Authority:** 45 U.S.C. 231a(1); 45 U.S.C. 231f.

■ 2. Revise § 220.45 to read as follows:

**§ 220.45 Providing evidence of disability.**

(a) *General.* You are responsible for providing all evidence of the claimed disability and the effect of the disability on your ability to work. You must inform the Board about or submit all evidence known to you that relates to the claimed disability. This duty is ongoing and requires you to disclose any additional related evidence about which you become aware. This duty applies at each level of the administrative review process, including the appeals level, if the evidence relates to the period on or before the date of the hearings officer's decision. The Board will assist you, when necessary, in obtaining the required evidence. At its discretion, the Board will arrange for an examination by a consultant at the expense of the Board as explained in §§ 220.50 and 220.51.

(b) *Kind of evidence.* (1) You must provide medical evidence proving that you have an impairment(s) and how severe it is during the time you claim to be disabled. The Board will consider only impairment(s) you claim to have or about which the Board receives evidence. Before deciding your disability status, the Board will develop a complete medical history (*i.e.,* evidence from the records of the your medical sources) covering at least the preceding 12 months, unless you say that your disability began less than 12 months before you filed an application. The Board will make every reasonable effort to help you in getting medical reports from your own medical sources when you give the Board permission to request them. Every reasonable effort means that the Board will make an initial request and, after 20 days, one follow-up request to your medical source to obtain the medical evidence necessary to make a determination before the Board evaluates medical evidence obtained from another source on a consultative basis. The medical source will have 10 days from the follow-up request to reply (unless experience indicates that a longer period is advisable in a particular case). In order to expedite processing, the Board may order a consultative exam from a non-treating source while awaiting receipt of medical source evidence. If the Board asks you to do so, you must contact the medical sources to help us get the medical reports.

(2) *Exceptions.* Notwithstanding paragraph (a) of this section, evidence does not include:

(i) Oral or written communications between you and your representative that are subject to the attorney-client privilege, unless you voluntarily disclose the communication to us; or

(ii) Your representative's analysis of your claim, unless he or she voluntarily discloses it to us. Your representative's ''analysis of your claim,'' means information that is subject to the attorney work product doctrine, but it does not include medical evidence, medical source opinions, or any other factual matter that we may consider in determining whether or not you are entitled to benefits (See paragraph (b)(2)(iv) of this section).

(iii) The provisions of paragraph (b)(2)(i) of this section apply to communications between you and your non-attorney representative only if the communications would be subject to the attorney-client privilege, if your non-attorney representative were an attorney. The provisions of paragraph (b)(2)(ii) of this section apply to the analysis of your claim by your non-attorney representative only if the analysis of your claim would be subject to the attorney work product doctrine, if your non-attorney representative were an attorney.

(iv) The attorney-client privilege generally protects confidential communications between an attorney and his or her client that are related to providing or obtaining legal advice. The attorney work product doctrine generally protects an attorney's analysis, theories, mental impressions, and notes. In the context of your disability claim, neither the attorney-client privilege nor the attorney work product doctrine allows you to withhold factual information, medical source opinions, or other medical evidence that we may consider in determining whether or not you are entitled to benefits. For example, if you tell your representative about the medical sources you have seen, your representative cannot refuse to disclose the identity of those medical sources to us based on the attorney-client privilege. As another example, if your representative asks a medical source to complete an opinion form related to your impairment(s), symptoms, or limitations, your representative cannot withhold the completed opinion form from us based on the attorney work product doctrine. The attorney work product doctrine would not protect the source's opinions on the completed form, regardless of whether or not your representative used the form in his or her analysis of your claim or made handwritten notes on the face of the report.

(c) *Your responsibility.* You must inform us about or submit all evidence known to you that relates to whether or not you are blind or disabled. When you submit evidence received from another source, you must submit that evidence in its entirety, unless you previously submitted the same evidence to us or we instruct you otherwise. The Board may also ask you to provide evidence about:

(1) Your age;

(2) Your education and training;

(3) Your work experience;

(4) Your daily activities both before and after the date you say that you became disabled;

(5) Your efforts to work; and

(6) Any other evidence showing how your impairment(s) affects your ability to work. (In §§ 220.125 through 220.134, we discuss in more detail the evidence the Board needs when it considers vocational factors.)

Dated: November 3, 2016.

By Authority of the Board.

**Martha P. Rico,**

*Secretary to the Board.*

[FR Doc. 2016–27060 Filed 11–8–16; 8:45 am]

BILLING CODE P

## DEPARTMENT OF HOMELAND SECURITY

## Coast Guard

## 33 CFR Part 165

**[Docket Number USCG–2016–0799]**

**RIN 1625–AA87**

## Safety and Security Zones; New York Marine Inspection and Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Technical correction.

**SUMMARY:** The Coast Guard is publishing this notice to correct a misstatement and typographical error in a previous

Advance Notice of Proposed Rulemaking (ANPRM). A sentence in the summary of that document erroneously stated that the Coast Guard was considering removing a security zone around Liberty State Park and Ellis Island, while the document itself merely discussed the possibility of modifying the zone, not removing it.

**DATES:** Comments and related material regarding the ANPRM must be received by the Coast Guard on or before January 3, 2017.

**ADDRESSES:** You may submit comments identified by docket number [USCG–2016–0799] using the Federal eRulemaking Portal at *http://www.regulations.gov.* See the ''Public Participation and Request for Comments'' portion of the ANPRM for further instructions on submitting comments.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this technical correction, call or email Ari Scott, Office of Regulations and Administrative Law, U.S. Coast Guard; telephone (202) 372–3860, email *Ari.J.Scott@uscg.mil.*

**SUPPLEMENTARY INFORMATION:**

On November 3, 2016, the Coast Guard published an ANPRM which discussed the possibility of modifying the security zone around Liberty State Park and Ellis Island (81 FR 76545). On page 76545, in the second column, correct the second sentence of the Summary to read: ''The proposed modification of the security zone would increase navigational safety in New York Harbor by allowing vessels to transit under the Ellis Island Bridge, rather than being required to transit the Anchorage Channel.''

Dated: November 3, 2016.

**Katia Kroutil,**

*Office Chief, Office of Regulations and Administrative Law, U.S. Coast Guard.*

[FR Doc. 2016–27037 Filed 11–8–16; 8:45 am]

**BILLING CODE 9110–04–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

### 42 CFR Part 440

**[CMS–2404–NC]**

**RIN 0938–ZB33**

## Medicaid Program; Request for Information (RFI): Federal Government Interventions To Ensure the Provision of Timely and Quality Home and Community Based Services

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Request for information.

**SUMMARY:** This request for information seeks information and data on additional reforms and policy options that we can consider to accelerate the provision of home and community-based services (HCBS) to Medicaid beneficiaries taking into account issues affecting beneficiary choice and control, program integrity, ratesetting, quality infrastructure, and the homecare workforce.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on January 9, 2017.

**ADDRESSES:** In commenting, refer to file code CMS–2404–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2404–NC, P.O. Box 8013, Baltimore, MD 21244–8013.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2404–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–7195 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Melissa Harris, (410) 786–3397.

Jodie Anthony, (410) 786–5903.

**SUPPLEMENTARY INFORMATION:** *Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

## I. Introduction

The Centers for Medicare & Medicaid Services (CMS) and states have worked for decades to support increased availability and provision of quality home and community-based services (HCBS) for Medicaid beneficiaries. HCBS provide individuals who need assistance such as personal care, respite care, and many other services the opportunity to receive those services in their own homes or in the community versus institutional settings. Over time, the provision of HCBS has increased significantly, to the extent that Medicaid spending on HCBS now exceeds spending on institutional services. Efforts by the Department of Health and Human Services' (HHS') Office for Civil Rights (OCR) to enforce the community integration mandate of the Americans with Disabilities Act (ADA), the Supreme Court's interpretation of the ADA in *Olmstead* v. *L.C.,* 527 U.S. 581 (1999),[1] the creation of additional HCBS statutory options for states, and grant programs such as the Money Follows the Person Rebalancing Demonstration, have been central factors driving this progress. In addition, we have promulgated regulations to adopt requirements for HCBS settings that incorporate community integration principles,[2] established a new quality oversight framework for HCBS waivers, and promoted quality measurement and other innovations related to HCBS through new initiatives such as the Testing Experience and Functional Tools (TEFT) grant and the Balancing Incentive Program.

Through this RFI, we seek input from the public on ways that CMS can, through its statutory authority, accelerate this progress. We also seek input into how best to ensure high quality HCBS that promote the health and well-being of beneficiaries, enhance policies that ensure the integrity of such services and protect beneficiaries from harm, and address workforce challenges particular to this set of services, such as wages, training and retention. This is a request for information only. Respondents are encouraged to provide complete but concise responses to the questions outlined in section II. of this RFI. Please note that a response to every question is not required. This RFI is issued solely for information and planning purposes; it does not constitute a Request for Proposal, application, proposal abstract, or quotation. This RFI does not commit the Government to contract for any supplies or services or make a grant award. Further, we are not seeking proposals through this RFI and will not accept unsolicited proposals. Responders are advised that the U.S. Government will not pay for any information or administrative costs incurred in response to this RFI; all costs associated with responding to this RFI will be solely at the interested party's expense. Not responding to this RFI does not preclude participation in any future procurement, if conducted. It is the responsibility of the potential responders to monitor this RFI announcement for additional information pertaining to this request. Please note that we will not respond to questions about the policy issues raised in this RFI. We may or may not choose to contact individual responders. Such communications would only serve to further clarify written responses. Contractor support personnel may be used to review RFI responses. Responses to this notice are not offers and cannot be accepted by the Government to form a binding contract or issue a grant. Information obtained as a result of this RFI may be used by the Government for program planning on a non-attribution basis. Respondents should not include any information that might be considered proprietary or confidential. This RFI should not be construed as a commitment or authorization to incur cost for which reimbursement would be required or sought. All submissions become Government property and will not be returned.

To assist the public, the RFI provides background on the history and current status of HCBS, the dynamics that affect the provision of HCBS, and actions we have taken to implement HCBS in the context of expanded Medicaid authority and increased public demand. In addition, it solicits input on the following general topic areas, described in more detail later in this RFI, to inform the agency's future decision-making on actions to be taken within its statutory authority:

- What are the additional reforms that CMS can take to accelerate the progress of access to HCBS and achieve an appropriate balance of HCBS and institutional services in the Medicaid long-term services and supports (LTSS) system to meet the needs and preferences of beneficiaries?
- What actions can CMS take, independently or in partnership with states and stakeholders, to ensure quality of HCBS including beneficiary health and safety?
- What program integrity safeguards should states have in place to ensure beneficiary safety and reduce fraud, waste and abuse in HCBS?
- What are specific steps CMS could take to strengthen the HCBS home care workforce, including establishing requirements, standards or procedures to ensure rates paid to home care providers are sufficient to attract enough providers to meet service needs of beneficiaries and that wages supported by those rates are sufficient to attract enough qualified home care workers.

## II. Background

### *A. Historical Advances*

From the beginning of the Medicaid program in 1965, states were required to provide medically necessary, nursing facility care for most eligible individuals 21 or older.[3] Coverage for what is now considered HCBS was generally not included. Personal care services became an option for states to cover under their state Medicaid plans in 1975. In 1981, the Social Security Act (the Act) was amended to provide authority under section 1915(c) of the Act for the Secretary to waive certain provisions of the Medicaid statute to allow states to provide HCBS to eligible individuals who would otherwise require institutional services. Medicaid HCBS authority was expanded in 2005 and 2010, with the addition of an optional state plan HCBS benefit under section 1915(i) of the Act and the optional home and community-based attendant services and supports under section 1915(k) of the Act.

Using these authorities, states, in partnership with the federal government, have developed a broad range of HCBS to provide alternatives to institutionalization for eligible Medicaid beneficiaries. Consistent with the preferences of many beneficiaries of where they would like to receive their care, the evolution of HCBS provision has been driven by federal statutory and policy changes, court decisions, and state initiatives as described later in this RFI.

HCBS are a critical component of the Medicaid program, and are part of a larger framework of progress toward community integration of older adults and persons with disabilities that spans

[1] *https://www.ada.gov/olmstead/olmstead_about.htm.*

[2] The State Plan and Home and Community-Based Services, 5-Year Period for Waivers, etc. final rule (79 FR 2947) can be found at: *https://www.federalregister.gov/documents/2014/01/16/2014-00487/medicaid-program-state-plan-home-and-community-based-services-5-year-period-for-waivers-provider.*

[3] Wenzlow, Audra, Steve Eiken and Kate Sredl. 2016. Improving the Balance: The Evolution of Medicaid Expenditures for Long-Term Services and Supports (LTSS), FY 1981–2014. Retrieved from *https://www.medicaid.gov/medicaid/ltss/downloads/evolution-ltss-expenditures.pdf.*

efforts across the federal government. Through a combination of state plan personal care services and home health services, and waivers in Medicaid, over 3.2 million beneficiaries received HCBS in calendar year (CY) 2012 [4] including individuals who are elderly and individuals with a developmental disability, physical disability, traumatic brain injury, or behavioral health condition. This is a growth of almost 1 million individuals since 2002. In 2012, a total of 764,487 people received home health state plan services (in the 50 states and the District of Columbia (DC)); 944,507 received personal care state plan services (in the 32 states offering the benefit at that time); and almost 1.5 million were served through section 1915(c) waivers (in 47 states and DC). Likewise, HCBS expenditures have grown from less than 10 percent of approximately $13 billion in federal and state expenditures in fiscal year (FY) 1986 for all Medicaid LTSS, including nursing home expenditures,[5] to more than 25 percent of Medicaid LTSS expenditures by the late 1990s. By FY 2014, 53 percent of the $152 billion spent nationally on Medicaid LTSS was for HCBS.

As noted previously, coverage of HCBS was included in statutory waiver authority in 1981 under section 1915(c) of the Act to permit states to provide an alternative to care provided in institutions. The Secretary may waive certain Medicaid requirements and permit states to offer HCBS to meet the needs of people who would otherwise require institutional care. States have used HCBS waiver programs to provide numerous services designed to support beneficiaries in their homes and communities consistent with their person-centered plans of care. As a result of receiving waiver services, many beneficiaries have been able to achieve greater independence and community integration and have been able to exercise self-direction, personal choice, and control over services and providers.

Considerable flexibility exists for states when proposing 1915(c) HCBS waivers. They can seek approval to offer services in only defined geographic areas of the state, ''cap'' enrollment of beneficiaries at a certain number, and maintain waiting lists. Further, services can be targeted based on the populations the state makes eligible for the waiver, such as individuals with a developmental disability, individuals who are elderly, or individuals with a physical disability or traumatic brain injury. HCBS waiver services specifically authorized under the statute include case management (that is, supports and service coordination), homemaker, home health aide, personal care, adult day health services, habilitation (both day and residential), and respite care. States can also propose ''other'' types of services that the Secretary may approve, including services that can assist in diverting or transitioning individuals from institutional settings into their homes and community. The statute requires that average estimated per capita expenditures for services provided under the waiver cannot exceed the average amount that would have been spent on waiver enrollees in institutions, absent the waiver.

HCBS waiver authority has been pivotal in assisting beneficiaries to achieve community living goals. The passage of the ADA of 1990 and the Supreme Court's interpretation of the ADA in *Olmstead* v. *L.C.,* 527 U.S. 581 (1999) resulted in increased provision of Medicaid HCBS, as states sought to comply with those authorities. The ADA clarified that the ''Nation's proper goals regarding individuals with disabilities are to assure equality of opportunity, full participation, independent living, and economic self-sufficiency for such individuals.'' In *Olmstead,* the Supreme Court held that Title II of the ADA prohibits the unjustified segregation of individuals with disabilities, and public entities are required to provide community-based services to persons with disabilities when—(1) such services are appropriate; (2) the affected persons do not oppose community-based treatment; and (3) community-based services can be reasonably accommodated, taking into account the resources available to the entity and the needs of others who are receiving disability services from the entity. These obligations apply to states and, while the Medicaid program is not the sole avenue for a state to comply with these mandates, Medicaid provides states broad opportunities to obtain federal funding to support the offering of services and supports in home and community-based settings, within programmatic requirements.

Significant progress in the realm of HCBS also occurred through the Deficit Reduction Act of 2005, (Pub. L. 109–171) with the creation of two new state plan options under the new section 1915(i) and (j) of the Act, as well as the Money Follows the Person Rebalancing Demonstration [6] Grant (MFP). Section 1915(i) of the Act provides states the ability to furnish HCBS to individuals who require less than an institutional level of care (LOC) and who would otherwise not be eligible for HCBS under section 1915(c) waivers; section 1915(i) of the Act also allows states to provide state plan HCBS to those who are eligible for section 1915(c) waivers, under the eligibility group defined at section 1902(a)(10)(A)(ii)(XXII) of the Act. Section 1915(j) of the Act built upon the successes of the Cash & Counseling Demonstration and Evaluation that began in the late 1990s, allowing states to offer participants the ability to self-direct either state plan personal care services or state selected section 1915(c) waiver services without needing the authority of a section 1115 demonstration project. With the history and strength of the Real Choice Systems Change [7] grants as a foundation, which provided states with resources for administrative, program, financial, and regulatory infrastructure to increase community service provision, MFP assisted states in their efforts to reduce reliance on institutional care while developing community-based long-term care opportunities for individuals transitioning from institutional settings to homes in the community. With the passage of the Affordable Care Act of 2010, section 1915(k) of the Act (Community First Choice) was added,[8] offering increased federal matching funds for the provision of statewide home and community-based attendant services and supports. Services can be provided through an agency or a self-directed model. The Affordable Care Act also extended MFP,[9] enhanced the 1915(i) state plan option,[10] and established the Balancing Incentive Program,[11] which provided financial incentives in the form of enhanced federal reimbursement to States to increase access to non-institutional LTSS.[12]

[4] *http://kff.org/medicaid/report/medicaid-home-and-community-based-services-programs-2012-data-update/.*

[5] Wenzlow, Audra, Steve Eiken and Kate Sredl. 2016. Improving the Balance: The Evolution of Medicaid Expenditures for Long-Term Services and Supports (LTSS), FYs 1981–2014. Retrieved from *https://www.medicaid.gov/medicaid/ltss/downloads/evolution-ltss-expenditures.pdf.*

[6] Section 6071 of the Social Security Act can be accessed at *https://www.ssa.gov/OP_Home/comp2/F1090171.html.*

[7] *https://www.medicaid.gov/medicaid/ltss/real-choice/index.html.*

[8] *http://www.medicaid.gov/Federal-Policy-Guidance/downloads/2-28-11-Recent-Developments-In-Medicaid.pdf.*

[9] *http://www.medicaid.gov/Federal-Policy-Guidance/downloads/2-28-11-Recent-Developments-In-Medicaid.pdf.*

[10] *http://www.medicaid.gov/Federal-Policy-Guidance/downloads/SMD10015.pdf.*

[11] *http://www.cms.gov/smdl/downloads/11-010.pdf.*

[12] It is important to note that the Money Follows the Person and the Balancing Incentive Program

*B. Present Status of HCBS*

The shift in funding to HCBS accounting for a majority of LTSS spending represents an important achievement, with a doubling of the percentage of LTSS provided in the community since 2000. However this statistic masks significant differences in spending by population. HCBS spending for individuals with intellectual and/or developmental disabilities represented approximately three-quarters of Medicaid LTSS spending in 2014. This far surpasses the HCBS spending percentage for older adults, individuals with physical disabilities, and individuals with serious mental illness/serious emotional disturbances, which is only 41percent of total LTSS spending.[13] Thus, there is still work to be done by all levels of government and stakeholders to ensure that all Medicaid beneficiaries who wish to remain in their homes and communities have the services, workforce and supports to enable them to do so.

Additional information on LTSS, including program information and expenditure reports, is available at *www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/long-term-services-and-supports.html.* A comprehensive state-by-state analysis of utilization patterns and cost for community versus institutional long-term care is available at *http://www.longtermscorecard.org.* This latter analysis by several collaborating organizations uses data from CMS as well as many other sources to quantify the unique long-term care service patterns in each state.

In recognition of the shift to community-based care and based on the experience and understanding of the challenges in overseeing such programs, in the January 16, 2014 **Federal Register** (79 FR 2947), we issued final regulations for the 1915(c) HCBS waiver authority, as well as the 1915(i) HCBS and the 1915(k) Community First Choice state plan authorities, to ensure that services provided under these HCBS regulatory authorities are truly home and community-based. The State Plan Home and Community-Based Services, 5-Year Period for Waivers, etc. final rule (79 FR 2947) (hereinafter referred to as the HCBS final rule) represented the culmination of over 5 years' worth of stakeholder input and addressed the key challenges associated with the provision of HCBS. While statutory authority for coverage of HCBS required services to be provided in a ''home and community-based setting'', there was no definition of what that phrase meant. This lack of a definition resulted in HCBS Medicaid funding for services in some settings that bore similarities to institutions (for instance, in terms of regimented schedules or isolation from the larger community or both). The regulations sought to change that by outlining the criteria for residential and non-residential home and community-based settings.

The principle of community integration, and the requirement that coverage of HCBS be based on person-centered service plans that outline how individuals wish to exercise choices, are at the heart of the home and community-based settings criteria. Given the scope of the changes mandated by the rule, we provided states with a transition period (through March 2019) to bring existing programs into compliance with the HCBS setting requirements. During this transition period, states are working with providers, managed care entities, advocacy organizations, beneficiaries and family members, and other stakeholders to complete assessments of existing HCBS provision and to determine how to implement needed revisions to ensure adherence with regulatory requirements.

In July 2014, we also established the Medicaid Innovation Accelerator Program (IAP) which seeks to improve the care and health for Medicaid beneficiaries and reduce costs by supporting states' ongoing payment and delivery system reforms through targeted technical support. *Promoting Community Integration through Long-term Services and Supports is* one of four program areas of focus for IAP. It is supporting a number of states with planning and implementing strategies for incentivizing quality and outcomes in HCBS and with developing Medicaid and housing-related services and partnerships. As part of this work, state Medicaid agencies and Federal and state housing partners are building on the collaborative work of the CMS and the U.S. Department of Housing and Urban Development (HUD) as part of the Obama Administration's Year of Community Living Initiative (established in June 2009 to mark the 10th anniversary of the *Olmstead* decision).

We are also actively engaged in efforts to improve the quality of care provided to individuals receiving HCBS. In addition to the ongoing monitoring of quality requirements embedded in the various HCBS authorities and programs and the quality work being done through IAP, we have developed an experience of care survey, developed under the Testing Experience and Functional Tools (TEFT) grant, which has been awarded the Consumer Assessment of Healthcare Providers and Systems (CAHPS) trademark. The CAHPS HCBS Survey is now available[14] to states to elicit feedback on beneficiaries' experience with the services they receive in Medicaid HCBS programs. Results will be used to assess and further improve program quality.

Our quality efforts are guided by the CMS Quality Strategy,[15] which seeks to provide better care, achieve healthier people and communities, and ensure smarter spending for care. The CMS Quality Strategy was built on the foundation of the CMS Strategy[16] and the HHS National Quality Strategy (NQS),[17]which was established as part of the Affordable Care Act to serve as a catalyst and compass for a nationwide focus on quality improvement efforts and approach to measuring quality, including in HCBS.

We believe that these strategies and efforts underway across CMS to achieve strategy goals will drive change as called for by the Commission on Long-Term Care and highlighted in the recent National Quality Forum (NQF) report released in September 2016, entitled *Quality in Home and Community-Based Services to Support Community Living: Addressing Gaps in Performance Measurement.*[18] The NQF report was developed by a multi-stakeholder committee to recommend and prioritize opportunities to address gaps in HCBS quality measurement. The report represents 2 years of work by NQF, the Committee, and an HHS Federal team, and contains its final set of recommendations for how to advance quality measurement in HCBS through the development, testing, and

initiatives are time-limited, and require Congressional action to continue their authorization. Specifically, Federal funding under the Balancing Incentive Program ended September 30, 2015, and MFP expired on September 30, 2016 (unused portions of state grant awards made in 2016 are available to the state until 2020).

[13] *https://www.medicaid.gov/medicaid/ltss/downloads/ltss-expenditures-2014.pdf.*

[14] *https://www.medicaid.gov/medicaid/quality-of-care/performance-measurement/cahps-hcbs-survey/index.html.*

[15] *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/QualityInitiativesGenInfo/CMS-Quality-Strategy.html.*

[16] *https://www.cms.gov/about-cms/agency-information/cms-strategy/.*

[17] *http://www.ahrq.gov/workingforquality/.*

[18] PNQF Project Page—*http://www.qualityforum.org/Publications/2016/09/Quality_in_Home_and_Community-Based_Services_to_Support_Community_Living__Addressing_Gaps_in_Performance_Measurement.aspx.*

endorsement of HCBS quality measures at par with those used across the healthcare system.

For more information on quality and performance measures, as well as many relevant past and present public-private efforts pertaining to HCBS quality, please see Appendix A of this RFI.

Finally, in support of achieving additional progress toward broadening access to HCBS, the President's FYs 2016 [19] and 2017 [20] budgets have included proposals to strengthen HCBS provision, such as expanding eligibility for the Community First Choice Option and the 1915(i) state plan services options. These and other proposals are summarized in Appendix B of this RFI. A particularly notable proposal, is the ''Pilot Long-Term Care State Plan Option'', which would create a comprehensive long-term care state plan option for up to five states. Participating states would be authorized to provide equal access to home and community-based care and nursing facility care and the Secretary would have the discretion to make these pilots permanent at the end of 8 years.

This brief background cannot capture all of the important developments that have shaped the current long-term care landscape. Critical contributions from persons with disabilities, advocates, providers, and states in partnership with these CMS efforts have created opportunities that may not be reflected.

*C. Key Factors That Affect the Provision of HCBS*

Despite the many creative and effective HCBS programs developed by states and the shift in Medicaid payments toward such services, several factors present unique challenges to states seeking to expand access to HCBS. These include the following:

- *State budgets* play a critical role in shaping the HCBS landscape within a state. States may face fiscal constraints as they make decisions about the optional services to offer, along with any limitations on how services are offered and to whom to provide them. Economic downturns can negatively impact a state's ability to offer a robust array of optional services, including HCBS, precisely when more individuals are enrolling in the program. In order to stay within appropriated state budgets, HCBS authorized under 1915(c) waivers may have enrollment caps and geographic boundaries. This provides budgetary certainty but can lead to significant variations within and across states in terms of the benefits offered, the number of individuals served, and waiting lists for those services. It also means that if a state is not able to add funding to its HCBS waivers, increases in programmatic expenses are frequently accompanied by offsetting reductions in other areas of the waiver or other Medicaid program expenditures.
- *Provider availability* is key to ensuring that individuals have access to needed Medicaid services. Availability can be impacted by several factors including the ability to attract a sufficient mix of providers in urban and rural areas of a state and how rates of reimbursement effect provider willingness to accept Medicaid beneficiaries. We issued the Access to Medicaid Covered Services final rule on November 2, 2015 (80 FR 67575).[21] In implementing these regulations, we are engaged in activities to assist states in determining that fee-for-service (FFS) payment rates are sufficient to attract enough providers to ensure that Medicaid beneficiaries have access to covered Medicaid services to address their needs. The November 2015 final rule requires states to complete access monitoring review plans (AMRPs) for specified services, including home health services. In addition, it requires states submitting state plan amendments that would reduce payment rates to providers or restructure provider payments if the change could result in diminished access, to provide to us an analysis of the expected impact of the reduction on provider participation. The requirement to provide such an analysis applies to all state plan services, including the 1915(i) HCBS state plan option and the 1915(k) Community First Choice state plan option, but does not apply to 1915(c) HCBS waivers. In conjunction with the November 2015 final rule, we released a request for information to solicit comments on additional approaches the agency and states should consider to ensure better compliance with Medicaid access requirements. This included comments on the potential development of standardized core measures of access, access measures for long-term care and home and community based services, national access to care thresholds, and resolution processes that beneficiaries could use in facing challenges in accessing essential health care services. We note that we received comments confirming that access to HCBS should be measured differently than access to primary and acute care services, and we continue to analyze the comments to determine potential paths forward.
- *The presence of managed care arrangements* in a state's Medicaid program can also impact how beneficiaries receive services. Through contracts with managed care organizations, states determine the array of Medicaid services to be provided under a managed care delivery system. Over the past decade, managed care has been used with increasing frequency in the delivery of Medicaid-funded LTSS, including HCBS. Almost 390,000 beneficiaries received LTSS in a managed care delivery system in 2012, and today an even larger number of beneficiaries are receiving LTSS through managed care.

As managed care organizations administer and coordinate contracted benefits, they are continually balancing the parallel goals of containing costs and facilitating the provision of needed services, which can impact the delivery of service on a daily basis. Under Medicaid regulations, plans can implement utilization criteria that influence service provision, such as prior authorization requirements or requiring the use of a particular drug or therapy before access to a more expensive treatment is authorized. However, the use of managed care should not negatively impact a beneficiary's access to covered services, as managed care plans must offer all services they are under contract to provide. In addition, services available under a managed care delivery system should be no less in amount, duration and scope as the services provided under a FFS payment system. Through managed care authorities, plans can also provide additional services not otherwise available in that state, either as a value-added service that the plan chooses to provide, or by offering a service in lieu of a covered service under the state plan if it is medically appropriate and cost effective (although use of the ''in lieu of'' authority does not relieve a state or managed care organization (MCO) from providing access to all state plan services).

Given the unique characteristics of LTSS, protections such as provider continuity and beneficiary education, were incorporated into the May 6, 2016 managed care final rule (81 FR 27498). Specific protections include requiring that a state establish a beneficiary support system that accounts for the unique needs of individuals receiving LTSS, person-centered planning processes to ensure medical and non-

[19] *http://www.hhs.gov/about/budget/budget-in-brief/cms/medicaid/index.html.*

[20] *http://www.hhs.gov/about/budget/fy2017/budget-in-brief/cms/medicaid/index.html.*

[21] *https://www.federalregister.gov/documents/2015/11/02/2015-27697/medicaid-program-methods-for-assuring-access-to-covered-medicaid-services.*

medical needs are met and that individuals have the quality of life and level of independence they desire, and standards to evaluate the adequacy of network and availability of services for all MLTSS programs.

• *Recent CMS and other federal agency policy changes are shaping program implementation.* The HCBS, Access to Medicaid Covered Services, and Medicaid Managed Care rules established new policies for states and managed care organizations that will have significant impact on states and HCBS providers. For example, the settings provisions in the 2014 HCBS final rule require states to develop and submit statewide transition plans detailing how the state will operate its HCBS waivers or state plan benefits and including all elements approved by the Secretary. Guidance as to the elements required in the transition plan,[22] indicates that among these elements are in-depth assessments and development of resulting remediation plans to ensure compliance with the regulation's community integration requirements by the end of the transition period.

Recently, the Department of Labor (DOL) issued two rules, one that took effect in October 2015 extending minimum wage and overtime protections to most home care workers, and the other taking effect in December 2016, which updated the salary threshold below which white collar salaried workers, including managers, are entitled to overtime pay when they work more than 40 hours in a week. Both of these rules are implementing necessary reforms, and both will require time, effort, and financial resources to ensure compliance.

From the beginning, the DOL has emphasized the importance of implementation in a manner that protects both workers and consumers. States have a number of options for coming into compliance with these regulations. For example, in response to the Home Care final rule (78 FR 60453), some states are planning to increase funding for home care programs such that workers receive overtime compensation for hours worked over 40 in a work week. Others are planning to limit overtime work but create exceptions processes so that certain consumers are permitted to receive care from a single home care worker in excess of the general cap on worker hours.

Actions taken by states to implement these regulations have real implications for beneficiaries and service providers. Some states anticipate challenges in being able to secure funding to accommodate overtime payments incurred in the delivery of HCBS by providers in response to the two DOL regulations, and are taking actions such as implementing caps on the number of hours worked by home care workers to avoid incurring overtime expenses. These caps can necessitate beneficiaries who require a significant number of hours of service needing to find additional workers. Many stakeholders, such as labor organizations and beneficiary advocates have expressed concerns that hard caps and low wages are likely to hamper recruitment and retention efforts to secure a consistent workforce.

We issued guidance[23] on the availability of Medicaid reimbursement for costs associated with complying with these two DOL rules. As of the drafting of this RFI, only a handful of states have submitted filings to CMS to embed overtime costs in the rate methodology of applicable services. In late 2014, the Department of Justice (DOJ) and the HHS OCR issued joint guidance[24] stressing that to remain compliant with *Olmstead,* ''states need to consider reasonable modifications to policies capping overtime and travel time for home care workers, including exceptions to these caps when individuals with disabilities otherwise would be placed at serious risk of institutionalization.'' We remain available to provide technical assistance on this issue.

• *Workforce stability* is impacted by many of the considerations discussed previously, and is a key factor in sustaining the growth of HCBS. States are grappling with providing a sufficient homecare workforce to meet the growing demand for LTSS. This is a particular challenge in states working to shift their long-term care service delivery systems toward HCBS and away from institutional care.[25] LTSS are by their nature extremely labor intensive and direct service workers—a paid workforce of about 3 million nationwide in 2009—constitute the main input into these services and supports. This workforce has been demonstrating signs of workforce instability, including high turnover and vacancy rates for some time. As demand for HCBS assistance grows, so too will the need for an engaged and dedicated workforce.[26] According to the Bureau of Labor Statistics,[27] personal care aides and home health aides are the occupations with the first and third largest projected job growth from 2014 through 2024 (BLS projects demand for an additional 806,500 jobs in these occupations). Further, employers with job openings in these occupations will be competing for workers with employers who have job openings in other occupations that have similar education and training requirements, *e.g.,* cashiers and retail salespersons. BLS projects demand for an additional 1.2 million jobs from 2014 through 2024 in these sectors. To attract engaged and dedicated workers to fill home care jobs will require wages that are competitive with what potential home care workers would receive in these and other alternative occupations.

CMS created the National Direct Service Workforce (DSW) Resource Center in 2005 to respond to the shortage of workers who provide direct care and personal assistance to individuals who need LTSS. These workers include direct support professionals, personal care attendants, personal assistance providers, home care aides, home health aides, and others (described collectively in the remainder of this document as the home care workforce). The DSW Resource Center created a number of important resources designed to assist states in developing home care workforce capacity, as well as to improve recruitment and retention efforts associated with the home care workforce. These resources included an inventory and analysis of the various core competency sets used across and within LTSS sectors.

While the DSW Resource Center concluded in December 2014, important resources funded through this initiative are available at *http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Long-Term-Services-and-Supports/Workforce/Workforce-Initiative.html.* Included in these resources is a toolkit that was

[22] *https://www.medicaid.gov/medicaid/ltss/downloads/statewide-transition-plan-toolkit.pdf.*

[23] *https://www.medicaid.gov/federal-policy-guidance/downloads/CIB-01-08-16.pdf.*

[24] Vanita Gupta and Jocelyn Samuels, Joint Dear Colleague Letter on Companionship Rule Implementation, US Department of Justice, Civil Rights Division and U.S. Department of Health and Human Services, Office for Civil Rights, December 2014 *http://acl.gov/NewsRoom/NewsInfo/docs/2014-FLSA-Dear-Colleague-ltr.pdf.*

[25] Edelstein, Steven, and Dorie Seavey, February 2009. ''The Need for Monitoring the Long-TermCare Direct Service Workforce and Recommendations for Data Collection''. Retrieved from: *https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/workforce/workforce-initiative.html.*

[26] Edelstein, Steven, and Dorie Seavey, February 2009. ''The Need for Monitoring the Long-TermCare Direct Service Workforce and Recommendations for Data Collection''. Retrieved from: *https://www.medicaid.gov/medicaid-chip-program-information/by-topics/long-term-services-and-supports/workforce/workforce-initiative.html.*

[27] *http://www.bls.gov/ooh/most-new-jobs.htm.*

developed in 2013 to discuss strategies to address workforce challenges, which contains a chapter dedicated to the unique characteristics of self-directed programs that are prevalent in the provision of HCBS. Self-directed programs place decision-making authority in the hands of the beneficiary or their representative, and can vary according to structure and scope. Across the various Medicaid authorities, almost every state offers beneficiaries the option to receive HCBS through some type of self-directed model. Understanding the parameters of self-directed programs operating in a state, such as the ability to hire family members and friends and the ability to set wages for home care workers, is key to understanding implications these models have on the ability to maintain an engaged and dedicated homecare workforce of sufficient size. As discussed later in this RFI, enhancing the stability of this workforce also involves ensuring that reimbursement rates support wages that are sufficient to attract enough qualified workers.

*D. The Role of Medicaid in Helping States Comply With ADA and Olmstead Requirements*

On May 20, 2010, we issued a State Medicaid Director (SMD) letter to provide information on new tools to support community integration, as well as to remind states of existing tools articulated in past ''*Olmstead*'' letters that remain strong resources in states' efforts to support community living as a choice for Medicaid HCBS beneficiaries. With the issuance of this 2010 letter, we reaffirmed our commitment to the policies identified in previous *Olmstead* guidance. We also expressed an interest in working with states to continue building upon earlier innovations and encouraged states to identify new strategies to improve community living opportunities. However, while Medicaid provides a powerful tool to states in fulfilling ADA and *Olmstead* responsibilities, the program cannot serve as a state's sole compliance strategy. The following are several reasons why this is the case:

• *Separate roles for CMS, DOJ, OCR*—CMS collaborates regularly with federal partners including the HHS OCR and DOJ. The three agencies discuss developments occurring in states to ensure awareness and to determine if there are cross-agency implications, but each agency has different areas of oversight responsibility. CMS implements Title XIX of the Act, working daily in partnership with states to operate the Medicaid program under the parameters of Title XIX that dictate CMS governance. DOJ implements and enforces certain provisions of the ADA. Its enforcement activities can include filing litigation against public entities not abiding by responsibilities under the ADA, including the statute's integration mandate, as interpreted by *Olmstead.* HHS OCR enforces non-discrimination laws that apply to health care or human services providers, including Title II of the ADA, section 504 of the Rehabilitation Act of 1973, and section 1557 of the Affordable Care Act, and laws related to health information privacy. Together, the three agencies form a strong partnership in ensuring the provision of quality healthcare, but each has a separate scope of influence.

• *Provision of Institutional Services*—The statute (Title XIX of the Act) requires the provision of medically necessary services in institutions such as hospitals and nursing facilities for most eligible beneficiaries. At state option, intermediate care facilities for individuals with intellectual disabilities (ICFs/IID) may be covered. However, mandatory provision of some institutional services and optional provision of most HCBS does not facilitate states' efforts to provide Medicaid services in a manner more consistent with ADA or *Olmstead* as the statute results in states having to devote budget resources to institutional options and having less flexibility to reallocate resources to home and community-based alternatives. While many states are working hard to operate their Medicaid programs in ways that further community integration, further progress is needed. For example, states have made less progress in reducing use of Medicaid-funded long-term stays in nursing facilities.

• *CMS review of state reimbursement methodology*—Some stakeholders have encouraged CMS to ensure that sufficient wages are available for home care workers to avoid shortages. We have also been encouraged by stakeholders to view state ratesetting methodologies through an *Olmstead* lens, under which HCBS rates would need to be sufficient to avoid unnecessary institutionalization. Their specific suggestions have included approving only methodologies that guarantee home care workers a salary that is above the prevailing minimum wage for their locality, that is higher than wages paid to similarly-qualified workers in nursing facilities, and that takes into account wages paid in occupations that compete for workers with similar levels of education, training, and experience.

Historically, we have reviewed states' proposed waiver and state plan reimbursement methodologies to determine compliance with regulatory requirements and with the statutory requirement found in section 1902(a)(30)(A) that payments be ''consistent with efficiency, economy, and quality of care and sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area.'' Based on provisions of the 2015 Access to Medicaid Covered Services final regulation, this review now includes a review of the state's determination that any proposed payment reductions for state plan services, including HCBS provided through the state plan, will still result in sufficient beneficiary access to providers. Our review also includes the state's analysis of any concerns expressed over the proposed reduction from affected stakeholders. However, we have not interpreted the statute and regulations to support an analysis of payment methodologies down to the level of wages paid to individual home care workers. For example, while we review how a state proposes to reimburse a provider agency for the provision of personal care services, this review does not extend to analyzing how the provider agency compensates home care workers and whether that rate is sufficient to cover wage costs. It also does not include a review of whether compensation of home care workers is sufficient to attract needed workers, a key component of which would be a review of how home care worker wages compare to the wages paid to workers in occupations that compete for workers with similar levels of education and training.

## III. Provisions of the Request for Information

To assist us in determining how to advance access to HCBS for beneficiaries in both FFS and managed care and how to enhance the quality and integrity of HCBS provision under existing authorities, we are soliciting public input on the following general topics:

*A. What are the additional reforms that CMS can take to accelerate the progress of access to HCBS and achieve an appropriate balance of HCBS and institutional services in the Medicaid LTSS system to meet the needs and preferences of beneficiaries?*

Although HCBS expenditures account for a majority of total spending for LTSS in Medicaid, we are interested in making additional progress in rebalancing the Medicaid long-term care

system. Statutory changes such as the ones proposed in the President's FYs 2016 and 2017 budgets would most likely provide the fastest and most meaningful acceleration of progress (see Appendix B). However, we are soliciting input on actions within our authority to promote access to Medicaid HCBS. These include suggestions for improved benefit design, payment and financing reforms, and stakeholder engagement. In addition, we are open to proposals with respect to all existing Medicaid authorities, both state plan and waiver.

Section 1115 demonstrations give states broad authority to implement reforms in their Medicaid program, such as by waiving specific provisions of the Social Security Act, or by allowing states to cover services and/or populations not typically covered by Medicaid. In the context of HCBS delivery, an 1115 demonstration could provide interested states with the authority to offer a more streamlined continuum of LTSS, similar to the Pilot Comprehensive Long-Term Care State Plan Option legislative proposal referenced in Appendix B. We seek input on the state interest and feasibility of such an approach, along with the following comments and questions:

- We are interested in receiving comments on the following potential interpretation of current law. The term ''nursing facility'' is defined in section 1919(a) of the Act. Under this definition, a nursing facility must be primarily engaged in providing skilled care and rehabilitation to residents with medical necessity for those services. In contrast, nursing facilities provide health-related care and services, that is, those services that are not skilled nursing or rehabilitation services, ''to individuals who . . . require care and services . . . which can be made available to them only through institutional facilities''. In other words, the statutory nursing facility service definition could provide a basis for states to offer the mandatory nursing facility benefit only to individuals eligible for nursing facility coverage whose assessed need cannot be met by HCBS. If the individual's needs can be met by HCBS, Medicaid reimbursement would not be available for health-related care and services provided in a nursing facility in those circumstances. Because this concept intersects with other requirements such as institutional eligibility rules and the choice of institution as an option for section 1915(c) waiver participants, the idea may best be implemented under the flexibility of a section 1115(a) of the Act demonstration authority.
- Are there particular flexibilities around Medicaid requirements for LTSS that states would be interested in using 1115 authority to support? How could 1115 authority be structured to streamline the provision of LTSS across authorities, while adhering to budget neutrality requirements?
- What types of eligibility flexibility and controls, including level of care and utilization, could be used to encourage access to HCBS?
- What types of benefit redesign (such as a package of benefits) would improve the provision of LTSS?
- What resource needs, including differences between urban and rural areas, and variations in providing services to different HCBS populations, would need to be taken into account to ensure access to HCBS?

*B. What actions can CMS take, independently, or in partnership with states and stakeholders, to ensure quality of HCBS and beneficiary health and safety?*

As the number of beneficiaries receiving Medicaid HCBS has increased, so has the need to ensure that federal and state quality efforts are maintained and strengthened to ensure the provision of services in ways that improve health outcomes of beneficiaries. Toward that end, we made extensive revisions to the quality oversight structure of the 1915(c) HCBS waiver program, which culminated in guidance released in 2014.[28] At the heart of this framework is the reporting on state-developed performance measures designed to reflect the operations of the waiver across important domains that CMS defined such as beneficiary health and welfare, financial accountability, and service provision and delivery.

As states increasingly turn to managed care to deliver LTSS including nursing home and HCBS to older adults and people with disabilities enrolled in Medicaid, we have sought additional approaches to quality and beneficiary protections, while also allowing state flexibility in program design and administration. As one example, the Medicaid managed care final rule specifically incorporated ''managed'' long-term services and supports, referred to as MLTSS, elements into several areas of CMS' quality measurement and improvement framework. States must have mechanisms for the identification of enrollees who need LTSS or enrollees with special health care needs, and managed care plans must have mechanisms to assess the quality and appropriateness of care furnished to beneficiaries enrolled in managed care and receiving LTSS, including an assessment of care between care settings and a comparison of services and supports received with those set forth in the enrolled beneficiary's treatment or service plan. Managed care plans must also participate in efforts by the state to prevent, detect, and remediate critical incidents that adversely impact enrollee health and welfare, and the state must identify standard performance measures, including performance measures relating to quality of life, rebalancing, and community integration activities for those beneficiaries receiving LTSS.

As we solicit ideas for the expansion and promotion of HCBS, it is critical that the infrastructure surrounding service provision be sufficiently robust to ensure that beneficiaries receive needed, quality services, while also ensuring the health and safety of those beneficiaries. Currently, there is an absence of a formal federal oversight framework for the provision of HCBS such as what exists for services provided in institutions such as nursing facilities and hospitals. Instead, CMS and the states partner to ensure the collection of data is sufficient to both articulate the experience of individuals receiving HCBS and to inform the actions to be taken when necessary to improve that experience. Therefore, we are soliciting feedback on the following:

- What is the appropriate role for CMS versus the states in ensuring quality of care for Medicaid beneficiaries receiving HCBS? How could CMS and states best monitor quality and beneficiary safety? What actions should CMS take when HCBS are not being delivered according to federal requirements? What evidence would be required to determine when CMS takes these actions?
- Should there be an oversight structure with conditions of participation in HCBS similar to that of institutions and home health agencies, in which state surveyors report survey findings directly to CMS?
- What can CMS do to support standardized performance measures for HCBS, including in Medicaid waivers and state plans?
- What other quality measurement activities could CMS undertake to strengthen the provision of HCBS across any Medicaid authority? What data, reporting and system resources would be necessary to support those activities?

[28] *https://www.medicaid.gov/medicaid-chip-program-information/by-topics/waivers/downloads/3-cmcs-quality-memo-narrative.pdf.*

• What other quality measurement activities should CMS require or do to support states and other stakeholders to strengthen the provision of quality HCBS across any Medicaid authorities?

*C. What program integrity safeguards should states have in place to ensure beneficiary safety and reduce fraud, waste, and abuse in HCBS?*

Program integrity expectations apply to providers of HCBS as they do to all other Medicaid services and providers. Program integrity results in Medicaid paying the right provider for furnishing the right services to the right beneficiary at the right price. Without strong program integrity safeguards, HCBS funds are at risk of being misspent, beneficiaries in need of HCBS are at risk of receiving substandard quality of care that may result in beneficiary harm, and institutionalization may be used in situations where it would otherwise be unnecessary.

Personal care services (PCS), are a critical component of HCBS, and there is evidence of program integrity vulnerabilities in their provision. The Office of Inspector General (OIG) recently issued an Investigative Advisory [29] that identifies PCS fraud issues encountered during the course of OIG investigations that have resulted in misspent funds (such as through timecard falsifications), and examples of beneficiary abuse and services furnished by unqualified providers. We have not required states to adopt a standardized set of minimum qualifications for PCS attendants. Currently, some states require PCS attendants to enroll in Medicaid as providers, including undergoing a criminal background check, and assign each attendant a unique provider number. However, many states do not have such procedures in place, and we have not issued minimum Federal qualifications for PCS attendants. OIG has strongly encouraged CMS to undertake actions establishing minimum federal qualifications and screening standards for PCS attendants, including background checks; and require states to enroll or register all PCS attendants and assign them unique numbers for purposes of tracking claims.

Given the nature of these services, focusing on activities of daily living (ADLs) such as eating, bathing, toileting, and transferring, and instrumental activities of daily living (IADLs) such as money management and meal preparation, community-based provider qualifications have tended to be less formal than care more focused on skilled nursing or licensed therapies. Many states have adopted personal care provider qualifications such as minimum age requirements, possession of a valid driver's license, and completion of training required by the state and specific training required by the beneficiary.

When evaluating how best to ensure the provision of quality person-centered services by a sufficient pool of qualified providers, we are weighing competing stakeholder viewpoints. As an example, standardized worker training requirements may be supported by entities focused on home care worker engagement and program integrity safeguards, but are generally not supported by disability rights organizations and self-advocates, who favor more flexible programs that base training requirements on individual beneficiary circumstances. We believe that ensuring both interests are included as part of the overall delivery of HCBS is important to successful delivery of high quality HCBS to Medicaid beneficiaries.

We are particularly interested in the operational feasibility for states of these recommendations and the implications for beneficiary choice and control. We also seek input into the feasibility and implications in each of two different service delivery models: Agency-directed PCS (including ''agency with choice'' models in which the provider agency and the beneficiary are co-employers of the PCS attendant) and self-directed PCS. HCBS have a long history of utilizing consumer-directed/self-directed models of service delivery, a facilitation of beneficiary choice and control that CMS supports. These include models through which a range of services and supports are planned, budgeted, and directly controlled by an individual (with the help of representatives, if desired) based on the individual's needs and preferences that maximize independence and the ability to live in the setting of the individual's choice. Even in more traditional models of HCBS delivery, in which agencies are utilized, there has been movement over time to incorporate beneficiary expectations of participating in training and determining the qualifications of workers that are most relevant to individual needs and preferences.

The use of minimum qualifications and screening and enrollment requirements may create administrative implications, increase costs and impact beneficiary choice and control. On the other hand, a lack of adequate program integrity safeguards could pose risk to both Medicaid beneficiaries and successful stewardship of Federal and state funds. The successful delivery of PCS to Medicaid beneficiaries must ensure that both individual needs and preferences are met and that the program has adequate safeguards in place. To better ensure the successful delivery of PCS, we are soliciting feedback on the following:

• What are the benefits and consequences of implementing standard federal requirements for personal care workers in agency-directed and/or self-directed models of care?

• What would standardized qualifications look like in terms of the following:

++ Educational requirements

++ Minimum age requirements

++ Screening requirements

• Should standardization include the expectation that certain circumstances require more than the standard, or different standards?

• What role could state-administered home care worker registries play in facilitating access to HCBS? What issues should be addressed in the creation of home care worker registries?

• What issues should be considered in requiring criminal background checks? In the states that are utilizing fingerprinting and background checks already, what lessons can be learned from implementation and experience with these approaches?

• What role can home care worker organizations play in providing training to support implementation of federal qualification standards? What regulatory or policy provisions would either support, or inadvertently disadvantage, home care worker organizations?

• Should states be required to enroll or register all PCS attendants and assign them unique numbers for purposes of tracking claims?

• What is the feasibility for state Medicaid programs of including home care worker identity on claims submitted for Medicaid reimbursement?

• What other program integrity safeguards should be put in place, either as an alternative to, or in addition to, the controls recommended by OIG, for agency-directed PCS? For self-directed PCS?

• Are the program integrity safeguards that are appropriate for agency-directed personal care services also appropriate for self-directed personal care services?

• How can program integrity safeguards be developed and implemented to support key HCBS programmatic objectives such as choice and self-direction?

[29] *https://oig.hhs.gov/reports-and-publications/portfolio/ia-mpcs2016.pdf.*

*D. What specific steps could CMS take to strengthen the HCBS home care workforce?*

To determine the specific steps that we could take to strengthen the HCBS home care workforce, we are soliciting feedback on the implications of establishing requirements, standards or procedures to ensure rates paid to providers are sufficient to attract enough providers to meet service needs of beneficiaries and that wages supported by those rates are sufficient to attract enough qualified home care workers.

As indicated previously, and as described in the Informational Bulletin dated August 3, 2016,[30] there are several factors that can impact the availability of a sufficient pool of home care workers necessary to provide HCBS relied upon by beneficiaries to remain in the community. Moreover, these access and availability challenges are likely to increase as the population ages and more and more people seek to remain in their homes and communities. Some stakeholders have approached us to intervene and use our approval authority of rate methodologies as a mechanism to strengthen the provider infrastructure and ensure beneficiary access to services. This may include using the rate approval process to address the competitiveness of worker wages, encourage entry of new providers, support enhanced workforce training and professional development, or improved administrative/IT infrastructure of providers. With respect to wages, for example, some stakeholders have suggested that CMS only approve state reimbursement methodologies for provider rates that will result in sufficient wages for employees to attract and retain a high quality workforce and that relate to the broader labor market within the state to ensure that wage rates are competitive with other industries that employ workers with similar levels of education and experience. As noted previously, historically, our review of ratesetting methodologies has not encompassed this level of specificity. How agencies compensate employees or contractors has been outside of the CMS review. We are soliciting comment on whether we should play a larger role in ensuring the sufficiency of rates at both provider agency and individual worker levels, taking into account that the federal role is to ensure an effective program, not to directly regulate business matters (that is, states operate the Medicaid programs). Specifically, we are interested in feedback on the following:

- What if any actions could CMS take to better ensure adequate beneficiary access to safe HCBS services provided by qualified individuals, across both urban and rural locations and across disparate populations?
- What are positive and negative consequences of such actions, including the implications under the Fair Labor Standards Act and state wage and hour laws, if state ratesetting approaches result in specified wages at an individual worker level?
- Should CMS expand its ratesetting approval authority to support provider infrastructure and the HCBS workforce?
- What effect would an increase in payment rates necessitated by a CMS rate review process that focuses on home care worker wages have on funded slots or services, particularly given budget limitations and cost neutrality requirements inherent in many Medicaid authorities?
- How could CMS determine whether an increase in home care worker wages results in an increase in the quality of services provided and an increase in the size of the workforce such that it will be more likely to meet future industry needs?
- What sources of information, including data from the DOL, would be most useful to CMS in making sure that reimbursement rates appropriately take into consideration wages and benefits for home care workers? How would CMS best use these sources?
- What role could state-administered home care worker registries play in facilitating access to HCBS? What issues should be addressed in the creation of home care worker registries?
- What other actions could CMS consider to strengthen the home care workforce such as assessing training needs, developing career ladders, etc.?

## IV. Collection of Information Requirements

This request for information constitutes a general solicitation of public comments as discussed in the implementing regulations of the Paperwork Reduction Act at 5 CFR 1320.3(h)(4). Therefore, this request for information does not impose information collection requirements, that is: Reporting, recordkeeping or third-party disclosure requirements. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## V. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

Dated: November 2, 2016.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

## Appendix A

### Quality Measurement

Performance measures are used across the healthcare delivery system and across payers to improve outcomes, experience of care, population health, and health care affordability through improvement, with the goal of improving processes and outcomes. In clinical and behavioral health care, measurement has been associated with improvements in providers' use of evidence-based strategies and health outcomes. However, there is no national quality measure set for HCBS.

Quality measures are tools that help evaluate or quantify healthcare processes, outcomes, individual perceptions/experiences, and organizational structure and/or systems that are associated with the ability to provide high-quality health care and/or that relate to one or more quality goals for health care. These goals include: Effective, safe, efficient, person-centered, equitable, and timely care. CMS uses quality measures in its quality improvement, public reporting, and pay-for-reporting programs for specific healthcare providers.

### Other Quality Initiatives

- CMS is working on developing quality measures and maintenance programs serving individuals who are enrolled in both Medicare and Medicaid, as well as individuals only enrolled in Medicaid who use HCBS as part of the work in the IAP. The objectives of this project are to identify and prioritize measures and measure concepts, develop and refine measure specifications for priority measures, conduct field testing to evaluate measure importance, feasibility, usability, and scientific validity and reliability, submit validated, reliable measures to the National Quality Forum (NQF) for endorsement, and assist CMS with an implementation strategy. Eight measures in development apply to beneficiaries enrolled in managed long-term services and supports programs, and one measure, for community integration is specific to HCBS.
- CMS has developed a standardized system for developing and maintaining the quality measures used in its various accountability initiatives and programs. Known as the Measures Management System (MMS), measure developers (or contractors) should follow this core set of business

[30] *https://www.medicaid.gov/federal-policy-guidance/downloads/cib080316.pdf.*

processes and decision criteria when developing, implementing, and maintaining quality measures. Best practices for these processes are documented in the manual, Blueprint for the CMS Measures Management System (the Blueprint).[31] CMS uses the standardized processes documented in the Blueprint to ensure that the resulting measures form a coherent, transparent system for evaluating quality of care delivered to its beneficiaries.

• The National Quality Forum's (NQF) Measures Application Partnership (MAP) is a multi-stakeholder public/private partnership that guides HHS on the selection of performance measures for Federal health programs. Its Dual Eligible Beneficiaries Workgroup has identified opportunities for improvement in measurement areas including quality of life, screening and assessment, structural measures, mental health and substance use, and care coordination. The MAP Workgroup noted significant gaps in the availability of measures for HCBS, and in a final report to HHS identified potential measures worthy of attention.[32] To cite potential HCBS measures, the MAP Workgroup reviewed ''Environmental Scan of Measures for Medicaid Title XIX Home and Community-Based Services'' (2010), ''Raising Expectations: A State Scorecard on LTSS for Older Adults, People with Disabilities, and Family Caregivers'' (2011), and the National Balancing Indicator Project (2010).

• HCBS are a focus of HHS's Multiple Chronic Conditions Strategic Framework.[33]

• The National Alzheimer's Plan recommends the development of dementia quality measures across care settings.[34]

• Section 6086(b) of Deficit Reduction Act of 2005, ''Quality of Care Measures,'' directed HHS's Agency for Health Care Research and Quality (AHRQ) to develop measures of program performance, client functioning, and client satisfaction with HCBS under Medicaid; assess the quality of Medicaid HCBS outcomes and those of the overall system, and disseminate information on best practices.[35]

• CMS sponsored development of a HCBS taxonomy[36] to provide a common language for describing and categorizing HCBS across Medicaid programs.

• CMS's Money Follows the Person demonstration program developed a quality of life survey (QoL) for persons transitioning from institutional to community settings which provided valuable insight into the use of an experience of care survey. Through the CMS Testing Experience and Functional Tools (TEFT) demonstration grant, the HCBS Experience of Care Survey was tested and recently received the CAHPS® trademark, and was recommended for endorsement by NQF's Person and Family Centered Care Committee.

• CMS's TEFT initiative is working on a HCBS Functional Assessment Standardized Items (FASI), based on the HCBS CARE tool, and development of standards for electronic and personal health records, or ''eLTss Plan.''[37]

• The Improving Medicare Post-Acute Care Transformation (IMPACT) Act requires reporting of quality measures in Skilled Nursing Facilities, Home Health, and across other settings and requires standardized assessment data, data on quality measures, interoperability, and person-centered care.

• The Medicare Access and CHIP Reauthorization Act (MACRA) includes a quality assessment and improvement strategy for Medicare managed care, and the Merit-Based Incentive Payment System (MIPS) offers financial incentives for eligible professionals to provide care that advances the goals of a healthier system.

• The Affordable Care Act included a requirement for CMS to establish voluntary care sets for adult and child quality measures.

• HHS's Administration for Community Living's National Institute on Disability, Independent Living, and Rehabilitation Research (NIDILRR) is presently implementing a Rehabilitation Research and Training Center grant to develop, test, and gain NQF approval for HCBS quality measures.

• Under certain Medicaid statutory authorities states must develop and integrate a continuous quality assurance, monitoring, and improvement strategy for HCBS programs.[38] CMS's final rule on HCBS and related guidance, CMS 2249–F, provides further insight regarding appropriate characteristics of HCBS settings.[39]

• The Government Accountability Office has issued a series of reviews of HCBS provided through the Medicaid program since 1982, the year after HCBS were first added to Medicaid as an optional benefit, and many address quality issues.[40] The HHS Office of the Inspector General has also made HCBS program integrity a focus of its efforts, with particular attention to personal care services.[41]

• There are synergies in HCBS quality in CMS's State Innovation Models Initiative in the states that have received Model Testing Awards,[42] in the Agency's Community-Based Care Transitions program, the Independence at Home model, and the Accountable Health Communities model.[43]

## Appendix B: Summary of Administration's President Budget Proposals To Advance the Provision of HCBS

### 1. Pilot Comprehensive Long-Term Care State Plan Option

This 8-year pilot program would create a comprehensive long-term care state plan option for up to 5 states. Participating states would be authorized to provide equal access to home and community-based care and nursing facility care. The Secretary would have the discretion to make these pilots permanent at the end of the 8 years. This proposal works to end the institutional bias in long-term care and simplify state administration.

### 2. Expand Eligibility Under the Community First Choice Option

This proposal provides states with the option to offer categorical Medicaid eligibility to individuals who would be eligible under the state plan if they were in a nursing facility and who meet the coverage requirements for, and will receive, 1915(k) services (''Community First Choice'' services). Under the current statutory framework, states have the option to extend full Medicaid coverage to individuals who are generally not otherwise eligible for Medicaid but who meet the coverage criteria for a 1915(c) waiver or 1915(i) benefit available under the state Medicaid program. A similar option does not exist for the 1915(k) benefit. This proposal provides an eligibility pathway into Medicaid for individuals otherwise eligible for the 1915(k)

[31] Additional information on the Blueprint is available at: *https://www.cms.gov/Medicare/Quality-Initiatives-Patient-Assessment-Instruments/MMS/MMS-Blueprint.html.*

[32] National Quality Forum. Measures Application Partnership. Measuring Healthcare Quality for the Dual Eligible Beneficiary Population. June 2012. Available at: *http://www.qualityforum.org/News_And_Resources/Press_Releases/2012/Measure_Applications_Partnership_Submits_Recommendations_for_Dual_Eligible_Beneficiaries_to_HHS.aspx.*

[33] U.S. Department of Health and Human Services. Multiple Chronic Conditions: A Strategic Framework. Available at: *http://www.hhs.gov/ash/initiatives/mcc/mcc_framework.pdf.*

[34] Department of Health and Human Services. National Plan to Address Alzheimer's Disease: 2013 Update. Available at: *http://aspe.hhs.gov/daltcp/napa/natlplan.pdf.*

[35] Agency for Health Care Quality. Project methodology available at: *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/methods/index.html.* Environmental scan at: *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/index.html* and *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/index.html.* Measures meeting a numeric threshold are at: *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/hcbsapv1b.html, http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/hcbsapv2b.html,* and *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/hcbsapv3ab.html#tabav3b.* Details of individual measures are available at: *http://www.ahrq.gov/professionals/systems/long-term-care/resources/hcbs/hcbsreport/hcbsapiii.html.*

[36] Peebles V, Bohl A. The HCBS Taxonomy: A New Language for Classifying HCBS. August, 2013. Available at: *https://www.cms.gov/mmrr/Briefs/B2014/MMRR2014_004_03_b01.html.*

[37] Centers for Medicare & Medicaid Services. Available at: *http://www.medicaid.gov/AffordableCareAct/Downloads/TEFT-FOA-7-13.pdf.*

[38] Centers for Medicare & Medicaid Services. Available at: *http://www.medicaid.gov/Medicaid-CHIP-Program-Information/By-Topics/Waivers/Home-and-Community-Based-1915-c-Waivers.html.*

[39] Government Printing Office. **Federal Register** Vol. 79, No. 11. January 16, 2014. Available at: *http://www.gpo.gov/fdsys/pkg/FR-2014-01-16/pdf/2014-00487.pdf.*

[40] Government Accountability Office. Available at: *http://www.gao.gov/search?q=medicaid+home+and+community+based+services.*

[41] HHS Office of the Inspector General. National Home and Community Based Services Conference. September, 2013. *http://nasuad.org/documentation/HCBS_2013/Presentations/9.11%204.00-5.15%20Washington.pdf.*

[42] Centers for Medicare & Medicaid Services. Available at: *http://innovation.cms.gov/initiatives/State-Innovations-Model-Testing/index.html.*

[43] Centers for Medicare & Medicaid Services. Available at: *http://innovation.cms.gov/initiatives/CCTP/.*

benefit and provides states with additional tools to manage their long-term care home and community-based service delivery systems.

**3. Expand Eligibility for the 1915(i) Home and Community-Based Services State Plan Option**

This proposal increases states' flexibility in expanding access to home and community-based services under section 1915(i) of the Social Security Act. Currently, an individual who meets the coverage and targeting criteria for a 1915(i) benefit available under his or her state's Medicaid program but whose income is above 150% of the federal poverty level (FPL) may only qualify for Medicaid if the individual also meets the coverage and targeting criteria for a 1915(c) waiver approved as part of the state's Medicaid program. This proposal removes this limitation, which we anticipate will reduce the administrative burden on states and increase access to home and community-based services for the elderly and individuals with disabilities.

**4. Allow Full Medicaid Benefits for Individuals in a Home and Community-Based Services State Plan Option**

This proposal provides states with the option to offer a larger package of Medicaid services to medically needy individuals who access home and community-based services through the state plan option under section 1915(i) of the Social Security Act. Currently, individuals who qualify as medically needy based on the unique financial deeming rules many states use in providing 1915(i) coverage may only receive 1915(i) services, instead of the other services available to medically needy individuals under the state's plan. This option will provide states with more opportunities to support the comprehensive health care needs of medically needy individuals who are eligible for 1915(i) services.

**5. Provide Home and Community-Based Waiver Services to Children Eligible for Psychiatric Residential Treatment Facilities**

This proposal provides states with additional tools to manage children's mental health care service delivery systems by expanding the non-institutional options available to these Medicaid beneficiaries. By adding psychiatric residential treatment facilities to the list of qualified inpatient facilities in 1915(c), this proposal provides access to home and community-based waiver services for children and youth in Medicaid who are currently receiving services in these settings and/or meet this institutional level of care. Without this change to provisions in the Social Security Act, children and youth who meet this institutional level of care do not have the choice to receive home and community-based waiver services and can only receive Medicaid-covered services for the type of care they need in an institutional setting where residents are eligible for Medicaid. This proposal builds upon findings from the 5 year Community Alternatives to Psychiatric Residential Treatment Facilities Demonstration Grant Program authorized in the Deficit Reduction Act of 2005 that showed improved overall outcomes in mental health and social support for participants with average cost savings of $36,500 to $40,000 per year per participant.

[FR Doc. 2016–27040 Filed 11–4–16; 4:15 pm]

BILLING CODE 4120–01–P

# Notices

Federal Register

Vol. 81, No. 217

Wednesday, November 9, 2016

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Forest Service

### Ozark-Ouachita Resource Advisory Committee

**AGENCY:** Forest Service, USDA.

**ACTION:** Notice of meeting.

**SUMMARY:** The Ozark-Ouachita Resource Advisory Committee (RAC) will meet in Fort Smith, Arkansas. The committee is authorized under the Secure Rural Schools and Community Self-Determination Act (the Act) and operates in compliance with the Federal Advisory Committee Act. The purpose of the committee is to improve collaborative relationships and to provide advice and recommendations to the Forest Service concerning projects and funding consistent with Title II of the Act. Additional RAC information, including the meeting agenda and the meeting summary/minutes can be found at the following Web site: *http://cloudapps-usda-gov.force.com/FSSRS/RAC_Page?id=001t0000002JcwBAAS.*

**DATES:** The meeting will be held December 8, 2016, beginning at 1:00 p.m. (CST). In the event of no quorum or other unavoidable circumstances, alternate dates for the meeting are December 9, December 13, and December 14, 2016.

All RAC meetings are subject to cancellation. For status of meeting prior to attendance, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**ADDRESSES:** The meeting will be held at Janet Huckabee Arkansas River Valley Nature Center, 8300 Wells Lake Road, Fort Smith, Arkansas.

Written comments may be submitted as described under **SUPPLEMENTARY INFORMATION**. All comments, including names and addresses when provided, are placed in the record and are available for public inspection and copying. The public may inspect comments received at 100 Reserve Street, Hot Springs, Arkansas. Please call ahead to facilitate entry into the building.

**FOR FURTHER INFORMATION CONTACT:** Caroline Mitchell, Committee Coordinator, by phone at 501–321–5318 or via email at *carolinemitchell@fs.fed.us.*

Individuals who use telecommunication devices for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern Standard Time, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** The purpose of the meeting is:

1. To review Title II proposals.

The meeting is open to the public. The agenda will include time for people to make oral statements of three minutes or less. Individuals wishing to make an oral statement should request in writing by November 30, 2016, to be scheduled on the agenda. Anyone who would like to bring related matters to the attention of the committee may file written statements with the committee staff before or after the meeting. Written comments and requests for time for oral comments must be sent to Caroline Mitchell, Committee Coordinator, PO Box 1270, Hot Springs, Arkansas, or via facsimile to 501–321–5399.

*Meeting Accommodations:* If you are a person requiring reasonable accommodation, please make requests in advance for sign language interpreting, assistive listening devices or other reasonable accommodation for access to the facility or proceedings by contacting the person listed in the section titled **FOR FURTHER INFORMATION CONTACT**. All reasonable accommodation requests are managed on a case by case basis.

Dated: November 3, 2016.

**Bill Pell,**

*Designated Federal Official.*

[FR Doc. 2016–27035 Filed 11–8–16; 8:45 am]

**BILLING CODE 3411–15–P**

## DEPARTMENT OF AGRICULTURE

### Rural Business-Cooperative Service

### Non-Leveraged Rural Business Investment Program; Public Comment for Proposed Rule Changes

**AGENCY:** Rural Business-Cooperative Service, USDA.

**ACTION:** Notice.

**SUMMARY:** This Notice announces public comment for proposed rule changes for the RBIP. Notice of a public webinar on the Agriculture Reform, Food, and Jobs Act of 2012; TITLE VI—RURAL DEVELOPMENT; Subtitle A—Reorganization of the Consolidated Farm and Rural Development Act; CHAPTER 2—RURAL BUSINESS AND COOPERATIVE DEVELOPMENT; Sec. 3602. Rural Business Investment Program (RBIP).

**DATES:** A webinar will be held Thursday, November 17, 2016. To discuss proposed rule changes. Registration will start at 11:45 a.m.; the program will begin at 12:00 p.m. and conclude by 1:45 p.m. Eastern Time.

**SUPPLEMENTARY INFORMATION:** The RBIP regulation Specialty Programs Division (see 7 CFR part 4290) is currently in the process of drafting several revisions within the rule. These rule changes will allow a more effective program for investing in rural areas. We are also looking to align the provision of the rule with other Rural Business-Cooperative service programs. We are seeking comments on potential rule changes from the public.

**FOR FURTHER INFORMATION CONTACT:** David Chesnick, Agricultural Economist, USDA, Rural Development, Rural Business-Cooperative Service. 1400 Independence Avenue SW., Washington, DC 20250–3225. Telephone (202) 690–0433.

To view audio and web conferencing, find hyperlink below. *https://cc.readytalk.com/registration/#/?meeting=mcji2q8fsfbk&campaign=gpu22rmqt4rz.*

Dated: November 2, 2016.

**Justin Hatmaker,**

*Acting Administrator, Rural Business-Cooperative Service.*

[FR Doc. 2016–27008 Filed 11–8–16; 8:45 am]

**BILLING CODE 3410–XY–P**

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–74–2016]**

### Foreign-Trade Zone 124—Gramercy, Louisiana; Application for Subzone; Danos & Curole Marine Contractor's, LLC; Morgan City, Louisiana

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by the Port of South Louisiana, grantee of FTZ 124, requesting subzone status for the facility of Danos & Curole Marine Contractor's, LLC, located in Morgan City, Louisiana. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 3, 2016.

The proposed subzone (367.5 acres) is located at 2547 Highway 66 South in Morgan City. No authorization for production activity has been requested at this time.

In accordance with the FTZ Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the FTZ Board.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 19, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 3, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: November 3, 2016.

**Camille R. Evans,**

*Acting Executive Secretary.*

[FR Doc. 2016–27080 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[B–45–2016]**

### Foreign-Trade Zone (FTZ) 189—Kent, Ottawa and Muskegon Counties, Michigan; Authorization of Production Activity; Southern Lithoplate, Inc. (Aluminum Printing Plates); Grand Rapids, Michigan

On July 6, 2016, the KOM Foreign Trade Zone Authority, grantee of FTZ 189, submitted a notification of proposed production activity to the FTZ Board on behalf of Southern Lithoplate, Inc., within Site 10, in Grand Rapids, Michigan.

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 (81 FR 45123, July 12, 2016). The FTZ Board has determined that no further review of the activity is warranted at this time. The production activity described in the notification is authorized, subject to the FTZ Act and the Board's regulations, including Section 400.14 and further subject to a restriction requiring that inputs classified under HTSUS Subheadings 3204.17, 3208.20 and 3208.90 be admitted to the subzone in privileged foreign status (19 CFR 146.41) or domestic status (19 CFR 146.43).

Dated: November 3, 2016.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2016–26983 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[S–154–2016]**

### Foreign-Trade Zone 163—Ponce, Puerto Rico; Application for Subzone; AxisCare Health Logistics, Inc.; Toa Baja, Puerto Rico

An application has been submitted to the Foreign-Trade Zones Board (the Board) by CODEZOL, C.D., grantee of FTZ 163, requesting subzone status for the facility of AxisCare Health Logistics, Inc., located in Toa Baja, Puerto Rico. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally docketed on November 4, 2016.

The proposed subzone (7.593 acres) is located at PR #2 Km. 19.5 in Toa Baja. The proposed subzone would be subject to the existing activation limit of FTZ 163. No authorization for production activity has been requested at this time.

In accordance with the Board's regulations, Camille Evans of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 19, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 3, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Camille Evans at *Camille.Evans@trade.gov* or (202) 482–2350.

Dated: November 4, 2016.

**Camille R. Evans,**

*Acting Executive Secretary.*

[FR Doc. 2016–27072 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

**[S–153–2016]**

### Foreign-Trade Zone 100—Dayton, Ohio; Application for Subzone Expansion; Thor Industries, Inc.; Jackson Center, Ohio

An application has been submitted to the Foreign-Trade Zones (FTZ) Board by The Greater Dayton Foreign-Trade Zone, Inc., grantee of FTZ 100, requesting expanded subzone status for the facilities of Thor Industries, Inc. (Thor), located in Jackson Center, Ohio. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the FTZ Board (15 CFR part 400). It was formally docketed on November 1, 2016.

Subzone 100D consists of the following site: *Site 1* (89 acres), 419 West Pike Street, Jackson Center. The applicant is now requesting authority to expand Site 1 to include an additional

3.88 acres as well as add a new site: proposed *Site 2* (6.53 acres), 607 East Pike Street, Jackson Center. No additional production authority is being requested at this time. The expanded subzone would be subject to the existing activation limit of FTZ 100.

In accordance with the FTZ Board's regulations, Elizabeth Whiteman of the FTZ Staff is designated examiner to review the application and make recommendations to the Executive Secretary.

Public comment is invited from interested parties. Submissions shall be addressed to the FTZ Board's Executive Secretary at the address below. The closing period for their receipt is December 19, 2016. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to January 3, 2017.

A copy of the application will be available for public inspection at the Office of the Executive Secretary, Foreign-Trade Zones Board, Room 21013, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230–0002, and in the ''Reading Room'' section of the FTZ Board's Web site, which is accessible via *www.trade.gov/ftz.*

For further information, contact Elizabeth Whiteman at *Elizabeth.Whiteman@trade.gov* or (202) 482–0473.

Dated: November 1, 2016.

**Andrew McGilvray,**

*Executive Secretary.*

[FR Doc. 2016–26982 Filed 11–8–16; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–423–808, A–791–805, A–583–830]**

### Stainless Steel Plate in Coils From Belgium, South Africa, and Taiwan: Final Results of the Expedited Sunset Reviews of the Antidumping Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of these sunset reviews, the Department of Commerce (the Department) finds that revocation of the antidumping duty orders on stainless steel plate in coils (SSPC) from Belgium, South Africa, and Taiwan would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Sunset Reviews'' section of this notice.

**DATES:** Effective November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Victoria Cho or Yasmin Bordas, AD/CVD Operations, Office VI, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2312 or (202) 482–3813, respectively.

**SUPPLEMENTARY INFORMATION:**

### Background

On July 1, 2016, the Department published the notice of initiation of the third sunset reviews of the antidumping duty orders on SSPC from Belgium, South Africa, and Taiwan, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the Act).[1] On July 15, 2016, the Department received a notice of intent to participate in these reviews from Allegheny Ludlum, LLC d/b/a ATI Flat Rolled Products; North American Stainless; and Outokumpu Stainless USA LLC (collectively, domestic interested parties), within the deadline specified in 19 CFR 351.218(d)(1)(i). These domestic interested parties claimed interested party status under section 771(9)(C) of the Act, as manufacturers of a domestic like product in the United States.

On July 31, 2016, we received complete substantive responses for each review from the domestic interested parties within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i). We received no substantive responses from respondent interested parties with respect to any of the orders covered by these sunset reviews, nor was a hearing requested. As a result, pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2), the Department is conducting expedited (120-day) sunset reviews of these orders.

### Scope of the Orders

The merchandise covered by the orders consists of stainless steel plate in coils, 254 mm or over in width and 4.75 mm or more in thickness, and annealed or otherwise heat treated and pickled or otherwise descaled. These imports are currently classified under subheadings 7219 and 7220 of the Harmonized Tariff Schedule of the United States (HTSUS). The HTSUS subheadings are provided for convenience and customs purposes. The written product description remains dispositive.[2]

### Analysis of Comments Received

All issues raised in these reviews, including the likelihood of continuation or recurrence of dumping in the event of revocation and the magnitude of the margins likely to prevail if the orders were revoked, are addressed in the accompanying Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov,* and to all parties in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed directly on the Internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

### Final Results of Sunset Reviews

Pursuant to sections 751(c)(1) and 752(c)(1),(2) and (3) of the Act, we determine that revocation of the antidumping duty orders on SSPC from Belgium, South Africa, and Taiwan would be likely to lead to continuation or recurrence of dumping up to the following weighted-average margin percentages:

| Country | Weighted-average margin (percent) |
|---|---|
| Belgium | 8.54 |
| South Africa | 41.63 |
| Taiwan | 10.20 |

### Administrative Protective Order

This notice serves as the only reminder to parties subject to an administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an

[1] *See Initiation of Five-Year (''Sunset'') Reviews,* 81 FR 43185 (July 1, 2016).

[2] A full description of the scope of the orders is contained in the memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, ''Issues and Decision Memorandum for the Expedited Sunset Reviews of the Antidumping Duty Orders on Stainless Steel Plate in Coils from Belgium, South Africa, and Taiwan'' (Issues and Decision Memorandum), dated concurrently with these results and hereby adopted by this notice.

APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act and 19 CFR 351.218.

Dated: October 31, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Orders
IV. History of the Orders
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins Likely to Prevail
VII. Final Results of Sunset Reviews
VIII. Recommendation

[FR Doc. 2016–27081 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–DS–P

## DEPARTMENT OF COMMERCE

### International Trade Administration

### Proposed Information Collection; Comment Request; Information Collection for Self-Certification to the EU–U.S. Privacy Shield Framework

**AGENCY:** International Trade Administration, Department of Commerce.

**ACTION:** Notice.

**SUMMARY:** The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

**DATES:** Written comments must be submitted on or before January 9, 2017.

**ADDRESSES:** Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *jjessup@doc.gov.*

**FOR FURTHER INFORMATION CONTACT:** Requests for additional information or copies of the information collection instrument and instructions should be directed to David Ritchie, Department of Commerce, International Trade Administration, Room 20001, 1401 Constitution Avenue NW., Washington, DC, (or via the Internet at *privacyshield@trade.gov,* and tel. 202–482–1512).

**SUPPLEMENTARY INFORMATION:**

### I. Abstract

The United States and the European Union (EU) share the goal of enhancing privacy protection for their citizens, but take different approaches to protecting personal data. Given those differences, the Department of Commerce (DOC) developed the EU–U.S. Privacy Shield Framework (Privacy Shield) in consultation with the European Commission, as well as with industry and other stakeholders, to provide organizations in the United States with a reliable mechanism for personal data transfers to the United States from the European Union while ensuring the protection of the data as required by EU law.

On July 12, 2016, the European Commission deemed the Privacy Shield Framework adequate to enable data transfers under EU law, and the DOC began accepting self-certification submissions from organizations on August 1, 2016. More information on the Privacy Shield is available at: *https://www.privacyshield.gov/welcome.*

The DOC has issued the Privacy Shield Principles under its statutory authority to foster, promote, and develop international commerce (15 U.S.C. 1512). ITA administers and supervises the Privacy Shield, including by maintaining and making publicly available an authoritative list of U.S. organizations that have self-certified to the DOC. U.S. organizations submit information to ITA to self-certify their compliance with Privacy Shield.

U.S. organizations considering self-certifying to the Privacy Shield should review the Privacy Shield Framework. In summary, in order to enter the Privacy Shield, an organization must (a) be subject to the investigatory and enforcement powers of the Federal Trade Commission (FTC), the Department of Transportation, or another statutory body that will effectively ensure compliance with the Principles; (b) publicly declare its commitment to comply with the Principles; (c) publicly disclose its privacy policies in line with the Principles; and (d) fully implement them.

Self-certification to the DOC is voluntary; however, an organization's failure to comply with the Principles after its self-certification is enforceable under Section 5 of the Federal Trade Commission Act prohibiting unfair and deceptive acts in or affecting commerce (15 U.S.C. 45(a)) or other laws or regulations prohibiting such acts.

In order to rely on the Privacy Shield for transfers of personal data from the EU, an organization must self-certify its adherence to the Principles to the DOC, be placed by the ITA on the Privacy Shield List, and remain on the Privacy Shield List. To self-certify for the Privacy Shield, an organization must provide to the DOC a self-certification submission that contains the information specified in the Privacy Shield Principles. The Privacy Shield self-certification form, the proposed information collection, would be the means by which an organization would provide the relevant information to ITA.

### II. Method of Collection

The Privacy Shield self-certification is submitted electronically by organizations through the DOC's Privacy Shield Web site (*https://www.privacyshield.gov/*).

### III. Data

*OMB Control Number:* 0625–0276.

*Form Number(s):* None.

*Type of Review:* Regular submission.

*Affected Public:* Primarily businesses or other for-profit organizations.

*Estimated Number of Respondents:* 3,600.

*Estimated Time per Response:* 40 Minutes.

*Estimated Total Annual Burden Hours:* 2,376.

*Estimated Total Annual Cost to Public:* $2,824,200.

### IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection;

they also will become a matter of public record.

**Sheleen Dumas,**

*PRA Departmental Lead, Office of the Chief Information Officer.*

[FR Doc. 2016–27053 Filed 11–8–16; 8:45 am]

**BILLING CODE 3510–DS–P**

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–049]**

### Ammonium Sulfate From the People's Republic of China: Preliminary Determination of Sales at Less Than Fair Value

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The U.S. Department of Commerce (''the Department'') preliminarily determines that ammonium sulfate from the People's Republic of China (''PRC'') is, or is likely to be, sold in the United States at less than fair value (''LTFV''). The period of investigation (''POI'') is October 1, 2015, through March 31, 2016. Interested parties are invited to comment on this preliminary determination.

**DATES:** Effective November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Maliha Khan or Thomas Martin, AD/CVD Operations, Office IV, Enforcement & Compliance, International Trade Administration, Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–0892 or (202) 482–3936 respectively.

**SUPPLEMENTARY INFORMATION:** On May 25, 2016, PCI Nitrogen, LLC, filed a petition with the Department of Commerce alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of certain ammonium sulfate from the PRC. The Department published the notice of initiation of this investigation on June 22, 2016.[1] For a complete description of the events that followed the initiation of this investigation, *see* Preliminary Decision Memorandum hereby adopted by this notice.[2] The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (''ACCESS''). ACCESS is available to registered users at *https://access.trade.gov*, and to all parties in the Central Records Unit located at Room B8024 of the Department's main building. In addition, a complete version of the Preliminary Decision Memorandum can be found at *http://enforcement.trade.gov/frn.* The signed Preliminary Decision Memorandum and electronic version of Preliminary Decision Memorandum are identical in content.

#### Period of Investigation

The POI is October 1, 2015, through March 31, 2016. This period corresponds to the two most recent fiscal quarters prior to the month of the filing of the petition, May 2016. *See* 19 CFR 351.204(b)(1).

#### Scope of the Investigation

The product covered by this investigation is ammonium sulfate from the PRC. For a complete description of the scope of this investigation, *see* Appendix II.

In accordance with the *Preamble* to the Department's regulations,[3] and as stated in the *Initiation Notice,* the Department set aside a period for interested parties to raise issues regarding the scope. The Department did not receive any comments in response.

#### Discussion of Methodology

The Department is conducting this investigation in accordance with section 731 of the Act. For purposes of this preliminary LTFV determination, the Department continues to treat the PRC as a non-market economy country within the meaning of section 771(18) of the Act. Because none of the potential respondents in this investigation submitted separate rate applications, they are considered to be part of the PRC-wide entity. Further, the PRC-wide entity did not provide necessary quantity-and-value (''Q&V'') data the Department requested. Therefore, in making this preliminary determination and in accordance with sections 776(a) and (b) of the Act, because respondents failed to cooperate by not acting to the best of their ability to respond to the Department's requests for information, we are drawing an adverse inference in selecting a rate from among the facts otherwise available (''AFA'') in determining the dumping margin for the PRC-wide entity. For a full description of the methodology underlying our conclusions, *see* the Preliminary Decision Memorandum.

#### Preliminary Determination

In selecting an AFA rate, the Department selects a rate that is sufficiently adverse to ensure that the uncooperative party does not obtain a more favorable result by failing to cooperate than if it had fully cooperated. In an investigation, the Department's practice with respect to the assignment of an AFA rate is to select the higher of (1) the highest dumping margin alleged in the petition or (2) the highest calculated dumping margin of any respondent in the investigation.[4] Therefore, as AFA, the Department preliminarily assigns the highest available petition margin of 493.46 percent as the rate applicable to the PRC-wide entity.

#### Suspension of Liquidation

In accordance with section 733(d)(2) of the Act, the Department will instruct U.S. Customs and Border Protection (''CBP'') to suspend liquidation of all entries of ammonium sulfate from the PRC, as described in the ''Scope of the Investigation'' section, entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**.

We will also instruct CBP, pursuant to section 733(d)(1)(B) of the Act and 19 CFR 351.205(d), to require for all PRC exporters/producers of merchandise under consideration, and all non-PRC exporters of merchandise under consideration, the cash deposit rate established for the PRC-wide entity, 493.46 percent.[5] The suspension of liquidation will remain in effect until further notice.

#### Disclosure and Public Comment

The Department ordinarily discloses the calculations performed in the investigation to interested parties in accordance with 19 CFR 351.224(b), however, in this proceeding there are no calculations to disclose. Case briefs or other written comments may be submitted to the Assistant Secretary for

[1] *See Ammonium Sulfate from the People's Republic of China: Initiation of Less-Than-Fair-Value Investigation,* 81 FR 40665 (June 22, 2016) (''*Initiation Notice*'').

[2] *See* Decision Memorandum for the Preliminary Determination of the Less Than Fair Value Investigation of Ammonium Sulfate from the People's Republic of China (''Preliminary Decision Memorandum''), dated concurrently with this notice. *See also* Appendix I.

[3] *See Antidumping Duties; Countervailing Duties,* 62 FR 27296, 27323 (May 19, 1997) (''*Preamble*'').

[4] *See, e.g., Certain Uncoated Paper From Indonesia: Final Determination of Sales at Less Than Fair Value,* 81 FR 3101 (January 20, 2016).

[5] *See Modification of Regulations Regarding the Practice of Accepting Bonds During the Provisional Measures Period in Antidumping and Countervailing Duty Investigations,* 76 FR 61042, 64137 (October 3, 2011).

Enforcement and Compliance no later than seven days after the date on which the final verification report is issued in this proceeding and rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.[6] Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in this proceeding are encouraged to submit with each argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, filed electronically using ACCESS. An electronically filed document must be received successfully in its entirety by the Department's electronic records system, ACCESS, by 5:00 p.m. Eastern Time, within 30 days after the date of publication of this notice.[7] Hearing requests should contain the party's name, address, and telephone number, the number of participants, and a list of the issues parties intend to present at the hearing. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a time and location to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

## U.S. International Trade Commission Notification

In accordance with section 733(f) of the Act, we will notify the International Trade Commission (''ITC'') of our affirmative preliminary determination of sales at LTFV. If our final determination is affirmative, the ITC will determine before the later of 120 days after the date of this preliminary determination or 45 days after our final determination whether these imports are materially injuring, or threaten material injury to, the U.S. industry.

This determination is issued and published in accordance with sections 733(f) and 777(i)(I) of the Act, and 19 CFR 351.205(c).

[6] *See* 19 CFR 351.309. *See also* 19 CFR 351.303 (for general filing requirements).

[7] *See* 19 CFR 351.310(c).

Dated: November 1, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I—List of Topics Discussed in the Preliminary Decision Memorandum

1. Summary
2. Background
3. Period of Investigation
4. Scope Comments
5. Scope of the Investigation
6. Selection of Respondents
7. Discussion of the Methodology
8. Adjustments to Cash Deposit Rates for Export Subsidies in Companion Countervailing Duty Investigation
9. Public Comment
10. U.S. International Trade Commission Notification
11. Conclusion

## Appendix II—Scope of the Investigation

The merchandise covered by this investigation is ammonium sulfate in all physical forms, with or without additives such as anti-caking agents. Ammonium sulfate, which may also be spelled as ammonium sulphate, has the chemical formula $(NH_4)_2SO_4$.

The scope includes ammonium sulfate that is combined with other products, including by, for example, blending (*i.e.,* mixing granules of ammonium sulfate with granules of one or more other products), compounding (*i.e.,* when ammonium sulfate is compacted with one or more other products under high pressure), or granulating (incorporating multiple products into granules through, *e.g.,* a slurry process). For such combined products, only the ammonium sulfate component is covered by the scope of this investigation.

Ammonium sulfate that has been combined with other products is included within the scope regardless of whether the combining occurs in countries other than China.

Ammonium sulfate that is otherwise subject to this investigation is not excluded when commingled (*i.e.,* mixed or combined) with ammonium sulfate from sources not subject to this investigation. Only the subject component of such commingled products is covered by the scope of this investigation.

The Chemical Abstracts Service (CAS) registry number for ammonium sulfate is 7783–20–2.

The merchandise covered by this investigation is currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheading 3102.21.0000. Although this HTSUS subheading and CAS registry number are provided for convenience and customs purposes, the written description of the scope of the investigation is dispositive.

[FR Doc. 2016–26984 Filed 11–8–16; 8:45 am]

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## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–570–803]**

## Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China: Final Results of the Expedited Fourth Sunset Review of the Antidumping Duty Orders

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** As a result of this sunset review, the Department of Commerce (the ''Department'') finds that revocation of the antidumping duty orders on heavy forged hand tools, finished or unfinished, with or without handles (''HFHTs'') from the People's Republic of China (''PRC'') would be likely to lead to continuation or recurrence of dumping at the levels indicated in the ''Final Results of Review'' section of this notice.

**DATES:** Effective October 31, 2016.

**FOR FURTHER INFORMATION CONTACT:** Paul Walker, AD/CVD Operations, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: 202.482.0413.

**SUPPLEMENTARY INFORMATION:** On February 19, 1991, the Department published the notice of the antidumping duty order on HFHTs from the PRC.[1] On July 1, 2016, the Department published the notice of initiation of the fourth sunset review of the *AD Orders* on HFHTs from the PRC, pursuant to section 751(c) of the Tariff Act of 1930, as amended (the ''Act'').[2] In July 2016, the Department received a notice of intent to participate from, each, AMES True Temper (''AMES'')[3] and Council Tool Company, Inc. (''Council Tool''),[4] domestic interested parties, within the deadline specified in 19 CFR

[1] *See Antidumping Duty Orders: Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles from the People's Republic of China,* 56 FR 6622 (February 19, 1991) (''*AD Orders*''). There are four orders on HFHTs from the PRC: Axes & adzes, bars & wedges, hammers & sledges, and picks & mattocks.

[2] *See Initiation of Five-Year (''Sunset'') Review,* 81 FR 43185 (July 1, 2016). This notice inadvertently referred to this segment as the third review, however, this is the fourth sunset review of these orders.

[3] AMES is the successor company to Woodings-Verona Tools Works, the petitioner in the original investigation.

[4] *See* Council Tool's July 11, 2016 submission; and AMES' July 18, 2016 submission.

351.218(d)(1)(i).[5] AMES and Council Tool, each, claimed interested party status under section 771(9)(C) of the Act as a manufacturer in the United States of a domestic like product. On August 1, 2016, the Department received an adequate substantive response from AMES and Council Tool within the 30-day deadline specified in 19 CFR 351.218(d)(3)(i).[6] The Department received no substantive responses from respondent interested parties. As a result, the Department conducted an expedited (120-day) sunset review of the *AD Orders,* pursuant to section 751(c)(3)(B) of the Act and 19 CFR 351.218(e)(1)(ii)(C)(2).

## Scope of the Orders

The merchandise covered by these orders are hand tools comprising the following classes or kinds of merchandise: (1) Hammers and sledges with heads over 1.5 kg (3.33 pounds); (2) bars over 18 inches in length, track tools and wedges; (3) picks and mattocks; and (4) axes, adzes and similar hewing tools. Subject hand tools are manufactured through a hot forge operation in which steel is sheared to required length, heated to forging temperature, and formed to final shape on forging equipment using dies specific to the desired product shape and size. These products are classifiable under tariff article codes 8205.20.60, 8205.59.30, 8201.30.00, and 8201.40.60 of the Harmonized Tariff Schedule of the United States (''HTSUS''). Although the HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this proceeding, which is contained in the accompanying Issues and Decision Memorandum, is dispositive.[7]

## Analysis of Comments Received

A complete discussion of all issues raised in this sunset review, including the likelihood of continuation or recurrence of dumping in the event of revocation of the *AD Order*s and the magnitude of the margins likely to prevail if the orders were revoked, is provided in the Issues and Decision Memorandum. The Issues and Decision Memorandum is a public document and is on file electronically *via* Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Services System (''ACCESS''). ACCESS is available to registered users at *http://iaaccess.trade.gov* and to all parties in the Central Records Unit, Room B0824 of the main Department of Commerce building. In addition, a complete version of the Issues and Decision Memorandum can be accessed on the Internet at *http://enforcement.trade.gov/frn/.* The signed Issues and Decision Memorandum and the electronic version of the Issues and Decision Memorandum are identical in content.

## Final Results of Sunset Review

Pursuant to section 751(c)(1) and 752(c)(1) and (3) of the Act, the Department determines that revocation of the *AD Orders* would be likely to lead to continuation or recurrence of dumping, and that the magnitude of the dumping margins likely to prevail would be weighted-average margins up to those listed in the chart below:

| HFHT Order | Weighted-average margin (percent) |
|---|---|
| Axes/Adzes | 15.02 |
| Picks/Mattocks | 50.81 |
| Bars/Wedges | 31.76 |
| Hammers/Sledges | 45.42 |

## Notification to Interested Parties

This notice serves as the only reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of the return or destruction of APO materials, or conversion to judicial protective order, is hereby requested. Failure to comply with the regulations and terms of an APO is a violation which is subject to sanction.

We are issuing and publishing these results and notice in accordance with sections 751(c), 752(c), and 777(i)(1) of the Act, 19 CFR 351.218, and 19 CFR 351.221(c)(5)(ii).

Dated: October 31, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix

**List of Topics Discussed in the Issues and Decision Memorandum**

I. Summary
II. Background
III. Scope of the Orders
IV. History of the Orders
V. Legal Framework
VI. Discussion of the Issues
  1. Likelihood of Continuation or Recurrence of Dumping
  2. Magnitude of the Margins Likely to Prevail
VII. Final Results of Review
VIII. Recommendation

[FR Doc. 2016–27079 Filed 11–8–16; 8:45 am]

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[5] Pursuant 19 CFR 351.303(b)(1), because the 15-day deadline fell on Saturday, July 16, 2016, a non-business day, AMES' submission that was filed on the next business day (*i.e.,* Monday, July 18, 2016) was accepted as timely.

[6] *See* AMES' and Council Tool's August 1, 2016 submissions.

[7] *See* Memorandum from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, to Paul Piquado, Assistant Secretary for Enforcement and Compliance, ''Fourth Expedited Sunset Review of the Antidumping Duty Orders on Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles From the People's Republic of China: Issues and Decision Memorandum for the Final Results,'' dated concurrently with, and hereby adopted by, this notice (''Issues and Decision Memorandum'').

# DEPARTMENT OF COMMERCE

## International Trade Administration

## Initiation of Antidumping and Countervailing Duty Administrative Reviews

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (''the Department'') has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews.

**DATES:** Effective November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Brenda E. Waters, Office of AD/CVD Operations, Customs Liaison Unit, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 482–4735.

**SUPPLEMENTARY INFORMATION:**

## Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b), for administrative reviews of various antidumping and countervailing duty orders and findings with September anniversary dates.

All deadlines for the submission of various types of information, certifications, or comments or actions by the Department discussed below refer to the number of calendar days from the applicable starting time.

**Notice of No Sales**

If a producer or exporter named in this notice of initiation had no exports, sales, or entries during the period of review (''POR''), it must notify the Department within 30 days of publication of this notice in the **Federal Register**. All submissions must be filed electronically at *http://access.trade.gov* in accordance with 19 CFR 351.303.[1] Such submissions are subject to verification in accordance with section 782(i) of the Tariff Act of 1930, as amended (''the Act''). Further, in accordance with 19 CFR 351.303(f)(1)(i), a copy must be served on every party on the Department's service list.

**Respondent Selection**

In the event the Department limits the number of respondents for individual examination for administrative reviews initiated pursuant to requests made for the orders identified below, the Department 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 place the CBP data on the record within five days of publication of the initiation notice and to make our decision regarding respondent selection within 30 days of publication of the initiation **Federal Register** notice. Comments regarding the CBP data and respondent selection should be submitted seven days after the placement of the CBP data on the record of this review. Parties wishing to submit rebuttal comments should submit those comments five days after the deadline for the initial comments.

In the event the Department decides it is necessary to limit individual examination of respondents and conduct respondent selection under section 777A(c)(2) of the Act:

In general, the Department has found 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, the Department will not conduct collapsing analyses at the respondent selection phase of this 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 this review, if the Department determined, or continued to treat, that company as collapsed with others, the Department will assume that such companies continue to operate in the same manner and will collapse them for respondent selection purposes. Otherwise, the Department 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 the Quantity and Value (''Q&V'') 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 this proceeding where the Department considered collapsing that entity, complete Q&V 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 has requested 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 the Department may extend this time if it is reasonable to do so. In order to provide parties additional certainty with respect to when the Department will exercise its discretion to extend this 90-day deadline, interested parties are advised that the Department does not intend to extend the 90-day deadline unless the requestor demonstrates that an extraordinary circumstance has prevented it from submitting a timely withdrawal request. Determinations by the Department to extend the 90-day deadline will be made on a case-by-case basis.

**Separate Rates**

In proceedings involving non-market economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an administrative review in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate.

To establish whether a firm is sufficiently independent from government control of its export activities to be entitled to a separate rate, the Department analyzes each entity exporting the subject merchandise under a test arising from the *Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China,* 56 FR 20588 (May 6, 1991), as amplified by *Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China,* 59 FR 22585 (May 2, 1994). In accordance with the separate rates criteria, the Department assigns separate rates to companies in NME cases only if respondents can demonstrate the absence of both *de jure* and *de facto* government control over export activities.

All firms listed below that wish to qualify for separate rate status in the administrative reviews involving NME countries must complete, as appropriate, either a separate rate application or certification, as described below. For these administrative reviews, in order to demonstrate separate rate eligibility, the Department requires entities for whom a review was requested, that were assigned a separate rate in the most recent segment of this proceeding in which they participated, to certify that they continue to meet the criteria for obtaining a separate rate. The Separate Rate Certification form will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the certification, please follow the ''Instructions for Filing the Certification'' in the Separate Rate Certification. Separate Rate Certifications are due to the Department no later than 30 calendar days after publication of this **Federal Register** notice. The deadline and requirement for submitting a Certification applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers who purchase and export subject merchandise to the United States.

Entities that currently do not have a separate rate from a completed segment of the proceeding[2] should timely file a

[1] *See Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures,* 76 FR 39263 (July 6, 2011).

[2] Such entities include entities that have not participated in the proceeding, entities that were preliminarily granted a separate rate in any currently incomplete segment of the proceeding (*e.g.,* an ongoing administrative review, new

Continued

Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. In addition, companies that received a separate rate in a completed segment of the proceeding that have subsequently made changes, including, but not limited to, changes to corporate structure, acquisitions of new companies or facilities, or changes to their official company name,[3] should timely file a Separate Rate Application to demonstrate eligibility for a separate rate in this proceeding. The Separate Rate Status Application will be available on the Department's Web site at *http://enforcement.trade.gov/nme/nme-sep-rate.html* on the date of publication of this **Federal Register** notice. In responding to the Separate Rate Status Application, refer to the instructions contained in the application. Separate Rate Status Applications are due to the Department no later than 30 calendar days of publication of this **Federal Register** notice. The deadline and requirement for submitting a Separate Rate Status Application applies equally to NME-owned firms, wholly foreign-owned firms, and foreign sellers that purchase and export subject merchandise to the United States.

For exporters and producers who submit a separate-rate status application or certification and subsequently are selected as mandatory respondents, these exporters and producers will no longer be eligible for separate rate status unless they respond to all parts of the questionnaire as mandatory respondents.

*Initiation of Reviews*

In accordance with 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than September 30, 2017.

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shipper review, *etc.*) and entities that lost their separate rate in the most recently completed segment of the proceeding in which they participated.

[3] Only changes to the official company name, rather than trade names, need to be addressed via a Separate Rate Application. Information regarding new trade names may be submitted via a Separate Rate Certification.

| Antidumping Duty Proceedings | Period to be Reviewed |
|---|---|
| INDIA: Certain Lined Paper Products | |
| A-533-843 | 9/1/15 - 8/31/16 |
| Kokuyo Riddhi Paper Products Pvt. Ltd. | |
| Lodha Offset Limited | |
| Magic International Pvt. Ltd. | |
| Marisa International | |
| Navneet Education Ltd. | |
| Pioneer Stationery Pvt. Ltd. | |
| SAB International | |
| SGM Paper Products | |
| Super Impex | |
| MEXICO: Certain Magnesia Carbon Bricks | |
| A-201-837 | 9/1/15 - 8/31/16 |
| Ferro Alliages & Mineraux Inc. | |
| RHI-Refmex SA. de C.V. | |
| Trafinsa S.A. de C.V. | |
| Vesuvius Mexico S.A. de C.V. | |
| MEXICO: Light-Walled Rectangular Pipe and Tube[4] | |
| A-201-836 | 8/1/15 - 7/31/16 |
| Productos Laminados de Monterrey S.A. de C.V. | |
| REPUBLIC OF KOREA: Large Power Transformers[5] | |
| A-580-867 | 8/1/15 - 7/31/16 |
| Hyosung Corporation | |
| Hyundai Heavy Industries Co., Ltd. | |
| ILJIN | |
| Iljin Electric Co., Ltd. | |
| LSIS Co., Ltd. | |
| REPUBLIC OF KOREA: Oil Country Tubular Goods | |
| A-580-870 | 9/1/15 - 8/31/16 |

[4] In the initiation notice that published on October 14, 2016 (81 FR 71061), the name of the review company was incorrect. The correct name is identified in this notice.

[5] In the initiation notice that published on October 14, 2016 (81 FR 71061), the name of one of the review companies was missing from the list for this order. All of the review company names are identified in the list appearing in this notice.

BDP International
Daewoo America
Daewoo International Corporation
Dong-A Steel Co. Ltd.
Dong Yang Steel Pipe
Dongbu Incheon Steel
DSEC
Erndtebruecker Eisenwerk and Company
Hansol Metal
Husteel Co., Ltd.
Hyundai RB
Hyundai HYSCO
Hyundai Steel Company
ILJIN Steel Corporation
Jim And Freight Co., Ltd.
Kia Steel Co. Ltd.
KSP Steel Company
Kukje Steel
Kurvers
NEXTEEL Co., Ltd.
POSCO Daewoo Corporation
POSCO Daewoo America
Samsung
Samsung C and T Corporation
SeAH Besteel Corporation
SeAH Steel Corporation
Steel Canada
Sumitomo Corporation
TGS Pipe
Yonghyun Base Materials
ZEECO Asia

SOCIALIST REPUBLIC OF VIETNAM: Oil Country Tubular Goods
A-552-817 9/1/15 - 8/31/16

Hoa Phat Steel Pipe Co., Ltd.
Hot Rolling Pipe Co., Ltd.
SeAH Steel Corporation
SeAH Steel VINA Corporation
Vina One Steel Manufacturing

TAIWAN: Narrow Woven Ribbons with Woven Selvedge
A-583-844 9/1/15 - 8/31/16

Fujian Rongshu Industry Co., Ltd.

Maple Ribbon Co., Ltd.
Roung Shu Industry Corporation
Xiamen Yi-He Textile Co., Ltd.

TAIWAN: Oil Country Tubular Goods
A-583-850 9/1/15 - 8/31/16

Tension Steel Industries Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain Magnesia Carbon Bricks
A-570-954 9/1/15 - 8/31/16

Fedmet Resources Corportion
Fengchi Imp. And Exp. Co., Ltd. of Haicheng City
Fengchi Mining Co., Ltd. of Haicheng City
Fengchi Refractories Co., of Haicheng City
Dashiqiao City Guancheng Refractor Co., Ltd. (aka Dashiqiao City Guancheng Refractory Co., Ltd.)
Jiangsu Sujia Group New Materials Co.,Ltd.
Liaoning Fucheng Refractories Group Co., Ltd.
Liaoning Fucheng Special Refractory Co., Ltd.
Liaoning Jiayi Metals & Minerals Co., Ltd.
Puyang Refractories Group Co., Ltd.
RHI Refractories Liaoning Co., Ltd.
Yingkou Bayuquan Refractories Co., Ltd.
Yingkou Dalmond Refractories Co., Ltd.
Yingkou Guangyang Co., Ltd.
Yingkou Jiahe Refractories Co., Ltd.
Yingkou Kyushu Refractories Co., Ltd.
Yingkou New Century Refractories Ltd.
Yingkou Wonjin Refractory Material Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain New Pneumatic Off-The-Road Tires
A-570-912 9/1/15 - 8/31/16

Cheng Shin Rubber Industry Ltd.
Guizhou Tyre Co., Ltd.
Guizhou Tyre Import and Export Co., Ltd.
Qingdao Milestone Tyres Co. Ltd.
Qingdao Qihang Tyre Co. Ltd.
Shandong Zhentai Group Co., Ltd.
Trelleborg Wheel Systems (Xingtai) Co., Ltd.
Weihai Zhongwei Rubber Co., Ltd.
Weifang Jintongda Tyre Co., Ltd.
Zhongce Rubber Group Company Limited

THE PEOPLE'S REPUBLIC OF CHINA: Freshwater Crawfish Tail Meat
A-570-848 9/1/15 - 8/31/16

China Kingdom (Beijing) Import & Export Co., Ltd.
Deyan Aquatic Products and Food Co., Ltd.
Hubei Nature Agriculture Industry Co., Ltd.
Hubei Qianjiang Huashan Aquatic Food and Product Co.,Ltd.
Hubei Yuesheng Aquatic Products Co., Ltd.
Nanjing Gemsen International Co., Ltd.
Shanghai Ocean Flavor International Trading Co., Ltd.
Weishan Hongda Aquatic Food Co., Ltd.
Xiping Opeck Food Co., Ltd.
Xuzhou Jinjiang Foodstuffs Co., Ltd.
Yancheng Hi-King Agriculture Developing Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Narrow Woven Ribbons with Woven Selvedge
A-570-952[6] 9/1/15 - 8/31/16

Huzhou BeiHeng Textile Co., Ltd.
Huzhou Kingdom Coating Industry Co., Ltd.
Huzhou Siny Label Material Co., Ltd.
Huzhou Unifull Label Fabric Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Passenger Vehicle and Light Truck Tires[7]
A-570-016 1/27/15 - 7/31/16

Shandong Yongtai Chemical Co., Ltd.

TURKEY: Oil Country Tubular Goods
A-489-816 9/1/15 - 8/31/16

Tosçelik Profil ve Sac Endüstrisi A.Ş.
Tosyali Diş Ticaret A.Ş.

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[6] In the Investigation of sales at less than fair value the Department determined that Yama Ribbons and Bows Co., Ltd. was not selling at less than fair value. Thus, Yama Ribbons and Bows Co., Ltd. was excluded from the order and the exclusion applied to merchandise produced and exported by Yama Ribbons and Bows Co., Ltd. Merchandise which Yama Ribbons and Bows Co., Ltd. exports but did not produce, as well as merchandise Yama Ribbons and Bows Co., Ltd. produces but is exported by another company, remain subject to this antidumping order. *See Narrow Woven Ribbons With Woven Selvedge From Taiwan and the People's Republic of China: Amended Antidumping Duty Orders,* 75 FR 56982, 56984 (*September 17, 2010)*

[7] The name of this company was listed incorrectly in the initiation notice that published on October 14, 2016 (81 FR 71061). The correct name of the company is listed in this notice.

UKRAINE: Silicomanganese[8&9]
A-823-805 8/1/15 - 7/31/16

PJSC Zaporozhye Ferroalloy Plant

**Countervailing Duty Proceedings**

INDIA: Oil Country Tubular Goods
C-533-858 1/1/15 - 12/31/15

Jindal SAW Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain Magnesia Carbon Bricks
C-570-955 1/1/15 - 12/31/15

Fedmet Resources Corporation
Fengchi Imp. and Exp. Co., Ltd. of Haicheng City
Fengchi Mining Co., Ltd. of Haicheng City
Fengchi Refractories Co., of Haicheng City
Dashiqiao City Guacheng Refractory Co., Ltd. (aka Dashiqiao City Guancheng Refractory Co., Ltd.)
Jiangsu Sujia Group New Materials Co., Ltd.
Liaoning Fucheng Refractories Group Co., Ltd.
Liaoning Fucheng Special Refractory Co., Ltd.
Liaoning Jiayi Metals & Minerals Co., Ltd.
Puyang Refractories Group Co., Ltd.
RHI Refractories Liaoning Co., Ltd
Yingkou Bayuquan Refractories Co., Ltd.
Yingkou Dalmond Refractores Co., Ltd.
Yingkou Guangyang Co., Ltd.
Yingkou Jiahe Refractories Co., Ltd.
Yingkou Kyushu Refractories Co., Ltd.
Yingkou New Century Refractories Ltd.
Yingkou Wonjin Refractory Material Co., Ltd.

THE PEOPLE'S REPUBLIC OF CHINA: Certain New Pneumatic Off-The-Road Tires
C-570-913 1/1/15 - 12/31/15

Aeolus Tyre Co., Ltd.
Air Sea Transport Inc
Air Sea Worldwide Logistics Ltd

[8] In the initiation notice that published on October 14, 2016 (81 FR71061) the POR for the above referenced case was incorrect. The period listed above is the correct POR for this case.

[9] The company listed above was misspelled in the initiation notice that published on October 14, 2016 (81 FR 71061). The correct spelling of the company is listed in this notice.

AM Global Shipping Lines
Apex Maritime Co Ltd
Apex Maritime Thailand Co Ltd
BDP Intl LTD China
Beijing Kang Jie Kong Intl Cargo Agent Co Ltd
C&D Intl Freight Forward Inc
Caeasar Intl Logistics Co Ltd
Caterpillar & Paving Products Xuzhou Ltd
CH Robinson Freight Services China LTD
Changzhou Kafurter Machinery Co Ltd
Cheng Shin Rubber (Xiamen) Ind Ltd
China Intl Freight Co Ltd
Chonche Auto Double Happiness Tyre Corp Ltd
City Ocean Logistics Co Ltd
Consolidator Intl Co Ltd
Crowntyre Industrial Co. Ltd
CTS Intl Logistics Corp
Daewoo Intl Corp
De Well Container Shipping Inc
Double Coin Holdings Ltd; Double Coin Group Shanghai Donghai Tyre Co., Ltd; and Double Coin Group Rugao Tyre Co., Ltd. (collectively "Double Coin")
England Logistics (Qingdao) Co Ltd
Extra Type Co Ltd
Fedex International Freight Forwarding Services Shanghai Co Ltd
FG Intl Logistics Ltd
Global Container Line
Guizhou Advance Rubber Co., Ltd.
Guizhou Tyre Co., Ltd.
Guizhou Tyre Import and Export Co., Ltd.
Honour Lane Shipping
Innova Rubber Co., Ltd.
Inspire Intl Enterprise Co Ltd
JHJ Intl Transporation Co
Jiangsu Feichi Co. Ltd.
Kenda Rubber (China) Co Ltd
KS Holding Limited/KS Resources Limited
Laizhou Xiongying Rubber Industry Co., Ltd.
Landmax Intl Co Ltd
LF Logistics China Co Ltd
Mai Shandong Radial Tyre Co., Ltd.
Maine Industrial Tire LLC
Master Intl Logistics Co Ltd
Melton Tire Co. Ltd
Merityre Specialists Ltd
Mid-America Overseas Shanghai Ltd
Omni Export Ltd

Orient Express Container Co Ltd
Oriental Tyre Technology Limited
Pudong Prime Intl Logistics Inc
Q&J Industrial Group Co Ltd
Qingdao Aotai Rubber Co Ltd
Qingdao Apex Shipping
Qingdao Chengtai Handtruck Co Ltd
Qingdao Chunangtong Founding Co Ltd
Qingdao Free Trade Zone Full-World International Trading Co., Ltd.
Qingdao Haojia (Xinhai) Tyre Co.
Qingdao Haomai Hongyi Mold Co Ltd
Qingdao J&G Intl Trading Co Ltd
Qingdao Jinhaoyang International Co. Ltd
Qingdao Kaoyoung Intl Logistics Co Ltd
Qingdao Milestone Tyres Co LTd
Qingdao Nexen Co Ltd
Qingdao Qihang Tyre Co.
Qingdao Qizhou Rubber Co., Ltd.
Qingdao Shijikunyuan Intl Co Ltd
Qingdao Sinorient Internationl Ltd.
Qingdao Taifa Group Imp. And Exp. Co., Ltd./Qingdao Taifa Group Co., Ltd.
Qingdao Wonderland
Qingdao Zhenhua Barrow Manufacturing Co., Ltd.
Rich Shipping Company
RS Logistics Ltd
Schenker China Ltd
Seastar Intl Enterprise Ltd
SGL Logistics South China Ltd
Shandong Huitong Tyre Co., Ltd.
Shandong Linglong Tyre Co., Ltd.
Shandong Taishan Tyre Co., Ltd.
Shanghai Cartec Industrail & Trading Co Ltd
Shanghai Grand Sound Intl Transportation Co Ltd
Shanghai Hua Shen Imp & Exp Co Ltd
Shanghai Part-Rich Auto Parts Co Ltd
Shanghai TCM Metals & Machinery Co Ltd
Shantou Zhisheng Plastic Co Ltd
Shiyan Desizheng Industry & Trade Co., Ltd.
Techking Tires Limited
Thi Group ( Shanghai) Ltd
Tianjin Leviathan International Trade Co., Ltd.
Tianjin United Tire & Rubber International Co., Ltd.
Tianjin Wanda Tyre Group Co.
Tianshui Hailin Import and Export Corporation
Tiremart Qingdao Inc
Tiremart Shipping Inc

Trelleborg Wheel Systems (Xingtai) China, Co. Ltd.
Trelleborg Wheel Systems Hebei Co
Triangle Tyre Co. Ltd.
Universal Shipping Inc
UTI China Ltd
Weifang Jintongda Tyre Co., Ltd.
Weihai Zhongwei Rubber Co., Ltd.
Weiss-Rohlig China Co Ltd
World Bridge Logistics Co Ltd
World Tyres Ltd.
Xiamen Ying Hong Import & Export Trade Co Ltd
Xuzhou Xugong Tyres Co Ltd; Xuzhou Armour Rubber Company Ltd; HK Lande International Investmet Limited; Armour Tires Inc. (collectively "Xugong")
Yoho Holding
Zheijiang Wheel World Industrial Co Ltd
Zhejiang Xinchang Zhongya Industry Co., Ltd.
Zhongce Rubber Group Company Limited
ZPH Industrial Ltd

THE PEOPLE'S REPUBLIC OF CHINA: Narrow Woven Ribbons with Woven Selvedge
C-570-953 1/1/15 - 12/31/15

Yama Ribbons and Bows Co., Ltd.

TURKEY: Oil Country Tubular Goods
C-489-817 1/1/15 - 12/31/15

Borusan Mannesmann Boru Sanyai ve Ticaret A.S.
Borusan Istikbal Ticaret
Tosçelik Profil ve Sac Endüstrisi A.Ş.
Tosyali Diş Ticaret A.Ş.

## Suspension Agreements

None

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### Duty Absorption Reviews

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under 19 CFR 351.211 or a determination under 19 CFR 351.218(f)(4) to continue an order or suspended investigation (after sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine, consistent with *FAG Italia* v. *United States,* 291 F.3d 806 (Fed Cir. 2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

### Gap Period Liquidation

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 POR.

### Administrative Protective Orders and Letters of Appearance

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 351.305. On January 22, 2008, the Department published *Antidumping and*

*Countervailing Duty Proceedings: Documents Submission Procedures; APO Procedures,* 73 FR 3634 (January 22, 2008). Those procedures apply to administrative reviews included in this notice of initiation. Parties wishing to participate in any of these administrative reviews should ensure that they meet the requirements of these procedures (*e.g.,* the filing of separate letters of appearance as discussed at 19 CFR 351.103(d)).

**Revised Factual Information Requirements**

On April 10, 2013, the Department published *Definition of Factual Information and Time Limits for Submission of Factual Information: Final Rule,* 78 FR 21246 (April 10, 2013), which modified two regulations related to antidumping and countervailing duty 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). The final rule identifies five categories of factual information in 19 CFR 351.102(b)(21), which are summarized as follows: (i) Evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by the Department; and (v) evidence other than factual information described in (i)–(iv). The final rule requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the factual information seeks to rebut, clarify, or correct. The final rule also modified 19 CFR 351.301 so that, rather than providing general time limits, there are specific time limits based on the type of factual information being submitted. These modifications are effective for all segments initiated on or after May 10, 2013. Please review the final rule, available at *http://enforcement.trade.gov/frn/2013/1304frn/2013-08227.txt,* prior to submitting factual information in this segment.

Any party submitting factual information in an antidumping duty or countervailing duty proceeding must certify to the accuracy and completeness of that information.[10] Parties are hereby reminded that revised certification requirements are in effect for company/government officials as well as their representatives. All segments of any antidumping duty or countervailing duty proceedings initiated on or after August 16, 2013, should use the formats for the revised certifications provided at the end of the *Final Rule.*[11] The Department intends to reject factual submissions in any proceeding segments if the submitting party does not comply with applicable revised certification requirements.

**Revised Extension of Time Limits Regulation**

On September 20, 2013, the Department modified its regulation concerning the extension of time limits for submissions in antidumping and countervailing duty proceedings: *Final Rule,* 78 FR 57790 (September 20, 2013). The modification clarifies that parties may request an extension of time limits before a time limit established under Part 351 expires, or as otherwise specified by the Secretary. In general, an extension request will be considered untimely if it is filed after the time limit established under Part 351 expires. For submissions which are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. on the due date. Examples include, but are not limited to: (1) Case and rebuttal briefs, filed pursuant to 19 CFR 351.309; (2) factual information to value factors under 19 CFR 351.408(c), or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2), filed pursuant to 19 CFR 351.301(c)(3) and rebuttal, clarification and correction filed pursuant to 19 CFR 351.301(c)(3)(iv); (3) comments concerning the selection of a surrogate country and surrogate values and rebuttal; (4) comments concerning U.S. Customs and Border Protection data; and (5) quantity and value questionnaires. Under certain circumstances, the Department may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, the Department will inform parties in the letter or memorandum setting forth the deadline (including a specified time) by which extension requests must be filed to be considered timely. This modification also requires that an extension request must be made in a separate, stand-alone submission, and clarifies the circumstances under which the Department will grant untimely-filed requests for the extension of time limits. These modifications are effective for all segments initiated on or after October 21, 2013. Please review the final rule, available at *http://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm,* prior to submitting factual information in these segments.

These initiations and this notice are in accordance with section 751(a) of the Act (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: November 2, 2016.

**Christian Marsh,**

*Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.*

[FR Doc. 2016–27004 Filed 11–8–16; 8:45 am]

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[10] *See* section 782(b) of the Act.

[11] *See Certification of Factual Information To Import Administration During Antidumping and Countervailing Duty Proceedings,* 78 FR 42678 (July 17, 2013) (''*Final Rule*''); *see also* the frequently asked questions regarding the *Final Rule,* available at *http://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.*

## DEPARTMENT OF COMMERCE

### International Trade Administration

**[A–552–802]**

### Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Preliminary Results of Antidumping Duty Administrative Review; 2015–2016

**AGENCY:** Enforcement and Compliance, International Trade Administration, Department of Commerce.

**SUMMARY:** The Department of Commerce (the Department) preliminarily determines that none of the mandatory respondents in this review qualify for a separate rate and are, therefore, considered part of the Vietnam-Wide Entity for their exports of subject merchandise to the United States during the period of review (POR) February 1, 2015, through January 31, 2016. If these preliminary results are adopted in the final results, the Department will instruct U.S. Customs and Border Protection (CBP) to assess antidumping duties on all appropriate entries of subject merchandise during the POR. Interested parties are invited to comment on these preliminary results.

**DATES:** Effective November 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Irene Gorelik, AD/CVD Operations, Office VIII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue

NW., Washington, DC 20230; telephone: (202) 482–6905.

**SUPPLEMENTARY INFORMATION:** On April 7, 2016, the Department initiated the eleventh administrative review of the antidumping duty order on certain frozen warmwater shrimp from the Socialist Republic of Vietnam (*Order*).[1] [2] The Department initiated this administrative review for 218 producers and exporters of subject merchandise.[3] Based on the timely requests for withdrawal of review requests, we rescinded the administrative review with respect to 22 companies pursuant to 19 CFR 351.213(d)(1) and (4).[4] [5]

## Scope of the Order

The merchandise subject to the Order is certain frozen warmwater shrimp. The product is currently classified under the following Harmonized Tariff Schedule of the United States (HTSUS) item numbers: 0306.17.00.03, 0306.17.00.06, 0306.17.00.09, 0306.17.00.12, 0306.17.00.15, 0306.17.00.18, 0306.17.00.21, 0306.17.00.24, 0306.17.00.27, 0306.17.00.40, 1605.21.10.30, and 1605.29.10.10. Although the HTSUS numbers are provided for convenience and for customs purposes, the written product description, available in the Preliminary Decision Memorandum, remains dispositive.[6]

## Preliminary Determination of No Shipments

Based on our analysis of CBP information and information provided by a number of companies, we preliminarily determine that 13 companies[7] under review did not have any reviewable transactions during the POR. In addition, the Department finds that, consistent with its assessment practice in non-market economy (NME) cases, it is appropriate not to rescind the review in part in these circumstances, but to complete the review with respect to these 13 companies and issue appropriate instructions to CBP based on the final results of the review.[8] For additional information regarding this determination, *see* the Preliminary Decision Memorandum.

## Methodology

The Department conducted this review in accordance with section 751(a)(1)(A) of the Tariff Act of 1930, as amended (Act). Because the mandatory respondents in this administrative review have not responded to all portions of the NME questionnaire, we preliminarily determine that they are ineligible for a separate rate and are part of the Vietnam-Wide entity, subject to the Vietnam-Wide entity rate of 25.76 percent.

For a full description of the methodology underlying our conclusions, *see* Preliminary Decision Memorandum. The Preliminary Decision Memorandum is a public document and is on file electronically via the Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at *http://access.trade.gov* and in the Central Records Unit, Room B8024 of the main Department of Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly on the internet at *http://enforcement.trade.gov/frn/.* The signed Preliminary Decision Memorandum and the electronic version of the Preliminary Decision Memorandum are identical in content.

## Preliminary Results of Review

The Department finds that the two mandatory respondents and 51 additional companies for which a review was requested have not established eligibility for a separate rate and are considered to be part of the Vietnam-Wide entity for these preliminary results.[9] The Department's policy regarding conditional review of the Vietnam-Wide entity applies to this administrative review.[10] Under this policy, the Vietnam-Wide entity will not be under review unless a party specifically requests, or the Department self-initiates, a review of the entity. Because no party requested a review of the Vietnam-Wide entity, the entity is not under review and the entity's rate is not subject to change.

The statute and the Department's regulations do not address what rate to apply to respondents not selected for individual examination when the Department limits its examination in an administrative review pursuant to section 777A(c)(2) of the Act. Generally, the Department looks to section 735(c)(5) of the Act, which provides instructions for calculating the all-others rate in an investigation, for guidance when calculating the rate for non-selected respondents that are not examined individually in an administrative review. Section 735(c)(5)(A) of the Act states that the all-others rate should be calculated by averaging the weighted-average dumping margins for individually-examined respondents, excluding rates that are zero, *de minimis,* or based entirely on facts available. Section 735(c)(5)(B) of the Act provides that, where all rates are zero, *de minimis,* or based entirely on facts available, the Department may use ''any reasonable method'' for assigning a rate to non-examined respondents.

However, for these preliminary results, we have not calculated any individual rates or assigned a rate based on facts available. Therefore, consistent

[1] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 20324 (April 7, 2016) (''*Initiation Notice*'').

[2] *See Notice of Amended Final Determination of Sales at Less Than Fair Value and Antidumping Duty Order: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam,* 70 FR 5152 (February 1, 2005) (Order)

[3] *See Initiation Notice.* While there were 218 individual names upon which we initiated an administrative review, the number of *actual* companies initiated upon is significantly less when accounting for numerous duplicate names and minor name variations of the same companies requested by multiple interested parties, and the groupings of companies that have been collapsed and/or have been previously found affiliated.

[4] *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Review; 2015–2016,* 81 FR 46047 (July 15, 2016). While the petitioner and ASPA withdrew their respective review requests of Tan Phong Phu Seafood Co., Ltd., VASEP did not withdraw its review request on behalf of this company; thus, we did not rescind the review with respect to Tan Phong Phu Seafood Co., Ltd. because there remains an active review request for it on the record.

[5] *See Certain Frozen Warmwater Shrimp From the Socialist Republic of Vietnam: Partial Rescission of Antidumping Duty Administrative Reviews (2014–2015; 2015–2016) and Compromise of Outstanding Claims,* 81 FR 47758 (July 22, 2016).

[6] For a complete description of the Scope of the Order, see Memorandum to Paul Piquado, Assistant Secretary for Enforcement and Compliance, from Christian Marsh, Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations, titled ''Decision Memorandum for Preliminary Results of Antidumping Duty Administrative Review: Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam; 2015–2016,'' dated concurrently with and adopted by this notice (''Preliminary Decision Memorandum'').

[7] These 13 companies are: (1) BIM Seafood Joint Stock Company; (2) Bien Dong Seafood Co., Ltd.; (3) Cam Ranh Seafoods Processing Enterprise Company; (4) Ben Tre Forestry and Aquaproduct Import Export Joint Stock Company; (5) Fine Foods Company (FFC) (Ca Mau Foods & Fishery Export Joint Stock Company); (6) Gallant Dachan Seafood Co., Ltd.; (7) Green Farms Joint Stock Company; (8) Minh Cuong Seafood Import Export Frozen Processing Joint Stock Company; (9) Quang Minh Seafood Co., Ltd.; (10) Quang Ninh Export Aquatic Products Processing Factory; (11) Tacvan Frozen Seafood Processing Export Company; (12); Trong Nhan Seafood Company Limited; and (13) Vinh Hoan Corp.

[8] *See Non-Market Economy Antidumping Proceedings: Assessment of Antidumping Duties,* 76 FR 65694 (October 24, 2011) (''*Assessment Notice*''); *see also* ''Assessment Rates'' section below.

[9] *See* Appendix II for a full list of all 53 companies; *see also* Preliminary Decision Memorandum.

[10] *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).

with our recent practice,[11] we preliminarily determine to assign to the non-individually examined separate rate respondents the most recently assigned separate rate in this proceeding, which is from the previous administrative review.[12] Using this method, we are preliminarily assigning a separate rate margin of 4.78 percent to the 12 non-individually examined companies that demonstrated their eligibility for a separate rate.

TheDepartment preliminarily determines that the following dumping margins exist:

| Exporter [13] | Margin (percent) |
|---|---|
| Au Vung One Seafood Processing Import & Export Joint Stock Company | 4.78 |
| Cadovimex Seafood Import-Export and Processing Joint Stock Company | 4.78 |
| Cafatex Corporation, aka | |
| Taydo Seafood Enterprise | 4.78 |
| Gallant Ocean (Vietnam) Co., Ltd. | 4.78 |
| Investment Commerce Fisheries Corporation | 4.78 |
| Kim Anh Company Limited | 4.78 |
| Ngo Bros Seaproducts Import-Export One Member Company Limited, aka | |
| Ngo Bros | 4.78 |
| Nha Trang Fisheries Joint Stock Company | 4.78 |
| Phuong Nam Foodstuff Corp. | 4.78 |
| Taika Seafood Corporation | 4.78 |
| UTXI Aquatic Products Processing Corporation | 4.78 |
| Vietnam Fish One Co., Ltd., aka | |
| Viet Hai Seafood Co., Ltd. | 4.78 |

## Disclosure and Public Comment

Normally, The Department will disclose the calculations used in our analysis to parties in this review within five days of the date of publication of the notice of preliminary results in the **Federal Register**, in accordance with 19 CFR 351.224(b). However, here the Department preliminarily applied a separate rate [14] and the Vietnam-Wide rate [15] which were established in prior segments of the proceeding. Thus, there are no calculations on this record to disclose.

Pursuant to 19 CFR 351.309(c)(1)(ii), interested parties may submit case briefs no later than 30 days after the publication of these preliminary results, and rebuttal comments within five days after the time limit for filing case briefs. Parties who submit case briefs or rebuttal briefs are requested to submit with the argument: (1) A statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.[16] Rebuttal briefs must be limited to issues raised in the case briefs.[17]

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing must submit a written request to the Assistant Secretary for Enforcement and Compliance within 30 days of the date of publication of this notice. Requests should contain: (1) The party's name, address and telephone number; (2) the number of participants; and (3) a list of issues parties intend to discuss. Issues raised in the hearing will be limited to those raised in the respective case and rebuttal briefs. If a request for a hearing is made, the Department intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230, at a date and time to be determined.[18] Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date. The Department intends to issue the final results of this administrative review, including the results of our analysis of issues raised in the written comments, within 120 days of publication of these preliminary results in the **Federal Register**.

## Assessment Rates

Upon issuance of the final results, the Department will determine, and CBP shall assess, antidumping duties on all appropriate entries covered by this review.[19] The Department intends to issue assessment instructions to CBP 15 days after the publication date of the final results of this review. For the companies receiving a separate rate, we intend to assign an assessment rate of 4.78 percent, consistent with the methodology described above. For the final results, if we continue to treat the mandatory respondents and the additional 51 companies identified in Appendix II as part of the Vietnam-Wide entity, we will instruct CBP to apply an *ad valorem* assessment rate of 25.76 percent to all entries of subject merchandise during the POR which were produced and/or exported by those companies. Finally, if we continue to make a no-shipment finding for the 13 companies that reported that they had no shipments of the subject merchandise during the POR, any suspended entries of subject merchandise from these 13 companies will be liquidated at the Vietnam-Wide rate.[20] The final results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties, where applicable.[21]

## Cash Deposit Requirements

Should the final results of this administrative review remain unchanged from these preliminary results, the following cash deposit

[11] *See, e.g., Certain Frozen Fish Fillets from the Socialist Republic of Vietnam: Preliminary Results and Partial Rescission of the Antidumping Duty Administrative Review; 2014–2015,* 81 FR 64131 (September 19, 2016) and accompanying Preliminary Decision Memorandum.

[12] This margin is from the 2014–2015 administrative review. *See Certain Frozen Warmwater Shrimp from the Socialist Republic of Vietnam: Final Results of Antidumping Duty Administrative Review, 2014–2015,* 81 FR 62717 (September 12, 2016) (*AR10 Final*).

[13] Due to the issues we have had in the past with variations of exporter names related to this *Order,* we remind exporters that the names listed in the rate box are the exact names, including spelling and punctuation which the Department will provide to CBP and which CBP will use to assess POR entries and collect cash deposits.

[14] *See AR10 Final.*

[15] *See Final Determination of Sales at Less Than Fair Value: Certain Frozen and Canned Warmwater Shrimp from the Socialist Republic of Vietnam,* 69 FR 71005, 71008 (December 8, 2004) and accompanying Issues and Decision Memorandum at Comments 6 and 10C (''we have applied a rate of 25.76 percent, a rate calculated in the initiation stage of the investigation from information provided in the petition (as adjusted by the Department)'').

[16] *See* 19 CFR 351.309(c) and (d).

[17] *See* 19 CFR 351.309(d)(2).

[18] *See* 19 CFR 351.310(d).

[19] *See* 19 CFR 351.212(b).

[20] *See Assessment Notice.*

[21] *See* section 751(a)(2)(C) of the Act.

requirements will be effective upon publication of the final results for shipments of the subject merchandise from Vietnam entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by sections 751(a)(2)(C) of the Act: (1) For the companies listed above, which have a separate rate, the cash deposit rate will be that established in the final results of this review (except, if the rate is zero or *de minimis,* then zero cash deposit will be required); (2) for previously investigated or reviewed Vietnam and non-Vietnam exporters not listed above that received a separate rate in a prior segment of this proceeding, the cash deposit rate will continue to be the existing exporter-specific rate; (3) for all Vietnam exporters of subject merchandise that have not been found to be entitled to a separate rate, the cash deposit rate will be the existing rate for the Vietnam-Wide entity of 25.76 percent; and (4) for all non-Vietnam exporters of subject merchandise which have not received their own rate, the cash deposit rate will be the rate applicable to the Vietnam exporter that supplied that non-Vietnam exporter. These deposit requirements, when imposed, shall remain in effect until further notice.

## Notification to Importers

This notice also serves as a preliminary reminder to importers of their responsibility under 19 CFR 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Department's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This determination is issued and published in accordance with sections 751(a)(1) and 777(i)(1) of the Act and 19 CFR 351.221(b)(4).

Dated: October 31, 2016.

**Paul Piquado,**

*Assistant Secretary for Enforcement and Compliance.*

## Appendix I

**List of Topics Discussed in the Preliminary Decision Memorandum**

I. Summary
II. Background
III. Scope of the Order
IV. Discussion of the Methodology
  a. Respondent Selection
  b. Preliminary Determination of No Shipments
  c. Non-Market Economy Country
  d. Separate Rates
  e. The Vietnam-Wide Entity
  f. Separate Rate for Eligible, Non-Examined Respondents
V. Recommendation

## Appendix II

**Companies Subject To Review Determined To Be Part of the Vietnam-Wide Entity**

1. Amanda Foods (Vietnam) Ltd. Ngoc Tri Seafood Company (Amanda's affiliate)
2. Amanda Seafood Co., Ltd.
3. An Giang Coffee JSC
4. Anvifish Joint Stock Co.
5. Asia Food Stuffs Import Export Co., Ltd.
6. Binh Thuan Import—Export Joint Stock Company (THAIMEX)
7. Binh An Seafood Joint Stock Company
8. B.O.P. Limited Co.
9. C.P. Vietnam Corporation, aka
   C.P. Vietnam Corporation (''C.P. Vietnam''), aka
   C.P. Vietnam Livestock Company Limited, aka
   C.P. Vietnam Livestock Corporation
10. Can Tho Agricultural and Animal Product Import Export Company (''CATACO''), aka
   Can Tho Agricultural and Animal Products Import Export Company (''CATACO''), aka
Can Tho Agricultural and Animal Products Imex Company, aka
   Can Tho Agricultural Products
11. Can Tho Import Export Seafood Joint Stock Company (CASEAMEX)
12. Cautre Export Goods Processing Joint Stock Company
13. Coastal Fisheries Development Corporation (''COFIDEC'')
14. Danang Seaproducts Import-Export Corporation (''Seaprodex Danang'') (and its affiliates), aka
Danang Seaproducts Import Export Corporation (and its affiliate, Tho Quang Seafood Processing and Export Company) (collectively, ''Seaprodex Danang'')), aka
   Danang Seaproducts Import Export Corporation (''Seaprodex Danang''), aka
   Seaprodex Danang, aka
   Tho Quang Co, aka
   Tho Quang Seafood Processing and Export Company, aka
   Frozen Seafoods Factory No. 32 (Tho Quang Seafood Processing and Export Company)
15. Duy Dai Corporation
16. D & N Foods Processing (Danang Company Ltd.)
17. Gallant Ocean (Quang Ngai) Co., Ltd.
18. Gn Foods
19. Hai Thanh Food Company Ltd.
20. Hai Vuong Co., Ltd.
21. Han An Trading Service Co., Ltd.
22. Hoang Hai Company Ltd.
23. Hua Heong Food Industries Vietnam Co. Ltd.
24. Huynh Huong Seafood Processing (Huynh Houng Trading and Import Export Joint Stock Company)
25. Kien Long Seafoods Co. Ltd.
26. Khanh Loi Seafood Factory
27. Long Toan Frozen Aquatic Products Joint Stock Company
28. Luan Vo Fishery Co., Ltd.
29. Minh Chau Imp. Exp. Seafood Processing Co., Ltd.
30. Mp Consol Co., Ltd.
31. New Wind Seafood Co., Ltd.
32. Ngoc Chau Co., Ltd. and/or Ngoc Chau Seafood Processing Company
33. Ngoc Sinh, aka
   Ngoc Sinh Fisheries, aka
   Ngoc Sinh Private Enterprises, aka
   Ngoc Sinh Seafoods, aka
   Ngoc Sinh Seafood Processing Company, aka
   Ngoc Sinh Seafood Trading & Processing Enterprise
34. Nhat Duc Co., Ltd. (''Nhat Duc''), aka
   Nhat Duc Co., Ltd., aka
   Nhat Duc Co. Ltd.
35. Phu Cuong Jostoco Seafood Corporation, aka
   Phu Cuong Jostoco Corp.
36. Quoc Ai Seafood Processing Import Export Co., Ltd.
37. S.R.V. Freight Services Co., Ltd.
38. Saigon Food Joint Stock Company
39. Sustainable Seafood
40. Tan Thanh Loi Frozen Food Co., Ltd.
41. Tan Phong Phu Seafood Co., Ltd., aka
   Tan Phong Phu Seafood Company Ltd. (''TPP Co., Ltd.''), aka
   Tan Phong Phu Seafood Co. Ltd. (''TPP Co., Ltd.'')
42. Thanh Doan Seaproducts Import & Export Processing Joint-Stock Company (THADIMEXCO)
43. Thanh Hung Frozen Seafood Processing Import Export Co., Ltd.
44. Thanh Tri Seafood Processing Co. Ltd.
45. Thinh Hung Co., Ltd.
46. Trang Khan Seafood Co., Ltd.
47. Tien Tien Garment Joint Stock Company
48. Tithi Co., Ltd.
49. Viet Cuong Seafood Processing Import Export Joint-Stock Company
50. Vietnam Northern Viking Technologies Co. Ltd.
51. Vinatex Danang
52. Vinh Loi Import Export Company (''VIMEX''), aka
   Vinh Loi Import Export Company (''Vimexco'')
53. Xi Nghiep Che Bien Thuy Sue San Xuat Kau Cantho

[FR Doc. 2016–27071 Filed 11–8–16; 8:45 am]

BILLING CODE 3510–DS–P

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## DEPARTMENT OF COMMERCE

## National Institute of Standards and Technology

## Notice of Availability for Licensing—NIST's Patented Microfluidic Apparatus and Method To Control Liposome Formation

**AGENCY:** National Institute of Standards and Technology.

**ACTION:** Notice.

**SUMMARY:** The National Institute of Standards and Technology (NIST), an agency of the United States Department of Commerce, owns two patents related to controlled liposome formation using microfluidic channels: U.S. Patent

9,198,645, titled ''Controlled Vesicle Self-Assembly in Continuous Two Phase Flow Microfluidic Channels'' (NIST Docket 04–003); and U.S. Patent 8,715,591, title ''Microfluidic Apparatus to Control Liposome Formation'' (NIST Docket 09–017). Further details about these patents are provided in the **SUPPLEMENTARY INFORMATION** section, below.

**ADDRESSES:** For further information about these patented inventions or other licensing and partnership opportunities, please contact Honeyeh Zube, CRADA and License Officer, National Institute of Standards and Technology's Technology Partnerships Office, by mail to 100 Bureau Drive, Mail Stop 2200, Gaithersburg, Maryland 20899, by electronic mail to *honeyeh.zube@nist.gov,* or by telephone at (301) 975–2209.

**SUPPLEMENTARY INFORMATION:** NIST's Patent 9,198,645, titled ''Controlled Vesicle Self-Assembly in Continuous Two Phase Flow Microfluidic Channels'' (NIST Docket 04–003) claims novel methods for the formation of liposomes that encapsulate reagents in a continuous two-phase flow microfluidic network with precision control of size, for example, from 100 nm to 300 nm, by manipulation of liquid flow rates are described. By creating a solvent-aqueous interfacial region in a microfluidic format that is homogenous and controllable on the length scale of a liposome, fine control of liposome size and polydispersity can be achieved.

NIST's Patent 8,715,591, title ''Microfluidic Apparatus to Control Liposome Formation,'' (NIST Docket 09–017) is available for license and claims the apparatus and method of using a microfluidic device that controls the amount of delivery compound incorporated in a liposome on a nanometer size scale using laminar flow and miscible fluids, thereby increasing loading efficiency. The patent was filed on Apr. 19, 2010 and was issued on May 6, 2014. The invention was first published in Jahn, *et al.,* Microfluidic Directed Formation of Liposomes of Controlled Size, American Chemical Society Langmuir, 23 (11) pp 6289–6293. 2007.

The liposomes formed by the self-assembly process are characterized using asymmetric flow field-flow fractionation combined with quasi-elastic light scattering and multiangle laser-light scattering. The vesicle size and size distribution are tunable over a mean diameter from 50 to 150 nm by adjusting the ratio of the alcohol-to-aqueous volumetric flow rate. Liposome formation depends more strongly on the focused alcohol stream width and its diffusive mixing with the aqueous stream than on the sheer forces at the solvent-buffer interface. The inventions have application in drug delivery, gene therapy, and potential application for on-demand liposome-mediated delivery of point-of-care therapeutics. The inventions can obviate the need for post-processing in drug manufacturing.

NIST is authorized to license its rights in these inventions to organizations on a non-exclusive or exclusive basis for specified fields of use. The rights to these patents are available for exclusive or non-exclusive licensing by the authority granted to the NIST under 35 U.S.C. 209 and 37 CFR 404. NIST researchers are interested in potential collaborations with licensees to bring this invention to practical application and to promote innovation, enhance economic security and improve quality of life.

**Kevin Kimball,**

*Chief of Staff.*

[FR Doc. 2016–26995 Filed 11–8–16; 8:45 am]

**BILLING CODE 3510–13–P**

## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

### Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

*Agency:* National Oceanic and Atmospheric Administration (NOAA).

*Title:* Implementation of Vessel Speed Restrictions to Reduce the Threat of Ship Collisions with North Atlantic Right Whales.

*OMB Control Number:* 0648–0580.

*Form Number(s):* None.

*Type of Request:* Regular (extension of a currently approved information collection).

*Number of Respondents:* 3,047.

*Average Hours per Response:* 5 minutes.

*Burden Hours:* 254.

*Needs and Uses:* This request is for an extension of a current information collection. On October 10, 2008, NMFS published a final rule promulgated under the Endangered Species Act implementing speed restrictions to reduce the incidence and severity of ship collisions with North Atlantic right whales (73 FR 60173). That final rule contained a collection-of-information requirement subject to the Paperwork Reduction act (PRA). Specifically, 50 CFR 224.105(c) requires a logbook entry to document that a deviation from the 10-knot speed limit was necessary for safe maneuverability under certain conditions.

In certain sea and weather conditions, a large ship may lose maneuverability at slow speeds. Therefore, under such conditions a ship, at the captain's discretion, may opt not to abide by the speed restrictions. If she/he chooses this option, she/he is required to make an entry into the ship's log, providing such information as: the reasons for the deviation, the speed at which the vessel is operated, the area, and the time and duration of such deviation.

*Affected Public:* Business or other for-profit organizations.

*Frequency:* On occasion.

*Respondent's Obligation:* Mandatory.

This information collection request may be viewed at reginfo.gov. Follow the instructions to view Department of Commerce collections currently under review by OMB.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to *OIRA_Submission@omb.eop.gov* or fax to (202) 395–5806.

Dated: November 3, 2016.

**Sarah Brabson,**

*NOAA PRA Clearance Officer.*

[FR Doc. 2016–27012 Filed 11–8–16; 8:45 am]

**BILLING CODE 3510–22–P**

## DEPARTMENT OF DEFENSE

### Office of the Secretary

**[Docket ID: DOD–2016–OS–0062]**

### Submission for OMB Review; Comment Request

**ACTION:** Notice.

**SUMMARY:** The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act.

**DATES:** Consideration will be given to all comments received by December 9, 2016.

**FOR FURTHER INFORMATION CONTACT:** Fred Licari, 571–372–0493.

**SUPPLEMENTARY INFORMATION:**

*Title, Associated Form and OMB Number:* Synchronized Predeployment and Operational Tracker Enterprise Suite (SPOT–ES); OMB Control Number 0704–0460.

*Type of Request:* Reinstatement.
*Number of Respondents:* 1,670.
*Responses per Respondent:* 56.
*Annual Responses:* 93,520.
*Average Burden per Response:* 30 minutes.
*Annual Burden Hours:* 46,760.
*Needs and Uses:* The information collection requirement is necessary to comply with section 861 of Public Law 110–181 and DoD Instruction 3020.41, ''Operational Contract Support'' and other appropriate policy, Memoranda of Understanding, and regulations. The Department of Defense, the Department of State (DoS), and the United States Agency for International Development (USAID) require that Government contract companies enter their employee's data into the Synchronized Predeployment and Operational Tracker (SPOT) System before contractors are deployed outside of the United States. SPOT is also used during Homeland Defense and Defense Support of Civil Authority Operations in the United States. Any persons who choose not to have data collected will not be entitled to employment opportunities which require this data to be collected.
*Affected Public:* Business or other for-profit.
*Frequency:* On occasion.
*Respondent's Obligation:* Voluntary.
*OMB Desk Officer:* Ms. Jasmeet Seehra.

Comments and recommendations on the proposed information collection should be emailed to Ms. Jasmeet Seehra, DoD Desk Officer, at *Oira_submission@omb.eop.gov.* Please identify the proposed information collection by DoD Desk Officer and the Docket ID number and title of the information collection.

You may also submit comments and recommendations, identified by Docket ID number and title, by the following method:

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

*Instructions:* All submissions received must include the agency name, Docket ID number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

*DOD Clearance Officer:* Mr. Frederick Licari.

Written requests for copies of the information collection proposal should be sent to Mr. Licari at WHS/ESD Directives Division, 4800 Mark Center Drive, East Tower, Suite 03F09, Alexandria, VA 22350–3100.

Dated: November 3, 2016.

**Aaron Siegel,**

*Alternate OSD Federal Register Liaison Officer, Department of Defense.*

[FR Doc. 2016–27009 Filed 11–8–16; 8:45 am]

BILLING CODE 5001–06–P

## DEPARTMENT OF DEFENSE

### Department of the Army, Corps of Engineers

### Notice of Intent To Prepare a Draft Environment Impact Statement and Conduct a Public Scoping Meeting for the Proposed Thousand Palms Flood Control Project Within the Thousand Palms Area of Coachella Valley, Riverside County, California (Corps File No. SPL–2014–00238–RJV)

**AGENCY:** Department of the Army, U.S. Army Corps of Engineers, DoD.

**ACTION:** Notice of intent.

**SUMMARY:** The purpose of this notice is to initiate a 45-day scoping process for preparation of a Draft Environmental Impact Statement (DEIS) for the Coachella Valley Water District's (CVWD) proposed Thousand Palms Flood Control Project.

**DATES:** Submit comments concerning this notice on or before December 19, 2016. A public scoping meeting will be held on December 6, 2016 at 6:00 p.m. (PST).

**ADDRESSES:** The scoping meeting location is: Thousand Palms Community Center, 31–189 Roberts Road, Thousand Palms, CA 92276.

Mail written comments concerning this notice to: U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, Carlsbad Field Office, ATIN: SPL–2014–00238–RJV, 5900 La Place Court, Suite 100, Carlsbad, CA 92008. Comment letters should include the commenter's physical mailing address, the project title and the Corps file number in the subject line.

**FOR FURTHER INFORMATION CONTACT:** Michelle Lynch, U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, Carlsbad Field Office, ATTN: SPL–2014–00238–RJV, 5900 La Place Court, Suite 100, Carlsbad, CA 92008, (760) 602–4850, *michelle.r.lynch@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** In accordance with the National Environmental Policy Act (NEPA), the Corps is preparing an Environmental Impact Statement (EIS) prior to any permit action. The Corps may ultimately make a determination to permit or deny the proposed project or a modified version of the proposed project. The primary Federal concerns are the discharge of fill material into waters of the United States.

*Authority:* 33 U.S.C. 1344.

1. Project Description. CVWD is proposing to construct a flood control project that is linear in nature, consists of four reaches, and is generally located on the northern and eastern margins of the community of Thousand Palms. Components of the project include levees, channels, culverts, and a sediment basin. The levees and channels would be comprised of compacted native soil with a layer of soil cement to protect the structures from erosion. Reach 1 is comprised of a 2.4 mile long levee with varying height from 5 to 14 feet, a minimum 12-foot access (patrol) road on the top of the levee, as well as an unpaved embankment access road on the downstream (west side) of the levee for operations and maintenance (O&M) purposes. Reach 2 is comprised of a 0.33 mile long levee with a height of approximately 5 feet, a minimum 12-foot access (patrol) road on the top of the levee, as well as an unpaved embankment access road on the downstream (west side) of the levee for O&M purposes and would be positioned in the mid-alluvial fan area just northeast of an existing electrical substation, to protect the substation and adjacent development. Reach 3 is comprised of a 1.23 mile long levee, an access road, and a 1.01 mile channel. The levee height would vary from 5 to 14 feet and would initiate approximately 2,000 feet southwest of the downstream end of Reach 2, roughly 1,000 feet south of Ramon Road. The channel would divert flows from Levee 3 towards the existing stormwater conveyance system at the Classic Club Golf Course. Reach 4 is comprised of an approximately two-mile long channel that would divert stormwater flows from the southeast end of the Classic Club Golf Course and continue south then east, adjacent to the re-aligned Avenue 38, and would terminate at Washington Street with construction of a conveyance system to direct stormwater flows into existing stormwater conveyance facilities in the Del Webb/Sun City development.

2. Issues. Potentially significant impacts associated with the proposed project may include: Aesthetics/visual impacts, air quality emissions, biological resource impacts, noise, traffic and transportation, and

cumulative impacts from past, present and reasonably foreseeable future projects.

3. Alternatives. The Draft EIS will include a co-equal analysis of several alternatives. Project alternatives will be further developed during this scoping process. Additional alternatives that may be developed during scoping will also be considered in the Draft EIS.

4. Scoping. The Corps and CVWD will jointly conduct a public scoping meeting to receive public comment regarding the appropriate scope and preparation of the Draft EIS. Participation by Federal, state, and local agencies and other interested organizations and persons is encouraged.

5. The Draft EIS is expected to be available for public review and comment 6 to 12 months after the scoping meeting, and a public meeting may be held after its publication.

Dated: October 25, 2016.

**David Castanon,**

*Chief, Regulatory Division.*

[FR Doc. 2016–27063 Filed 11–8–16; 8:45 am]

**BILLING CODE 3720–58–P**

## DEPARTMENT OF ENERGY

### Office of Energy Efficiency and Renewable Energy

### Challenges and Opportunities for Sustainable Development of Hydropower in Undeveloped Stream Reaches of the United States; Request for Information

**AGENCY:** Water Power Technologies Office, Office of Energy Efficiency and Renewable Energy, Department of Energy (DOE).

**ACTION:** Request for information (RFI).

**SUMMARY:** The Water Power Technologies Office (WPTO), within the Department of Energy (DOE) is issuing this request for information (RFI) to invite input from the public regarding challenges and opportunities associated with hydropower development in undeveloped stream-reaches. Through this RFI, the WPTO is also seeking input on the focus and structure of a potential funding opportunity to support research and development of advanced and/or non-traditional transformative hydropower technologies and project designs capable of avoiding or minimizing environmental and social effects of new cost-competitive hydropower development in undeveloped stream-reaches of the United States.

**DATES:** Responses must be received no later than 5:00 p.m. (ET) on Friday, December 16, 2016.

**ADDRESSES:** Responses to this RFI must be submitted electronically to *HydroNextFOA@ee.doe.gov* as Microsoft Word (.docx) attachments to an email, and no more than 6 pages in length, 12 point font, 1 inch margins. It is recommended that attachments with file sizes exceeding 25 MB be compressed (*i.e.,* zipped) to ensure message delivery. Please include in the subject line ''Comments for RFI''. Only electronic responses will be accepted.

**FOR FURTHER INFORMATION CONTACT:** Questions may be directed to: Rajesh Dham, Water Power Technologies Office, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585, Phone: (202) 287–6675, Email: *Rajesh.Dham@ee.doe.gov.*

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Background
II. Purpose
III. Request for Information Categories and Questions
IV. Guidance for Submitting Documents

## I. Background

Through its HydroNEXT initiative, WPTO's Hydropower Program (the Program) invests in the development of innovative technologies that lower cost, improve performance, and promote environmental stewardship of hydropower development across three resource classes:

- Existing non-powered dams (NPD)
- Pumped storage hydropower (PSH)
- New stream-reach development (NSD)

Under a Fiscal Year (FY) 2016 Funding Opportunity Announcement (FOA) DE–FOA–0001455 titled, ''Innovative Technologies to Advance Non-Powered Dam and Pumped Storage Hydropower Development,'' the Program made federal funding available to research and develop innovative solutions for NPD and PSH development. In FY 2017, the Program seeks to overcome challenges associated with furthering the development of hydropower in new stream-reaches.

Development of hydropower in new stream-reaches refers to new projects in stream segments and waterways that do not currently have hydroelectric facilities. New stream-reach development projects are subject to more scrutiny than projects for other hydropower resources (*i.e.* NPDs, refurbishments) because such development can have more extensive environmental and social effects, particularly if construction of a dam or diversion is required. Construction of barriers in a natural waterway can affect fish migration, channel geomorphology, sediment transport, habitat connectivity, water quality, and flow regimes. The unique nature of new stream-reach development can also add cost, time, and uncertainty to the development process. These factors have hindered the development of this resource in recent decades.

To realize sustainable and responsible hydropower development and to protect the integrity of existing streams, the Program is seeking information regarding transformative and/or innovative hydropower technologies that reduce or eliminate environmental concerns and are financially viable.

## II. Purpose

The purpose of this RFI is to solicit feedback from industry, academia, research laboratories, government agencies, and other stakeholders on issues related to development of hydropower in new stream-reaches. EERE is specifically interested in information on the costs/benefits and environmental effects associated with such development, and possible solutions to address the related challenges. EERE is also seeking input on the focus and structure of a potential funding opportunity to support research and development of advanced and/or non-traditional transformative hydropower technologies and project designs capable of avoiding or minimizing environmental and social effects of new cost-competitive hydropower development in undeveloped stream-reaches of the United States. This is solely a request for information and not a Funding Opportunity Announcement (FOA); EERE is not accepting applications.

## III. Request for Information Categories and Questions

### *A. Category 1: New Stream-Reach Development (NSD) Challenges and Opportunities*

To accelerate the deployment of sustainable and responsible hydropower in new stream-reaches while protecting their social and environmental value, EERE is seeking input on the main challenges and potential opportunities for developing this resource.

Specifically, we welcome feedback on the following questions:

(1) How can advances in technology more readily address environmental challenges associated with hydropower development in undeveloped streams?

(2) What are the technical challenges associated with new stream-reach

development? How can DOE help address these challenges?

(3) How can modularization of power train and civil works components affect project costs? How can standardized equipment build familiarity and assist with regulatory review of proposed new stream-reach development projects?

(4) With recent advancements in additive manufacturing, it has become increasingly easy to embed sensors and other smart technology into equipment. How can this advancement be used to build smarter machines and change the way stakeholders address environmental concerns?

(5) What other challenges is the hydropower community facing with regards to new stream-reach development? How can DOE help to address those challenges?

*B. Category 2: Transformative Hydropower Innovations*

The DOE's 2016 *Hydropower Vision* analysis [1] found that deployment of 1.7 gigawatts (GW) of new stream-reach development is possible by 2050 based on a scenario in which technology advancements lower capital and operating costs, innovative market mechanisms increase revenue and lower financing costs, and environmental considerations are taken into account. Further, alternative scenarios explored in the *Hydropower Vision* analysis also showed new stream-reach development could increase by an additional 15.5 GW by 2050 if a substantial level of transformative technological innovation were developed to successfully address the cost and environmental considerations associated with new stream-reach development.

We are seeking input on the following questions related to this issue:

(1) What type of transformative innovations (either in power train components or plant system designs) could hold the key to reducing or avoiding environmental effects typically associated with development of new stream-reaches?

(2) How can Federal investments in research and development help increase benefits and reduce costs for new stream-reach development? What areas of investment would be most impactful?

(3) Are other industries using technologies, equipment, or techniques that could be applied to hydropower to increase benefits and/or reduce new stream-reach development project costs, timelines, and environmental effects? Please provide examples.

*C. Category 3: Potential Funding Opportunity*

EERE seeks input on the focus and structure of a potential funding opportunity to support the development of environmentally-sustainable hydropower development in new stream-reaches. EERE welcomes feedback on the approach outlined below.

The objective of this potential research is to develop advanced and/or non-traditional transformative hydropower technologies and project designs capable of avoiding or minimizing environmental and social effects for new cost-competitive hydropower development in undeveloped stream-reaches of the United States. Potential projects should be capable of reducing the environmental and social effects of civil works and other disturbances resulting from the development of hydropower in undeveloped stream-reaches. Of particular interest are projects that do not require the use of a dam to create the head differential necessary to generate hydropower.

Following a two-phase process, potential researchers should be able to demonstrate—through research, analysis, and engineering design—that the proposed systems can meet the following metrics:

1. Environmental and Social Impact [2]
2. Technical Feasibility
3. Cost Competitiveness

Phase 1 (12 Months)

Research the available hydropower potential and develop innovative and transformative design strategies that include ways to increase head for cost-competitive and environmentally sustainable hydropower development. Such designs should include the following features:

- Transformative diversionary structures without the use of a solid dam: examples include side intakes or side-channel intakes and headrace canals, and trench weirs with suitable water conveyance systems
- Alternative water conveyance systems using innovative technologies (such as advanced tunneling methods, intakes, alternative pipe materials and manufacturing, and tailrace systems) to increase power density and reduce component and system costs
- Use of low impact, modular, and scalable hydropower technologies as applicable to achieve cost reductions

Researchers should consider multipurpose use of the hydropower facility that may help to reduce the cost allocation to hydropower development.

Further, awardees will perform desktop studies using available data to identify probable locations on undeveloped stream-reaches for potential application of their innovative/transformational design strategies. These studies will help to identify the most favorable sites and inform reconnaissance and feasibility studies in Phase 2.

Phase 2 (12–18 Months)

With respect to the most favorable sites identified in Phase I, researchers should perform: (A) Reconnaissance studies, and (B) Feasibility studies.

A. Reconnaissance Studies

Reconnaissance studies are performed with the aim of determining if further feasibility studies are warranted. These studies should:

1. Scope the extent of study necessary for hydropower site development and preliminary economic analysis
2. Develop a preliminary layout (plan and cross-section)
3. Assess the head and flow (site hydrology)
4. Determine the type of turbine-generator for the head and flow for the purpose of obtaining typical equipment costs
5. Estimate preliminary power potential
6. Evaluate the transmission requirements at a high level for power take-off
7. Assess potential environmental and social impacts and related mitigation
8. Develop a high level cost estimate
9. Estimate potential revenue streams
10. Determine economic feasibility including possible financing costs
11. Include a report to document reconnaissance findings

B. Feasibility Studies

Feasibility studies are performed with the aim of determining if an investment commitment should be made without actual ground disturbance and the requirement of permit(s). These studies will include the following activities:

1. A firm-up of the project layout to include alternate sites based on actual preliminary site investigations
2. Confirmation of the project parameters such as:

[1] The 2016 *Hydropower Vision* analysis involved more than 50 modeled scenarios, each examining the effects of key variables or combination of variables that influence the deployment of hydropower facilities in electricity market competition with other generation sources. *http://energy.gov/eere/water/articles/hydropower-vision-new-chapter-america-s-1st-renewable-electricity-source.*

[2] Environmental and Social Impact refers to how construction and operation of a project affects geomorphology, water quality, and the function of streams in supporting social objectives (e.g., recreation) and species reproduction.

a. Head
b. flow duration and unit flow
c. number and type of units
d. installed capacity
e. water conductor system and ancillary equipment and other physical work
f. transmission routing and associated equipment needs

3. Identification of site development needs
4. Evaluation of power purchase alternatives
5. Potential environmental and social impact studies and related mitigation
6. Detailed preliminary cost studies
7. Evaluation of possible multi-use of the facility
8. Determination of economic feasibility including possible financing costs
9. Preparation of a report to document feasibility findings

Researchers should perform reconnaissance studies for at least six selected locations for project development, with the aim of performing feasibility studies on the three most promising sites. We anticipate that DOE would make a Go/No-Go decision after Phase 1 based on the environmental performance, costs, and applicability of the proposed technology or design strategy.

EERE welcomes input on the approach outlined. Specifically, we welcome feedback on the following questions:

(1) Is the focus outlined above the optimal approach for supporting sustainable development of hydropower in undeveloped streams? If not, what improvements would you suggest?

(2) Please share comments on other items not considered here that you believe EERE should address as it develops a strategy to advance new stream-reach development.

## IV. Guidance for Submitting Documents

DOE invites all interested parties to submit responses by not later than 5:00 p.m. (ET) on December 16, 2016. Responses to this RFI must be submitted electronically to *HydroNextFOA@ee.doe.gov* as Microsoft Word (.docx) attachments to an email, and no more than 6 pages in length, 12 point font, 1 inch margins. Only electronic responses will be accepted.

Respondents are requested to provide the following information at the start of their response to this RFI:

- Company/institution name;
- Company/institution contact;
- Contact's address, phone number, and email address.

Issued in Washington, DC on November 3, 2016.

**Jim Ahlgrimm**

*Acting Director, Water Power Technologies Office, Office of Energy Efficiency and Renewable Energy.*

[FR Doc. 2016–27054 Filed 11–8–16; 8:45 am]

BILLING CODE 6450–01–P

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2246–046]**

### Yuba County Water Agency; Notice of Application Accepted for Filing, Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Types of Application:* Amend license to re-develop recreation area.

b. *Project No.:* 2246–046.

c. *Date Filed:* September 6, 2016.

d. *Applicants:* Yuba County Water Agency.

e. *Name of Projects:* Yuba River Development Project.

f. *Location:* New Bullards Bar Reservoir, Yuba County, California.

g. *Filed Pursuant to:* 18 CFR 4.200.

h. *Applicant Contact:* Mr. Curt Aikens, Yuba County Water Agency, 1220 F St., Marysville, CA 95901–4226, (530) 741–6278.

i. *FERC Contact:* David Rudisail, (202) 502–6376, *david.rudisail@ferc.gov.*

j. Deadline for filing comments, motions to intervene, protests, and recommendations is 30 days from the issuance date of this notice by the Commission. The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, or recommendations using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (P–2246–046) on any comments, motions to intervene, protests, or recommendations filed.

k. *Description of Request:* Yuba County Water Agency proposes to re-develop the Cottage Creek Picnic Area which was destroyed by fire in August 2010. The new Cottage Creek Group Campground would remain within the construction footprint of the previous development and would be constructed in two phases. Only phase one is subject to approval at this time. Phase one would be completed within 1.5 years of approval and would be authorized under the existing license. Phase one would include: (1) Five double campsites with each consisting of a paved vehicle spur with two single vehicle spaces and two recreational vehicle camping spaces and a living space with one group-sized fire ring, two bear resistant food lockers, two picnic tables and two tent pads; (2) a host campsite with a paved vehicle spur and a septic hook-up with a holding tank; (3) a potable water system consisting of water hydrants within the campground and an underground distribution system that would connect to the existing recreation water system; (4) a two-unit vault restroom building; (5) a paved circulation road with vehicle barriers; (6) a multi-panel information sign; (7) a paved overflow parking area for nine single vehicles; and (8) trash facilities, including a dumpster and individual receptacles.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and

Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene or protests must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). All comments, motions to intervene or protests should relate to project works which are the subject of the license proposed re-development. Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. If an intervener files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

Dated: November 3, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–27069 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–138–000]**

### Transcontinental Gas Pipe Line Company, LLC; Notice of Availability of Draft General Conformity Analysis for the Atlantic Sunrise Project

In accordance with the National Environmental Policy Act of 1969, the Clean Air Act, and the Federal Energy Regulatory Commission's (Commission or FERC) regulations, Commission staff has prepared this draft General Conformity Determination (GCD) for the Atlantic Sunrise Project (Project) to assess the potential air quality impacts associated with the construction of natural gas transmission facilities proposed by Transcontinental Gas Pipeline Company, LLC (Transco).

The FERC staff concludes that the Project would achieve conformity in Pennsylvania through the transfer of Emission Reduction Credits. FERC staff will issue a final GCD to address any changes necessary and respond to comments.

The Project would involve the construction and operation of about 199.4 miles of pipeline facilities and appurtenant aboveground facilities, including:

- 185.9 miles of new natural gas pipeline in Columbia, Lancaster, Lebanon, Luzerne, Northumberland, Schuylkill, Susquehanna, and Wyoming Counties, Pennsylvania (58.7 miles of 30-inch-diameter and 127.3 miles of 42-inch-diameter pipeline);
- 11.0 miles of new pipeline looping in Clinton and Lycoming Counties, Pennsylvania (2.5 miles of 36-inch-diameter and 8.5 miles of 42-inch-diameter pipeline);
- 2.5 miles of 30-inch-diameter pipeline replacements in Prince William County, Virginia;
- two new compressor stations in Columbia and Wyoming Counties, Pennsylvania (Compressor Stations 610 and 605);
- additional compression and related modifications to two existing compressor stations in Columbia and Lycoming Counties, Pennsylvania (Compressor Stations 517 and 520) and one in Howard County, Maryland (Compressor Station 190);
- other modifications would be taking place at Compressor Stations 145, 150, 155, 160, 170, 185, and 190 across Maryland, North Carolina, and Virginia;
- two new meter stations and three new regulator stations would be constructed and operated in Pennsylvania. There would also be modifications at an existing meter station, and the construction and operation of additional ancillary facilities would occur in Pennsylvania; and
- in North Carolina and South Carolina, supplemental odorization, odor detection, and/or odor masking/deodorization equipment would be installed at 56 meter stations, regulator stations, and ancillary facilities.

In addition, the full draft GCD is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link.[1] In addition, a limited number of copies of the draft GCD are available for public inspection at the local libraries in the Project area and at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the draft GCD may do so. To ensure that your comments are properly recorded and considered prior to issuance of the final GCD, it is important that we receive your comments in Washington, DC, on or before December 5, 2016.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the docket number (CP15–138–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.* Please carefully follow these instructions so that your comments are properly recorded.

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) Another way to file your comments electronically is by using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' If you are filing a comment on a particular project, please select ''Comment on a Filing'' as the filing type; or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory

[1] *https://www.ferc.gov/docs-filing/elibrary.asp.*

Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

For further information, contact Eric Tomasi by telephone at 202–502–8097 or by email at *Eric.Tomasi@ferc.gov.*

Dated: November 3, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–27067 Filed 11–8–16; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Notice of Effectiveness of Exempt Wholesale Generator Status

| | |
|---|---|
| Patua Acquisition Company, LLC | EG16–131–000 |
| Desert Wind Farm, LLC | EG16–132–000 |
| Innovative Solar 31, LLC | EG16–133–000 |
| ID Solar 1, LLC | EG16–134–000 |
| Oregon Clean Energy, LLC | EG16–135–000 |
| Boulder Solar II, LLC | EG16–136–000 |
| Brady Interconnection, LLC | EG16–137–000 |
| Pumpjack Solar I, LLC | EG16–138–000 |
| Wildwood Solar I, LLC | EG16–139–000 |
| Astra Wind LLC | EG16–140–000 |
| Luning Energy Holdings LLC | EG16–141–000 |
| Luning Energy LLC | EG16–142–000 |
| Grand View PV Solar Two LLC | EG16–143–000 |

Take notice that during the month of October 2016, the status of the above-captioned entities as Exempt Wholesale Generators became effective by operation of the Commission's regulations. 18 CFR 366.7(a).

Dated: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary*

[FR Doc. 2016–26990 Filed 11–8–16; 8:45 am]

BILLING CODE 6717–01–P

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. RM16–17–000]**

### Data Collection for Analytics and Surveillance and Market-Based Rate Purposes; Notice of the Second Technical Workshop on the Data Collection for Analytics and Surveillance and Market-Based Rate Purposes Notice of Proposed Rulemaking

In the Notice of Proposed Rulemaking on Data Collection for Analytics and Surveillance and Market-Based Rate Purposes (NOPR), the Commission proposed to revise the Commission's regulations to collect certain data for analytics and surveillance purposes from market-based rate (MBR) sellers and entities trading virtual products or holding financial transmission rights and to change certain aspects of the substance and format of information submitted for MBR purposes.[1] In the NOPR, the Commission stated that staff will hold technical workshops on the data dictionary and the submittal process.[2] A technical workshop was held on the draft data dictionary attached to the NOPR on August 11, 2016.[3]

This notice announces a second technical workshop that will focus on the submittal process. The purpose of this technical workshop is to allow for a dialogue between staff and the public regarding the technical aspects of the submission process. Staff will present case studies drawn from the characteristics of existing entities expected to submit data under the rule. The case studies will include a discussion of (1) the steps the user would follow to submit data to the relational database; (2) the process of data review and validation once the data is received by the Commission; and (3) the notifications a user would receive as the data makes its way through the Commission data validation and receipt process. Staff will also provide a high-level update on proposed technical refinements to the data dictionary based on prior workshop and additional outreach. The agenda for the workshop is attached.

All interested parties are invited to attend. The workshop will be held in Washington, DC on December 7, 2016 from 9:00 a.m. to 1:00 p.m. at FERC headquarters in the Commission Meeting Room, 888 First Street NE., Washington, DC. For those unable to attend in person, access to the workshop sessions will be available by webcast.

Due to the detailed, substantive nature of the subject matter, parties interested in actively participating in the discussion are encouraged to attend in person. All interested parties (whether attending in person or via webcast) are asked to register online at *https://www.ferc.gov/whats-new/registration/12-07-16-form.asp.* There is no registration fee.

Those who would like to participate in the discussion by telephone during the workshop should send a request for a telephone line to *RM16–17.NOPR@ferc.gov* by 5:00 p.m. Friday, December 2, 2016, with the subject line: RM16–17 NOPR Workshop Teleconference Request.

Commission workshops are accessible under section 508 of the Rehabilitation Act of 1973. For accessibility accommodations please send an email to *accessibility@ferc.gov* or call toll free 1–866–208–3372 (voice) or 202–502–8659 (TTY); or send a fax to 202–208–2106 with the required accommodations.

For additional information, please contact David Pierce of FERC's Office of Enforcement at (202) 502–6454 or send an email to *RM16-17.NOPR@ferc.gov.*

Dated: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26994 Filed 11–8–16; 8:45 am]

BILLING CODE 6717–01–P

[1] *Data Collection for Analytics and Surveillance and Market-Based Rate Purposes,* 156 FERC ¶ 61,045 (2016).

[2] *Id.* P 15.

[3] "Staff Notes on: Technical Workshop on the Draft Data Dictionary Attached to the Data Collection for Analytics and Surveillance and Market-Based Rate Purposes Notice of Proposed Rulemaking" available at, *http://www.ferc.gov/CalendarFiles/20160909154402-staff-notes.pdf.*

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP15–88–000]**

### Tennessee Gas Pipeline Company, L.L.C.; Notice of Availability of the Environmental Assessment for the Proposed Abandonment and Capacity Restoration Project

The staff of the Federal Energy Regulatory Commission (FERC or Commission) has prepared an environmental assessment (EA) for the Abandonment and Capacity Restoration Project (ACRP or Project), proposed by Tennessee Gas Pipeline Company, L.L.C. (TGP) in the above-referenced docket. Tennessee requests authorization and a Certificate of Public Convenience and Necessity pursuant to sections 7(b) and 7(c) of the Natural Gas Act to abandon, construct, modify, and operate natural gas pipeline facilities in Louisiana, Arkansas, Mississippi, Tennessee, Kentucky, and Ohio. The purpose of the Project is to disconnect and abandon pipeline segments from interstate natural gas service and construct and operate new natural gas infrastructure as a replacement to maintain service to existing customers. Following abandonment, TGP intends to sell the pipeline to Utica Marcellus Texas Pipeline LLC, an affiliate of TGP, for transportation of natural gas liquids.

The EA assesses the potential environmental effects of the construction and operation of the ACRP in accordance with the requirements of the National Environmental Policy Act. The FERC staff concludes that approval of the proposed Project, with appropriate mitigating measures, would not constitute a major federal action significantly affecting the quality of the human environment.

The EA addresses the potential environmental effects of the construction, modification, and operation of the following facilities associated with the Project:

- Abandonment in place of about 964 miles of pipeline between Columbiana County, Ohio, and Natchitoches Parish, Louisiana;
- disconnects of the abandoned pipeline and directly associated equipment at 14 existing compressor stations; abandonment in place of 82 existing mainline valves; and 125 sites where taps or crossover/connector lines would be disconnected, abandoned, relocated, or removed;
- construction of 12 short segments of new pipeline to reconnect customer taps to TGP's other existing pipelines totaling 5.3 miles of new pipeline (between 2 and 16 inches in diameter) in Ohio, Kentucky, Tennessee, and Mississippi;
- construction of four new compressor stations in Jackson, Morgan, Tuscarawas, and Mahoning Counties, Ohio;
- modification of existing Compressor Station 110 in Rowan County, Kentucky and additional modification of Compressor Station 875 (approved as part of the Broad Run Expansion Project, CP15–77) in Madison County, Kentucky;
- construction of 7.7 miles of new 36-inch-diameter pipeline in Carter and Lewis Counties, Kentucky; and
- construction of about 1.0 mile of 30-inch-diameter pipeline replacement in Washington County, Mississippi, and 1.5 miles of 30-inch-diameter pipeline replacements in six sections in Madison County, Kentucky.

The FERC staff mailed copies of the EA to federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American tribes; potentially affected landowners and other interested individuals and groups; newspapers; and libraries in the project area. Paper copy versions of the EA were mailed to those specifically requesting them; all others received a CD version. In addition, the EA is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link. A limited number of copies of the EA are available for distribution and public inspection at: Federal Energy Regulatory Commission, Public Reference Room, 888 First Street NE., Room 2A, Washington, DC 20426, (202) 502–8371.

Any person wishing to comment on the EA may do so. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are properly recorded and considered prior to a Commission decision on the proposal, it is important that the FERC receives your comments on or before December 2, 2016.

For your convenience, there are three methods you can use to submit your comments to the Commission. In all instances, please reference the project docket number (CP15–88–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov.*

(1) You can file your comments electronically using the eComment feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. This is an easy method for submitting brief, text-only comments on a project;

(2) You can also file your comments electronically using the eFiling feature on the Commission's Web site (*www.ferc.gov*) under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing;'' or

(3) You can file a paper copy of your comments by mailing them to the following address: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Any person seeking to become a party to the proceeding must file a motion to intervene pursuant to Rule 214 of the Commission's Rules of Practice and Procedures (Title 18 Code of Federal Regulations Part 385.214).[1] Only intervenors have the right to seek rehearing of the Commission's decision. The Commission grants affected landowners and others with environmental concerns intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding that no other party can adequately represent. Simply filing environmental comments will not give you intervenor status, but you do not need intervenor status to have your comments considered.

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site (*www.ferc.gov*) using the eLibrary link. Click on the eLibrary link, click on ''General Search,'' and enter the docket number excluding the last three digits in the Docket Number field (*i.e.,* CP15–88). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

[1] See the previous discussion on the methods for filing comments.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Dated: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26989 Filed 11–8–16; 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:* EC17–23–000.

*Applicants:* Oncor Electric Delivery Company LLC, NextEra Energy, Inc., EFH Merger Co., LLC, WSS Acquisition Company, T & D Equity Acquisition, LLC.

*Description:* Joint Application for Approval of the Disposition of Jurisdictional Facilities Under Section 203 of the Federal Power Act of Oncor Electric Delivery Company LLC, *et al.*

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5258.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* EC17–24–000.

*Applicants:* Cimarron Bend Wind Project I, LLC, Cimarron Bend Assets, LLC.

*Description:* Joint Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment for Cimarron Bend Wind Project I, LLC and Cimarron Bend Assets, LLC.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5123.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* EC17–25–000.

*Applicants:* Oncor Electric Delivery Company LLC, NextEra Energy, Inc., EFH Merger Co., LLC,,WSS Acquisition Company, T & D Equity Acquisition, LLC.

*Description:* Application for Authorization Under Section 203 of the Federal Power Act, Request for Expedited Consideration and Confidential Treatment for Lindahl Wind Project, LLC.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5126.

*Comments Due:* 5 p.m. ET 11/23/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER16–2304–001.

*Applicants:* Duke Energy Florida, LLC.

*Description:* Report Filing: Refund Report for Unfiled GIAs to be effective N/A.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5140.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER16–2602–001.

*Applicants:* 4C Acquisition, LLC.

*Description:* Tariff Amendment: Supplement to Application for Market-Based Rate Authorization of 4C Acquisition to be effective 11/17/2016.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5142.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–168–001.

*Applicants:* Applied Energy LLC.

*Description:* Tariff Amendment: Supplement to Market-Based Rate Application to be effective 12/24/2016.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5128.

*Comments Due:* 5 p.m. ET 11/23/16.

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: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26988 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. NJ17–3–000]**

### City of Vernon, California; Notice of Filing

Take notice that on October 28, 2016, City of Vernon, California submitted its tariff filing: Filing 2017 Transmission Revenue Requirement and Transmission Revenue Balancing Account Adjustment, to be effective 1/1/2017.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 5 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site 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 November 18, 2016.

Dated: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26991 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. CP16–487–000; PF15–32–000]**

### Northern Natural Gas Company; Notice of Schedule for Environmental Review of the Cedar Station Upgrade Project

On July 29, 2016, Northern Natural Gas Company (Northern) filed an application in Docket No. CP16–487–000 requesting a Certificate of Public Convenience and Necessity pursuant to section 7(c) of the Natural Gas Act to construct and operate certain natural gas pipeline facilities. The project is known as the Cedar Station Upgrade Project (Project), and would involve the construction of a new 20-inch-diameter pipeline loop [1] to fulfill Northern's contractual obligation to provide an increased gas pressure of 650 pounds per square inch gauge to Northern States Power Company.

On August 11, 2016, the Federal Energy Regulatory Commission (Commission or FERC) issued its Notice of Application for the Project. Among other things, that notice alerted agencies issuing federal authorizations of the requirement to complete all necessary reviews and to reach a final decision on a request for a federal authorization within 90 days of the date of issuance of the Commission staff's Environmental Assessment (EA) for the Project. This instant notice identifies the FERC staff's planned schedule for the completion of the EA for the Project.

**Schedule for Environmental Review**

Issuance of EA December 9, 2016
90-day Federal Authorization Decision Deadline March 9, 2017

If a schedule change becomes necessary, additional notice will be provided so that the relevant agencies are kept informed of the Project's progress.

**Project Description**

Northern proposes to construct the following facilities:

- About 7.86 miles of 20-inch-diameter pipeline loop;
- a pig [2] launcher and takeoff valve at milepost 0.0; and
- a pig receiver and tie-in valve, and modifications to regulators and piping within the existing Cedar Meter Station boundaries.

[1] A pipeline ''loop'' is a segment of pipe installed parallel to an existing pipeline.

[2] A pig is an internal pipeline tool used to clean a pipeline and/or to inspect for damage or corrosion.

**Background**

On February 23, 2016, the Commission issued a *Notice of Intent to Prepare an Environmental Assessment for the Planned Cedar Station Upgrade Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting* (NOI). The NOI was issued during the pre-filing review of the Project in Docket No. PF15–32–000 and was sent to affected landowners; federal, state, and local government agencies; elected officials; environmental and public interest groups; Native American tribes; other interested parties; and local libraries and newspapers. In response to the NOI, the Commission received comments from Dakota and Goodhue Counties, Thomas Lake Country Homes Homeowners Association, Winnebago Tribe of Nebraska, Minnesota Department of Natural Resources, and over 350 concerned landowners/stakeholders. The primary issues raised by the commentors are: Impacts on residential areas from construction; alternatives that avoid residential areas; and impacts on Lebanon Hills Regional Park and alternatives that would avoid this park.

**Additional Information**

In order to receive notification of the issuance of the EA and to keep track of all formal issuances and submittals in specific dockets, the Commission offers a free service called eSubscription. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/docs-filing/esubscription.asp.*

Additional information about the Project is available from the Commission's Office of External Affairs at (866) 208–FERC or on the FERC Web site (*www.ferc.gov*). Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' excluding the last three digits (*i.e.,* CP16–487), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at (866) 208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov.* The eLibrary link on the FERC Web site also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rule makings.

Dated: November 3, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–27066 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Project No. 2343–086]**

### PE Hydro Generation, LLC; Notice of Application Accepted for Filing, Soliciting Motions To Intervene and Protests, Ready for Environmental Analysis, and Soliciting Comments, Recommendations, Preliminary Terms and Conditions, and Preliminary Fishway Prescriptions

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection.

a. *Type of Application:* Major License.

b. *Project No.:* 2343–086.

c. *Date filed:* December 30, 2015.

d. *Applicant:* PE Hydro Generation, LLC.

e. *Name of Project:* Millville Hydroelectric Project.

f. *Location:* The existing project is located on the Shenandoah River, near the town of Harpers Ferry in Jefferson County, West Virginia. No federal lands are occupied by project works or located within the project boundary.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791 (a)–825(r).

h. *Applicant Contact:* John Collins, Executive Vice President, Cube Hydro Partners, LLC, 2 Bethesda Metro Center, Suite 1330, Bethesda, MD 20814; Telephone—(240) 482–2703.

i. *FERC Contact:* Michael Spencer, (202) 502–6093, or *michael.spencer@ferc.gov.*

j. Deadline for filing motions to intervene and protests, comments, recommendations, preliminary terms and conditions, and preliminary prescriptions: 60 Days from the issuance date of this notice; reply comments are due 105 days from the issuance date of this notice.

The Commission strongly encourages electronic filing. Please file motions to intervene, protests, comments, recommendations, preliminary terms and conditions, and preliminary fishway prescriptions using the Commission's eFiling system at *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/*

*ecomment.asp*. You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov,* (866) 208–3676 (toll free), or (202) 502–8659 (TTY). In lieu of electronic filing, please send a paper copy to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. The first page of any filing should include docket number P–2343–086.

The Commission's Rules of Practice require all intervenors filing documents with the Commission to serve a copy of that document on each person on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. This application has been accepted for filing and is now ready for environmental analysis.

l. The Millville project consists of: (1) A 14.0-foot-high concrete and stone dam consisting of three sections: a 36-foot-long non-overflow abutment on the east bank; an 813-foot long, non-gated spillway section; and a 122-foot-long intake structure, equipped with four vertical lift gates and one canal gate, and extending to the west riverbank; (2) a 100 acre reservoir with gross storage capacity of 900 acre-feet at elevation 324.0 mean sea level; (3) a 1,600-foot-long, 30-foot-wide, 12-foot-high masonry and concrete sided headrace canal; (4) a 125-foot-long, 40-foot-wide brick powerhouse containing 3 turbine-generating units with a combined capacity of 2.84 megawatts; (5) a 550-foot-long tailrace, excavated in bedrock and returning flow to the river channel; and (6) a 1,006-foot-long, 2.4 kilovolt (kV) transmission line to a transformer, with a 794-foot-long, 34.5 kV transmission line to the interconnection with the local grid.

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 Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC Online Support. A copy is also available for inspection and reproduction at the address in item h above.

Register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, contact FERC Online Support.

n. Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, and .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

All filings must (1) bear in all capital letters the title ''PROTEST'', ''MOTION TO INTERVENE'', ''COMMENTS,'' ''REPLY COMMENTS,'' ''RECOMMENDATIONS,'' ''PRELIMINARY TERMS AND CONDITIONS,'' or ''PRELIMINARY FISHWAY PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Agencies may obtain copies of the application directly from the applicant. A copy of any protest or motion to intervene must be served upon each representative of the applicant specified in the particular application. A copy of all other filings in reference to this application must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b) and 385.2010.

o. Procedural Schedule:

The application will be processed according to the following revised Hydro Licensing Schedule. Revisions to the schedule may be made as appropriate.

| Milestone | Target date |
|---|---|
| Filing of recommendations, preliminary terms and conditions, and preliminary fishway prescriptions | January, 2016. |
| Commission issues EA | May, 2017. |
| Comments on EA or EIS | June, 2017. |
| Modified terms and conditions | August, 2017. |

p. Final amendments to the application must be filed with the Commission no later than 30 days from the issuance date of this notice.

q. A license applicant must file no later than 60 days following the date of issuance of the notice of acceptance and ready for environmental analysis provided for in 5.22: (1) A copy of the water quality certification; (2) a copy of the request for certification, including proof of the date on which the certifying agency received the request; or (3) evidence of waiver of water quality certification.

Dated: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26992 Filed 11–8–16; 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 exempt wholesale generator filings:

*Docket Numbers:* EG17–23–000.

*Applicants:* Pima Energy Storage System, LLC.

*Description:* Notice of Self-Certification of Exempt Wholesale Generator Status of Pima Energy Storage System, LLC.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5166.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* EG17–24–000.

*Applicants:* Portal Ridge Solar A, LLC.

*Description:* Portal Ridge Solar A, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 11/3/16.

*Accession Number:* 20161103–5077.

*Comments Due:* 5 p.m. ET 11/25/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2507–009.
*Applicants:* Westar Energy, Inc.
*Description:* Notice of Non-Material Change in Status of Westar Energy, Inc.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5190.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER13–1536–012; *ER10–2192–028; ER15–1537–005; ER15–1539–005; ER10–2178–028; ER11–2010–025 ER12–1829–015; ER12–1223–020.*
*Applicants:* Exelon Generation Company, LLC, Constellation Energy Commodities Group Maine, LLC, Constellation Energy Services, Inc., Constellation Energy Services of New York Inc., Constellation NewEnergy, Inc., Exelon Wind 4, LLC, Shooting Star Wind Project, LLC, Wildcat Wind, LLC.
*Description:* Notice of change in status of Exelon Generation Company, LLC, et al.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5188.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER16–201–001.
*Applicants:* Duke Energy Indiana, LLC.
*Description:* Compliance filing: Reactive Rate for Madison Compliance Filing to be effective 1/1/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5095.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER16–2323–001.
*Applicants:* Appalachian Power Company.
*Description:* Tariff Amendment: OATT—Revise Attachment K, TCC Rate Update Amendment to be effective 12/31/9998.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5099.
*Comments Due:* 5 p.m. ET 11/14/16.

*Docket Numbers:* ER16–2675–000.
*Applicants:* AltaGas Pomona Energy Storage Inc.
*Description:* Supplement to September 27, 2016 AltaGas Pomona Energy Storage Inc. tariff filing.
*Filed Date:* 10/31/16.
*Accession Number:* 20161031–5297.
*Comments Due:* 5 p.m. ET 11/10/16.

*Docket Numbers:* ER16–2684–002.
*Applicants:* Nippon Dynawave Packaging Co.
*Description:* Tariff Amendment: MBRA Application to be effective 9/30/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5098.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER16–2703–000.
*Applicants:* Deerfield Wind Energy, LLC.
*Description:* Supplement to September 29, 2016 Deerfield Wind Energy, LLC tariff filing.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5284.
*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–296–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* § 205(d) Rate Filing: 3221 Grain Belt Express Clean Line/ITC Great Plains Interconnection Agreement to be effective 10/17/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5027.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER17–297–000.
*Applicants:* Ampex Energy, LLC.
*Description:* Baseline eTariff Filing: Application for Market Based Rate Authorization to be effective 11/15/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5044.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER17–298–000.
*Applicants:* Iron Energy LLC.
*Description:* Notice of Cancellation of Market-Based Rate Tariff of Iron Energy LLC.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5283.
*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–299–000.
*Applicants:* Luning Energy LLC.
*Description:* Request for Authorization to Undertake Affiliate Sales of Luning Energy LLC.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5180.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–300–000.
*Applicants:* Southwest Power Pool, Inc.
*Description:* Petition for Waiver of Tariff Provisions of Southwest Power Pool, Inc.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5185.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–301–000.
*Applicants:* NextEra Energy, Inc.
*Description:* Petition for Waiver of Affiliate Pricing Rules of NextEra Energy, Inc.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5186.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–302–000.
*Applicants:* Portal Ridge Solar A, LLC.
*Description:* Baseline eTariff Filing: Shared Facilities Agreement Concurrence to be effective 11/4/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5080.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER17–303–000.
*Applicants:* Portal Ridge Solar A, LLC.
*Description:* § 205(d) Rate Filing: Co-Tenancy Agreement Concurrence to be effective 11/4/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5094.
*Comments Due:* 5 p.m. ET 11/25/16.

*Docket Numbers:* ER17–304–000.
*Applicants:* Big Turtle Wind Farm, LLC.
*Description:* Baseline eTariff Filing: Shared Facilities Agreement Filing to be effective 11/4/2016.
*Filed Date:* 11/3/16.
*Accession Number:* 20161103–5101.
*Comments Due:* 5 p.m. ET 11/25/16.

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: November 3, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–27065 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

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## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

### Combined Notice of Filings

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

**Filings Instituting Proceedings**

*Docket Numbers:* RP17–132–000.
*Applicants:* Equitrans, L.P.
*Description:* Compliance filing Operational Purchases and Sales Report for 2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5035.
*Comments Due:* 5 p.m. ET 11/14/16.

*Docket Numbers:* RP17–133–000.
*Applicants:* Northern Border Pipeline Company.

*Description:* § 4(d) Rate Filing: James Valley Ethanol Neg Rate Agmt to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5036.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–134–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—BUG Releases eff 11–1–2016 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5047.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–135–000.
*Applicants:* Equitrans, L.P.
*Description:* § 4(d) Rate Filing: Negotiated Capacity Release Agreements—11/1/2016 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5051.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–136–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Superseding NC Agmt Filing (Atmos 21789) to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5056.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–137–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: NSAP Project-related Negotiated Rate Agmts to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5058.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–138–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Neg Rate Agmt Filing (Tenaska 35784) to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5059.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–139–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Housekeeping Matters to be effective 12/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5061.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–140–000.
*Applicants:* Texas Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Neg Rate Agmt Filing (Midwest Natural 35495) to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5062.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–141–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rate—ConEd Release to Trident to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5067.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–142–000.
*Applicants:* Columbia Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: OTRA—Winter 2016 to be effective 12/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5081.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–143–000.
*Applicants:* Gulf South Pipeline Company, LP.
*Description:* § 4(d) Rate Filing: 2016 Fuel Tracker Filing (Initial Filing) to be effective 4/1/2017.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5089.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–144–000.
*Applicants:* Rockies Express Pipeline LLC.
*Description:* § 4(d) Rate Filing: Neg Rate 2016–11–01 Encana, CP to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5091.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–145–000.
*Applicants:* Rockies Express Pipeline LLC.
*Description:* Compliance filing Neg Rates many Ks Capacity Enhancement Compliance CP15–137 to be effective 12/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5106.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–146–000.
*Applicants:* Kern River Gas Transmission Company.
*Description:* § 4(d) Rate Filing: 2017 May Period Two Rate to be effective 5/1/2017.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5107.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–147–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Plymouth 792512 & So Jersey 792522 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5110.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–148–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—IDT Ramapo Releases eff 11–1–2016 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5111.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–149–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rates—Plymouth Rock Ramapo Releases eff 11–1–2016 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5112.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–150–000.
*Applicants:* Texas Eastern Transmission, LP.
*Description:* § 4(d) Rate Filing: Negotiated Rates—ConEd Nov 2016 Release to Entrust 8943503 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5150.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–151–000.
*Applicants:* ANR Pipeline Company.
*Description:* § 4(d) Rate Filing: 3 Amended Negotiated Rate Agreements to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5186.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–152–000.
*Applicants:* Dauphin Island Gathering Partners.
*Description:* § 4(d) Rate Filing: Negotiated Rate Filing 11–1–2016 to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5201.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–153–000.
*Applicants:* Algonquin Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rate—BUG Release to Trident eff 11–2–16 to be effective 11/2/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5202.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–154–000.
*Applicants:* Enable Gas Transmission, LLC.
*Description:* § 4(d) Rate Filing: Negotiated Rate Filing—November 2016 LER 1008744 Removal to be effective 11/1/2016.
*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5203.
*Comments Due:* 5 p.m. ET 11/14/16.
*Docket Numbers:* RP17–155–000.

*Applicants:* Enable Gas Transmission, LLC.

*Description:* § 4(d) Rate Filing: Negotiated Rate Filing—November 2016 Trans Louisiana 1010877 to be effective 11/1/2016.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5209.

*Comments Due:* 5 p.m. ET 11/14/16.

*Docket Numbers:* RP17–156–000.

*Applicants:* Rockies Express Pipeline LLC.

*Description:* Compliance filing Capacity Enhancement Compliance to be effective 12/1/2016.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5210.

*Comments Due:* 5 p.m. ET 11/14/16.

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 November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26993 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## DEPARTMENT OF ENERGY

### Federal Energy Regulatory Commission

**[Docket No. ER17–297–000]**

### Ampex 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 Ampex 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 November 23, 2016.

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 Web site 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: November 3, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–27068 Filed 11–8–16; 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 exempt wholesale generator filings:

*Docket Numbers:* EG17–19–000.

*Applicants:* Wolf Hollow II Power, LLC.

*Description:* Wolf Hollow II Power, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5172.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* EG17–20–000.

*Applicants:* Colorado Bend II Power, LLC.

*Description:* Colorado Bend II Power, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5173.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* EG17–21–000.

*Applicants:* Portal Ridge Solar C, LLC.

*Description:* Portal Ridge Solar C, LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5059.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* EG17–22–000.

*Applicants:* Luminant Generation Company LLC.

*Description:* Luminant Generation Company LLC submits Notice of Self-Certification of Exempt Wholesale Generator Status.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5064.

*Comments Due:* 5 p.m. ET 11/23/16.

Take notice that the Commission received the following electric rate filings:

*Docket Numbers:* ER10–2641–028; ER10–2663–028; ER10–2881–028; ER10–2882–029; ER10–2883–028; ER10–2884–028; ER10–2885–028.

*Applicants:* Oleander Power Project, Limited Partnership, Southern Company—Florida LLC, Alabama Power Company, Southern Power Company, Mississippi Power Company, Georgia Power Company, Gulf Power Company.

*Description:* Notice of Non-Material of Change in Status of Oleander Power Project, Limited Partnership, et al.

*Filed Date:* 10/31/16.

*Accession Number:* 20161031–5332.

*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER10–2794–021; ER14–2672–006; ER12–1825–019.

*Applicants:* EDF Trading North America, LLC, EDF Energy Services, LLC, EDF Industrial Power Services (CA), LLC.

*Description:* Notice of Non-Material Change in Status of EDF Trading North America, LLC, et al.

*Filed Date:* 10/31/16.

*Accession Number:* 20161031–5317.

*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER11–3417–012; ER10–2895–016; ER10–2917–016;

ER10–2918–017; ER10–2920–016; ER10–2921–016; ER10–2922–016; ER10–2966–016; ER10–3167–008; ER10–3178–009; ER11–2292–016; ER11–2293–016; ER11–2294–015; ER11–2383–011; ER11–3941–014; ER11–3942–015; ER12–2447–014; ER13–1346–008; ER13–1613–009; ER13–203–008; ER13–2143–009; ER14–1964–007; ER16–287–002.

*Applicants:* Alta Wind VIII, LLC, Bear Swamp Power Company LLC, BIF II Safe Harbor Holdings, LLC, BIF III Holtwood LLC, Black Bear Development Holdings, LLC, Black Bear Hydro Partners, LLC, Black Bear SO, LLC, Brookfield Energy Marketing Inc., Brookfield Energy Marketing LP, Brookfield Energy Marketing US LLC, Brookfield Power Piney & Deep Creek LLC, Brookfield Renewable Energy Marketing US LLC, Brookfield Smoky Mountain Hydropower LLC, Brookfield White Pine Hydro LLC, Carr Street Generating Station, L.P., Erie Boulevard Hydropower, L.P., Granite Reliable Power, LLC, Great Lakes Hydro America, LLC, Hawks Nest Hydro LLC, Mesa Wind Power Corporation, Rumford Falls Hydro LLC, Safe Harbor Water Power Corporation, Windstar Energy, LLC.

*Description:* Notice of Change in Status of the Brookfield Companies.

*Filed Date:* 10/31/16.

*Accession Number:* 20161031–5316.

*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER15–2075–001.

*Applicants:* Southwest Power Pool, Inc.

*Description:* Compliance filing: NorthWestern Corporation (South Dakota) Formula Rate Compliance Filing to be effective 10/1/2015.

*Filed Date:* 11/2/16.

*Accession Number:* 20161102–5121.

*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER15–2129–003.

*Applicants:* Slate Creek Wind Project, LLC.

*Description:* Notice of Non-Material Change in Status of Slate Creek Wind Project, LLC.

*Filed Date:* 10/31/16.

*Accession Number:* 20161031–5325.

*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER16–2684–001.

*Applicants:* Nippon Dynawave Packaging Co.

*Description:* Tariff Amendment: MBRA Application to be effective 9/30/2016.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5207.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–252–001.

*Applicants:* 2016 ESA Project Company, LLC.

*Description:* Tariff Amendment: Amendment of MBR Authority Application and Inital Baseline Tariff Filing to be effective 11/1/2016.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5187.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–275–000.

*Applicants:* AES Huntington Beach, L.L.C.

*Description:* § 205(d) Rate Filing: Request for Approval of Amended RMR Service Agreement to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5163.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–276–000.

*Applicants:* Mid-Atlantic Interstate Transmission, LL, PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: MAIT submits revisions to Service Agreement No. 4575 with Allegheny Hydro to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5164.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–277–000.

*Applicants:* PJM Interconnection, L.L.C., Virginia Electric and Power Company.

*Description:* § 205(d) Rate Filing: Revised Service Agreement No. 3226—NITSA between PJM and VEPCO to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5178.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–278–000.

*Applicants:* Pennsylvania Electric Company.

*Description:* § 205(d) Rate Filing: Penelec Amendment to Restated Composite Power Pooling Agreement to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5184.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–279–000.

*Applicants:* San Diego Gas & Electric Company.

*Description:* § 205(d) Rate Filing: 2017 SDGE TRBAA TACBAA update to Transmission Owner Tariff Filing to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5188.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–280–000.

*Applicants:* Jersey Central Power & Light.

*Description:* § 205(d) Rate Filing: JCP&L Amendment to Restated Composite Power Pooling Agreement to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5189.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–281–000.

*Applicants:* Mid-Atlantic Interstate Transmission, LL.

*Description:* § 205(d) Rate Filing: MAIT Amendment to Restated Composite Power Pooling Agreement to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5192.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–282–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Revisions to OATT reflect SMECO as a Transmission Owner to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5199.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–283–000.

*Applicants:* PJM Interconnection, L.L.C.

*Description:* § 205(d) Rate Filing: Revisions to the CTOA Attachment A to reflect SMECO as a Transmission Owner to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5200.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–284–000.

*Applicants:* Midcontinent Independent System Operator, Inc.

*Description:* § 205(d) Rate Filing: 2016–11–01_Competitive Retail Solution Filing to be effective 3/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5205.

*Comments Due:* 5 p.m. ET 12/1/16.

*Docket Numbers:* ER17–285–000.

*Applicants:* Metropolitan Edison Company.

*Description:* Baseline eTariff Filing: MetEd Modifications to Purchase and Sale Agreement with Niagara Mohawk to be effective 11/1/2016.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5206.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–286–000.

*Applicants:* Metropolitan Edison Company.

*Description:* § 205(d) Rate Filing: MetEd Amendment to Restated Composite Power Pooling Agreement to be effective 1/1/2017.

*Filed Date:* 11/1/16.

*Accession Number:* 20161101–5208.

*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–287–000.

*Applicants:* Southern California Edison Company.

*Description:* § 205(d) Rate Filing: Filing and Cancellations of Various Eldorado Agreements to be effective 1/1/2017.

*Filed Date:* 11/1/16.
*Accession Number:* 20161101–5213.
*Comments Due:* 5 p.m. ET 11/22/16.

*Docket Numbers:* ER17–288–000.
*Applicants:* Northern Indiana Public Service Company.
*Description:* Notice of Cancellation of multiple market base rate service agreements of Northern Indiana Public Service Company.
*Filed Date:* 10/31/16.
*Accession Number:* 20161031–5311.
*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER17–289–000.
*Applicants:* East Texas Electric Cooperative, Inc.
*Description:* Application for cost-based revenue requirements schedule for reactive power production capability of East Texas Electric Cooperative, Inc.
*Filed Date:* 10/31/16.
*Accession Number:* 20161031–5324.
*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER17–290–000.
*Applicants:* ISO New England Inc.
*Description:* Informational Filing of Contract of ISO New England Inc.
*Filed Date:* 10/31/16.
*Accession Number:* 20161031–5333.
*Comments Due:* 5 p.m. ET 11/21/16.

*Docket Numbers:* ER17–291–000.
*Applicants:* Public Service Company of New Mexico.
*Description:* § 205(d) Rate Filing: Executed Transmission Service Agreements Between PNM and Aragonne Wind, LLC to be effective 1/1/2017.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5061.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–292–000.
*Applicants:* Greenleaf Power Management LLC.
*Description:* Tariff Cancellation: Cancellation of MBR Tariff to be effective 11/2/2016.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5066.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–293–000.
*Applicants:* PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Amendment to WMPA SA No. 3159—Queue W2–073 to be effective 2/21/2014.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5097.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–294–000.
*Applicants:* Pennsylvania Electric Company, Jersey Central Power & Light, Metropolitan Edison Company, PJM Interconnection, L.L.C.
*Description:* § 205(d) Rate Filing: Penelec, JCPL and Met-Ed submit Revised WASP Agreements SA Nos. 4221, 4222, 4223 to be effective 10/25/2016.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5099.
*Comments Due:* 5 p.m. ET 11/23/16.

*Docket Numbers:* ER17–295–000.
*Applicants:* New York State Electric & Gas Corporation, New York Independent System Operator, Inc.
*Description:* § 205(d) Rate Filing: 205 Filing of CRA No. 2319 between NYSEG and National Grid to be effective 10/7/2016.
*Filed Date:* 11/2/16.
*Accession Number:* 20161102–5117.
*Comments Due:* 5 p.m. ET 11/23/16.

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: November 2, 2016.

**Nathaniel J. Davis, Sr.,**

*Deputy Secretary.*

[FR Doc. 2016–26987 Filed 11–8–16; 8:45 am]

**BILLING CODE 6717–01–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[FRL 9955–07–Region 5]**

### Notification of a Public Teleconference of the Science and Information Subcommittee

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) announces a public teleconference of the Science and Information Subcommittee (SIS) to the Great Lakes Advisory Board (Board). The purpose of this meeting is to discuss the Great Lakes Restoration Initiative (GLRI) covering FY15–19 and other relevant matters.

**DATES:** The teleconference will be held on Thursday, November 17, 2016 from 1:30 p.m. to 3:30 p.m. Central Time, 2:30 p.m. to 4:30 p.m. Eastern Time. An opportunity will be provided to the public to comment. Due to administrative circumstances, EPA is announcing this meeting with less than 15 calendar days' public notice.

**ADDRESSES:** The public teleconference will be held by teleconference only. The teleconference number is: 1–877–226–9607; participant code: 605 016 6037.

**FOR FURTHER INFORMATION CONTACT:** Any member of the public wishing further information regarding this teleconference may contact Rita Cestaric, Designated Federal Officer (DFO), by email at *cestaric.rita@epa.gov.* General information on the GLRI, the Board, and SIS can be found at *http://glri.us/public.html.*

**SUPPLEMENTARY INFORMATION:**

*Background:* The SIS was established in accordance with the provisions of the Federal Advisory Committee Act (FACA), Public Law 92–463. The SIS is composed of members from governmental, private sector, non-profit and academic organizations, appointed by the EPA Administrator in her capacity as Chair of the Interagency Task Force (IATF), who were selected based on their established records of distinguished service in their professional community and their knowledge of ecological protection and restoration issues. The SIS will assist the Board in providing ongoing advice on Great Lakes adaptive management and may provide other recommendations, as requested by the IATF.

*Availability of Meeting Materials:* The agenda and other materials in support of the meeting will be available at *http://glri.us/advisory/index.html.*

*Procedures for Providing Public Input:* Federal advisory committees provide independent advice to federal agencies. Members of the public can submit relevant comments for consideration by the SIS. Input from the public to the SIS will have the most impact if it provides specific information for the SIS to consider. Members of the public wishing to provide comments should contact the DFO directly.

*Oral Statements:* In general, individuals or groups requesting an oral presentation at this public meeting will be limited to three minutes per speaker, subject to the number of people wanting to comment. Interested parties should contact the DFO in writing (preferably via email) at the contact information noted above by November 16, 2016 to be

placed on the list of public speakers for the meeting.

*Written Statements:* Written statements must be received by November 14, 2016 so that the information may be made available to the SIS for consideration. Written statements should be supplied to the DFO in the following formats: One hard copy with original signature and one electronic copy via email. Commenters are requested to provide two versions of each document submitted: One each with and without signatures because only documents without signatures may be published on the GLRI Web page.

*Accessibility:* For information on access or services for individuals with disabilities, please contact the DFO at the phone number or email address noted above, preferably at least seven days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: November 2, 2016.

**Cameron Davis,**

*Senior Advisor to the Administrator.*

[FR Doc. 2016–27078 Filed 11–8–16; 8:45 am]

**BILLING CODE 6560–50–P**

## ENVIRONMENTAL PROTECTION AGENCY

**[EPA–HQ–ORD–2016–0632; FRL—9955–05–ORD]**

## Proposed Information Collection Request; Comment Request; Willingness To Pay Survey To Evaluate Recreational Benefits of Nutrient Reductions in Coastal New England Waters

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice.

**SUMMARY:** The Environmental Protection Agency (EPA) is planning to submit an information collection request (ICR), ''Willingness to Pay Survey to Evaluate Recreational Benefits of Nutrient Reductions in Coastal New England Waters'' (EPA ICR No. 2558.01, OMB Control No. 2080–NEW) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*). Before doing so, EPA is soliciting public comments on specific aspects of the proposed information collection as described below. This is a request for approval of a new collection. 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.

**DATES:** Comments must be submitted on or before January 9, 2017.

**ADDRESSES:** Submit your comments, referencing Docket ID No. EPA–HQ–ORD–2016–0632, online using *www.regulations.gov* (our preferred method), by email to *Docket_ORD@epa.gov,* or by mail to: EPA Docket Center, Environmental Protection Agency, Mail Code 28221T, 1200 Pennsylvania Ave. NW., Washington, DC 20460.

EPA's policy is that all comments received will be included in the public docket without change including any personal information provided, unless the comment includes profanity, threats, information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute.

**FOR FURTHER INFORMATION CONTACT:** Marisa Mazzotta, U.S. Environmental Protection Agency, Office of Research and Development, Atlantic Ecology Division, 27 Tarzwell Drive, Narragansett, Rhode Island 02882; telephone number: 401–782–3026; fax number: 401–782–3139; email address: *mazzotta.marisa@epa.gov.*

**SUPPLEMENTARY INFORMATION:** Supporting documents which explain in detail the information that the EPA will be collecting are available in the public docket for this ICR. The docket can be viewed online at *www.regulations.gov* or in person at the EPA Docket Center, WJC West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The telephone number for the Docket Center is 202–566–1744. For additional information about EPA's public docket, visit *http://www.epa.gov/dockets.*

Pursuant to section 3506(c)(2)(A) of the PRA, EPA is soliciting comments and information to enable it to: (i) 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; (ii) 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; (iii) enhance the quality, utility, and clarity of the information to be collected; and (iv) 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. 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. At that time, EPA will issue another **Federal Register** notice to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB.

*Abstract:* Researchers at the EPA's Office of Research and Development (ORD), Atlantic Ecology Division (AED) are piloting an effort to better understand how reduced water quality due to nutrient enrichment affects the economic prosperity, social capacity, and ecological integrity of coastal New England communities. This project proposes a survey to collect data for a case study of changes in recreation demand and values due to changes in nutrients in northeastern coastal waters. This includes the development of methods and tools for estimating recreational values that can be applied in other locations, either by EPA researchers, EPA's regional offices or state partners. Our initial geographic focus for these efforts will be Cape Cod, Massachusetts (''the Cape''; Barnstable County), and New England residents within 100 miles of the Cape. We focus on Cape Cod and its surrounding coastal areas both in order to limit the scope of the work to remain feasible within our research budget and to coordinate this socio-economic analysis with extensive ecological research being conducted on the Cape by ORD researchers, researchers at EPA's Region 1 office, and other external research groups. Cape Cod is also in the midst of an extensive regional planning effort related to its coastal waters, and this research can provide helpful socio-economic information to decision makers about the use of those waters. Because the 100-mile radius from Cape Cod includes a large area of southern New England and the largest population centers in New England, the results will be more broadly applicable to residents of southern New England.

One of the key water quality concerns on Cape Cod, and throughout New England, is nonpoint sources of nitrogen, which lead to ecological impairments in estuaries, with resultant socio-economic impacts. The decisions needed to meet water quality standards are highly complex and involve significant cross-disciplinary challenges in identifying, implementing, and monitoring social and ecological management needs. We will focus on understanding recreational uses as valued economic goods in coastal New England (including beachgoing, swimming, fishing, shellfishing, and boating).

As a part of these efforts, EPA's ORD/AED is seeking approval to conduct a revealed preference survey to collect data on: People's saltwater recreational activities; how recreational values are related to water quality; how perceptions of water quality relate to objective measures; the connections between perceptions of water quality, recreational choices and values, and sense of place; and demographic information. If approved, the survey will be administered using a mixed-mode approach that includes a mailed invitation to a web survey with an optional paper survey for people who are unable or unwilling to answer the web survey. The survey will be sent to a total of 8,400 residents living in counties where more than 25% of the county's geographic boundaries falls within 100 miles of the Cape as measured from Bourne, Massachusetts, which is the first town on Cape Cod heading east. This area includes coastal counties of New Hampshire, the eastern half of Massachusetts, all of Rhode Island, and the eastern part of Connecticut. In addition, we will oversample two populations: residents of Cape Cod and people who shellfish recreationally. We will send 750 surveys to each of these groups.

ORD will use the survey responses to estimate willingness to pay for changes related to reductions in nutrient and pathogen loadings to coastal New England waters. The analysis relies on state of the art theoretical and statistical tools for non-market welfare analysis. A non-response bias analysis will also be conducted to inform the interpretation and validation of survey responses.

All responses to the survey will be kept confidential to the extent provided by law. To ensure that the final survey sample includes a representative and diverse population of individuals, the survey questionnaire will elicit basic demographic information, such as age, race and ethnicity, number of children under 18, type of employment, and income. However, the survey questionnaire will not ask respondents for personal identifying information, such as names or phone numbers. Instead, each survey response will receive a unique identification number. Prior to taking the survey, respondents will be informed that their responses will be kept confidential to the extent provided by law. The name and address of the respondent will not appear in the resulting database, preserving the respondents' identities. The survey data will be made public only after it has been thoroughly vetted to ensure that all other potentially identifying information has been removed. After data entry is complete, the surveys themselves will be destroyed and only respondent codes will remain.

*Form Numbers:* None.

*Respondents/affected entities:* Eligible respondents for the survey are individuals 18 years of age or older who reside in counties where at least 25% of county's geographic area falls within a 100-mile radius of Cape Cod. This includes coastal counties of New Hampshire, the eastern half of Massachusetts, all of Rhode Island, and the eastern part of Connecticut. The sample will be stratified by geography, with Barnstable County, Massachusetts sampled at a rate 3.06 times higher than the rest of the population in the study area. Additionally, the sample will be a dual-frame sample, where the main frame is the general population address-based frame of the U.S. Postal Service Delivery Sequence File, and a supplementary frame is the frame of shellfish license holder records. Households will be selected randomly from the DSF, which covers over 97% of residences in the U.S. EPA will request participation from a random stratified sample of 10,270 households in two phases. The first phase, a pretest, will be sent to 370 addresses. The second phase, encompassing full survey administration, will be administered to an additional 9,900 addresses. In each phase, we anticipate a response rate of 27 percent, resulting in 90 and 2,365 completed surveys, respectively, after accounting for expected undeliverable surveys.

*Respondent's obligation to respond:* voluntary.

*Estimated number of respondents:* 2,455 (total).

*Frequency of response:* The survey is a one-time data collection activity.

*Total estimated burden:* 614 hours (total). Burden is defined at 5 CFR 1320.03(b).

T*otal estimated cost:* Assuming 15 minutes are needed to complete the survey, the total respondent cost comes to $21,386 for the pre-test and main survey combined, using an average wage rate for New England of $34.83 from the United States Department of Labor. This would be a one-time expenditure of their time.

*Changes in Estimates:* This is the first notice; there is no change in estimates at this time.

Dated: October 31, 2016.

**Wayne Munns,**

*Division Director, Atlantic Ecology Division.*

[FR Doc. 2016–27075 Filed 11–8–16; 8:45 am]

BILLING CODE 6560–50–P

## FEDERAL COMMUNICATIONS COMMISSION

**[CC Docket No. 92–237; DA 16–1240]**

## Next Meeting of the North American Numbering Council

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In this document, the Commission released a public notice announcing the meeting and agenda of the North American Numbering Council (NANC). The intended effect of this action is to make the public aware of the NANC's next meeting and agenda.

**DATES:** Thursday, December 1, 2016, 10:00 a.m.

**ADDRESSES:** Requests to make an oral statement or provide written comments to the NANC should be sent to Carmell Weathers, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, Portals II, 445 12th Street SW., Room 5–C162, Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Carmell Weathers at (202) 418–2325 or *Carmell.Weathers@fcc.gov.* The fax number is: (202) 418–1413. The TTY number is: (202) 418–0484.

**SUPPLEMENTARY INFORMATION:** This is a summary of the Commission's document in CC Docket No. 92–237, DA 16–1240 released November 1, 2016. The complete text in this document is available for public inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. The North American Numbering Council (NANC) has scheduled a meeting to be held Thursday, December 1, 2016, from 10:00 a.m. until 2:00 p.m. The meeting will be held at the Federal Communications Commission, Portals II, 445 12th Street, SW., Room TW–C305, Washington, DC. This meeting is open to members of the general public. The FCC will attempt to accommodate as many participants as possible. The public may submit written statements to the NANC, which must be received two business days before the meeting. In addition, oral statements at the meeting by parties or entities not represented on the NANC will be permitted to the extent time permits. Such statements will be limited to five minutes in length by any one party or entity, and requests to make an oral statement must be received two business days before the meeting.

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 and Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (tty). Reasonable accommodations for people with disabilities are available upon request. Include a description of the accommodation you will need, including as much detail as you can. Also include a way we can contact you if we need more information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Proposed Agenda: Thursday, December 1, 2016, 10:00 a.m. *

1. Announcements and Recent News
2. Approval of Transcript
   — September 15, 2016
3. Report of the North American Numbering Plan Administrator (NANPA)
4. Report of the National Thousands Block Pooling Administrator (PA)
5. Report of the Numbering Oversight Working Group (NOWG)
6. Report of the Toll Free Number Administration (TFNA)
7. Report of the North American Numbering Plan Billing and Collection (NANP B&C) Agent
8. Report of the Billing and Collection Working Group (B&C WG)
9. Report of the North American Portability Management LLC (NAPM LLC)
10. Report of the Local Number Portability Administration (LNPA) Transition Oversight Manager (TOM)
11. Report of the Local Number Portability Administration Working Group (LNPA WG)
12. Report of the Future of Numbering Working Group (FoN WG)
13. Status of the Industry Numbering Committee (INC) activities
14. Report of the Internet Protocol Issue Management Group (IP IMG)
15. Summary of Action Items
16. Public Comments and Participation (maximum 5 minutes per speaker)
17. Other Business

Adjourn no later than 2:00 p.m.

* The Agenda may be modified at the discretion of the NANC Chairman with the approval of the DFO.

Federal Communications Commission.

**Marilyn Jones,**

*Attorney, Wireline Competition Bureau.*

[FR Doc. 2016–27073 Filed 11–8–16; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL COMMUNICATIONS COMMISSION

### Public Safety and Homeland Security Bureau; Federal Advisory Committee Act; Task Force on Optimal Public Safety Answering Point Architecture

**AGENCY:** Federal Communications Commission.

**ACTION:** Notice.

**SUMMARY:** In accordance with the Federal Advisory Committee Act (FACA), this notice advises interested persons that the Federal Communications Commission's (FCC) Task Force on Optimal Public Safety Answering Point (PSAP) Architecture (Task Force) will hold its ninth meeting.

**DATES:** December 2, 2016.

**ADDRESSES:** Federal Communications Commission, Room TW–C305 (Commission Meeting Room), 445 12th Street SW., Washington, DC 20554.

**FOR FURTHER INFORMATION CONTACT:** Timothy May, Federal Communications Commission, Public Safety and Homeland Security Bureau, 202–418–1463, email: *timothy.may@fcc.gov.*

**SUPPLEMENTARY INFORMATION:** The meeting will be held on December 2, 2016, from 1:00 p.m. to 5:00 p.m. in the Commission Meeting Room of the FCC, Room TW–305, 445 12th Street SW., Washington, DC 20554. The Task Force is a Federal Advisory Committee that studies and reports findings and recommendations on PSAP structure, architecture, operations, and funding to promote greater efficiency of PSAP operations, security, and cost containment during the deployment of Next Generation 911 systems. On December 2, 2014, pursuant to the FACA, the Commission established the Task Force charter for a period of two years, through December 2, 2016. At this meeting, the Task Force will hear presentations and consider votes to adopt the reports and recommendations of the Task Force's three working groups: Working Group 1—Cybersecurity: Optimal Approach for PSAPs, Working Group 2—Optimal 911 Service Architecture, and Working 3—Optimal Resource Allocation.

Members of the general public may attend the meeting. The FCC will attempt to accommodate as many attendees as possible; however, admittance will be limited to seating availability. The Commission will provide audio and/or video coverage of the meeting over the Internet from the FCC's Web page at *https://www.fcc.gov/general/live.*

Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer & Governmental Affairs at (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation requested. In addition, please include a way the FCC may contact you if it needs more information. Please allow at least five days' advance notice; last minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

**Marlene H. Dortch,**

*Secretary.*

[FR Doc. 2016–27055 Filed 11–8–16; 8:45 am]

**BILLING CODE 6712–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of the Termination of the Receivership of 10321, Community National Bank, Lino Lakes, Minnesota

The Federal Deposit Insurance Corporation (''FDIC''), as Receiver for 10321, Community National Bank, Lino Lakes, Minnesota (''Receiver''), has been authorized to take all actions necessary to terminate the receivership estate of Community National Bank (''Receivership Estate''); the Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective November 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: November 4, 2016.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2016–27084 Filed 11–8–16; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of Termination of the Receivership of 10438, Plantation Federal Bank, Pawleys Island, South Carolina

The Federal Deposit Insurance Corporation (''FDIC''), as Receiver for 10438, Plantation Federal Bank, Pawleys Island, South Carolina (''Receiver''), has been authorized to take all actions necessary to terminate the receivership estate of Plantation Federal Bank (''Receivership Estate''); the Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective November 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: November 4, 2016.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2016–27086 Filed 11–8–16; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice of the Termination of the Recieverhsip of 10373, Colorado Capital Bank, Castle Rock, Colorado

The Federal Deposit Insurance Corporation (''FDIC''), as Receiver for 10373, Colorado Capital Bank, Castle Rock, Colorado (''Receiver''), has been authorized to take all actions necessary to terminate the receivership estate of Colorado Capital Bank (''Receivership Estate''); the Receiver has made all dividend distributions required by law. The Receiver has further irrevocably authorized and appointed FDIC-Corporate as its attorney-in-fact to execute and file any and all documents that may be required to be executed by the Receiver which FDIC-Corporate, in its sole discretion, deems necessary; including but not limited to releases, discharges, satisfactions, endorsements, assignments and deeds. Effective November 1, 2016, the Receivership Estate has been terminated, the Receiver discharged, and the Receivership Estate has ceased to exist as a legal entity.

Dated: November 4, 2016.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2016–27085 Filed 11–8–16; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL DEPOSIT INSURANCE CORPORATION

### Notice to All Interested Parties of Intent To Terminate the Receivership of 10049, Cape Fear Bank, Wilmington, North Carolina

Notice Is Hereby Given that the Federal Deposit Insurance Corporation (''FDIC'') as Receiver for Cape Fear Bank, Wilmington, North Carolina (''the Receiver''), intends to terminate its receivership for said institution. The FDIC was appointed receiver of Cape Fear Bank on April 10, 2009. The liquidation of the receivership assets has been completed. To the extent permitted by available funds and in accordance with law, the Receiver will be making a final dividend payment to proven creditors.

Based upon the foregoing, the Receiver has determined that the continued existence of the receivership will serve no useful purpose. Consequently, notice is given that the receivership shall be terminated, to be effective no sooner than thirty days after the date of this Notice. If any person wishes to comment concerning the termination of the receivership, such comment must be made in writing and sent within thirty days of the date of this Notice to: Federal Deposit Insurance Corporation, Division of Resolutions and Receiverships, Attention: Receivership Oversight Department 34.6, 1601 Bryan Street, Dallas, TX 75201.

No comments concerning the termination of this receivership will be considered which are not sent within this time frame.

Dated: November 4, 2016.

Federal Deposit Insurance Corporation.

**Valerie J. Best,**

*Assistant Executive Secretary.*

[FR Doc. 2016–27087 Filed 11–8–16; 8:45 am]

**BILLING CODE 6714–01–P**

## FEDERAL RESERVE SYSTEM

### Change in Bank Control Notices; Acquisitions of Shares of a Bank or Bank Holding Company

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire shares of a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than November 25, 2016.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Derek S. Nolan, Parker, South Dakota;* individually and acting in concert with Donald D. Nolan, Parker, South Dakota, to acquire voting shares of First State Associates, Inc., Hawarden, Iowa, and thereby control First State Bank, Hawarden, Iowa; Farmers State Bank, Marion, South Dakota; and Miner County Bank, Howard, South Dakota.

Board of Governors of the Federal Reserve System, November 3, 2016.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–27061 Filed 11–8–16; 8:45 am]

**BILLING CODE 6210–01–P**

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the

Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 7, 2016.

A. Federal Reserve Bank of St. Louis (David L. Hubbard, Senior Manager) P.O. Box 442, St. Louis, Missouri 63166–2034. Comments can also be sent electronically to *Comments.applications@stls.frb.org:*

1. *The McGehee Bank Employee Stock Ownership Plan,* McGehee, Arkansas; to acquire additional voting shares, for a total of 35 percent of the voting shares, of Southeast Financial Bankstock Corp., McGehee, Arkansas, and thereby increase its owenership of McGehee Bank, McGehee, Arkansas.

Board of Governors of the Federal Reserve System, November 4, 2016.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–27048 Filed 11–8–16; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 5, 2016.

*A. Federal Reserve Bank of Atlanta* (Chapelle Davis, Assistant Vice President) 1000 Peachtree Street NE., Atlanta, Georgia 30309. Comments can also be sent electronically to *Applications.Comments@atl.frb.org:*

1. *The Desjardins Group, Levis, Quebec, Canada;* to merge its subsidiary Caisse centrale Desjardins du Québec, Montreal, Quebec, Canada, into Fédération des caisses Desjardins du Québec, Levis, Quebec, Canada and retain control of Desjardins FSB Holdings, Inc. and Desjardins Bank, N.A., both of Hallandale, Florida.

Board of Governors of the Federal Reserve System, November 3, 2016.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–26972 Filed 11–8–16; 8:45 am]

BILLING CODE 6210–01–P

## FEDERAL RESERVE SYSTEM

### Notice of Proposals To Engage in or To Acquire Companies Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR part 225) to engage *de novo,* or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than November 23, 2016.

*A. Federal Reserve Bank of Chicago* (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *First State Associates, Inc., Hawarden, Iowa;* to continue engaging in the sale of insurance in a town of less than 5,000 in population, pursuant to section 225.28(b)(11)(iii)(A).

Board of Governors of the Federal Reserve System, November 3, 2016.

**Yao-Chin Chao,**

*Assistant Secretary of the Board.*

[FR Doc. 2016–26974 Filed 11–8–16; 8:45 am]

BILLING CODE 6210–01–P

## GENERAL SERVICES ADMINISTRATION

**[OMB Control No. 3090–0278]; [Docket 2016–0001; Sequence 5]**

### Submission for OMB Review; USA.gov National Contact Center Customer Evaluation Survey

**AGENCY:** USA.gov Contact Center, General Services Administration (GSA).

**ACTION:** Notice of request for comments regarding an extension to an existing OMB clearance.

**SUMMARY:** Under the provisions of the Paperwork Reduction Act, the Regulatory Secretariat Division will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension of a previously approved information collection requirement regarding the National Contact Center customer evaluation surveys. A notice was published in the **Federal Register** at 81 FR 48797 on July 26, 2016. No comments were received.

**DATES:** Submit comments on or before: January 9, 2017.

**FOR FURTHER INFORMATION CONTACT:** Mr. David Kaufmann, Federal Information Specialist, Office of Citizen Services and Communications, at telephone 202–357–9661 or via email to *david.kaufmann@gsa.gov.*

**ADDRESSES:** Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Office of Information and

Regulatory Affairs of OMB, Attention: Desk Officer for GSA, Room 10236, NEOB, Washington, DC 20503. Additionally submit a copy to GSA by any of the following methods:

• *Regulations.gov: http://www.regulations.gov.* Submit comments via the Federal eRulemaking portal by searching the OMB control number. Select the link ''Submit a Comment'' that corresponds with ''Information Collection 3090–0278, National Contract Center Evaluation Survey''. Follow the instructions provided at the ''Submit a Comment'' screen. Please include your name, company name (if any), and ''Information Collection 3090–0278, National Contract Center Evaluation Survey'' on your attached document.

• *Mail:* General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405. ATTN: Ms. Flowers/IC 3090–0278, National Contract Center Evaluation Survey.

*Instructions:* Please submit comments only and cite Information Collection 3090–0278, National Contract Center Evaluation Survey, in all correspondence related to this collection. Comments received generally will be posted without change to *http://www.regulations.gov,* including any personal and/or business confidential information provided. To confirm receipt of your comment(s), please check *www.regulations.gov,* approximately two to three days after submission to verify posting (except allow 30 days for posting of comments submitted by mail).

**SUPPLEMENTARY INFORMATION:**

### A. Purpose

This information collection will be used to assess the public's satisfaction with the USA.gov National Contact Center service(formerly the Federal Citizen Information Center's (FCIC) National Contact Center), to assist in increasing the efficiency in responding to the public's need for Federal information, and to assess the effectiveness of marketing efforts.

### B. Annual Reporting Burden

The following are estimates of the annual hourly burdens for our surveys based on historical participation in our surveys.

(1) Telephone Survey:
Respondents: 6000.
Responses per Respondent: 1.
Annual Responses: 6000.
Hours per Response: *0.12.*
Total Burden Hours: *720.*

(2) Web Chat Survey:
Respondents: *2400.*
Responses per Respondent: *1.*
Annual Responses: *2400.*
Hours per Response: *0.12.*
Total Burden Hours: *288.*

(3) Email Survey:
Respondents: *3600.*
Responses per Respondent: *1.*
Annual Responses: *3600.*
Hours per Response: *0.12.*
Total Burden Hours: *432.*

Grand Total Burden Hours: *1440.*

### C. Public Comments

Public comments are particularly invited on: Whether this collection of information is necessary and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate and based on valid assumptions and methodology; and ways to enhance the quality, utility, and clarity of the information to be collected.

**OBTAINING COPIES OF PROPOSALS:** Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat Division (MVCB), 1800 F Street NW., Washington, DC 20405, telephone 202–501–4755. Please cite OMB Control No. 3090–0278, National Contact Center Customer Evaluation Survey, in all correspondence.

Dated: November 4, 2016.

**David A. Shive,**

*Chief Information Officer.*

[FR Doc. 2016–27064 Filed 11–8–16; 8:45 am]

**BILLING CODE 6820–CX–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–1662–N]**

### Medicare Program; Town Hall Meeting on the FY 2018 Applications for New Medical Services and Technologies Add-On Payments

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Notice of meeting.

**SUMMARY:** This notice announces a Town Hall meeting in accordance with section 1886(d)(5)(K)(viii) of the Social Security Act (the Act) to discuss fiscal year (FY) 2018 applications for add-on payments for new medical services and technologies under the hospital inpatient prospective payment system (IPPS). Interested parties are invited to this meeting to present their comments, recommendations, and data regarding whether the FY 2018 new medical services and technologies applications meet the substantial clinical improvement criterion.

**DATES:** *Meeting Date:* The Town Hall Meeting announced in this notice will be held on Tuesday, February 14, 2017. The Town Hall Meeting will begin at 9:00 a.m. Eastern Standard Time (e.s.t.) and check-in will begin at 8:30 a.m. e.s.t.

*Deadline for Registration for Participants (not Presenting) at the Town Hall Meeting:* The deadline to register to attend the Town Hall Meeting is 5:00 p.m., e.s.t. on Wednesday, February 8, 2017.

*Deadline for Requesting Special Accommodations:* The deadline to submit requests for special accommodations is 5:00 p.m., e.s.t. on Tuesday, January 17, 2017.

*Deadline for Registration of Presenters at the Town Hall Meeting:* The deadline to register to present at the Town Hall Meeting is 5:00 p.m., e.s.t. on Monday, January 30, 2017.

*Deadline for Submission of Agenda Item(s) or Written Comments for the Town Hall Meeting:* Written comments and agenda items for discussion at the Town Hall Meeting, including agenda items by presenters, must be received by 5:00 p.m. e.s.t. on Monday, January 30, 2017.

*Deadline for Submission of Written Comments after the Town Hall Meeting for consideration in the FY 2018 IPPS proposed rule:* Individuals may submit written comments after the Town Hall Meeting, as specified in the **ADDRESSES** section of this notice, on whether the service or technology represents a substantial clinical improvement. These comments must be received by 5:00 p.m. e.s.t. on Friday, February 24, 2017, for consideration in the FY 2018 IPPS proposed rule.

**ADDRESSES:** *Meeting Location:* The Town Hall Meeting will be held in the main Auditorium in the central building of the Centers for Medicare & Medicaid Services located at 7500 Security Boulevard, Baltimore, MD 21244–1850.

In addition, we are providing two alternatives to attending the meeting in person—(1) there will be an open toll-free phone line to call into the Town Hall Meeting; or (2) participants may view and participate in the Town Hall Meeting via live stream technology or webinar. Information on these options is discussed in section II.B. of this notice.

*Registration and Special Accommodations:* Individuals wishing to participate in the meeting must register by following the on-line registration instructions located in

section III. of this notice or by contacting staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. Individuals who need special accommodations should contact staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

*Submission of Agenda Item(s) or Written Comments for the Town Hall Meeting:* Each presenter must submit an agenda item(s) regarding whether a FY 2018 application meets the substantial clinical improvement criterion. Agenda items, written comments, questions or other statements must not exceed three single-spaced typed pages and may be sent via email to *newtech@cms.hhs.gov.*

**FOR FURTHER INFORMATION CONTACT:**

Michelle Joshua, (410) 786–6050, *michelle.joshua@cms.hhs.gov,* or Michael Treitel, (410) 786–4552, *michael.treitel@cms.hhs.gov.*

Alternatively, you may forward your requests via email to *newtech@cms.hhs.gov.*

**SUPPLEMENTARY INFORMATION:**

*I. Background on the Add-On Payments for New Medical Services and Technologies Under the IPPS*

Sections 1886(d)(5)(K) and (L) of the Social Security Act (the Act) require the Secretary to establish a process of identifying and ensuring adequate payments to acute care hospitals for new medical services and technologies under Medicare. Effective for discharges beginning on or after October 1, 2001, section 1886(d)(5)(K)(i) of the Act requires the Secretary to establish (after notice and opportunity for public comment) a mechanism to recognize the costs of new services and technologies under the hospital inpatient prospective payment system (IPPS). In addition, section 1886(d)(5)(K)(vi) of the Act specifies that a medical service or technology will be considered ''new'' if it meets criteria established by the Secretary (after notice and opportunity for public comment). (See the fiscal year (FY) 2002 IPPS proposed rule (66 FR 22693, May 4, 2001) and final rule (66 FR 46912, September 7, 2001) for a more detailed discussion.)

In the September 7, 2001 final rule (66 FR 46914), we noted that we evaluated a request for special payment for a new medical service or technology against the following criteria in order to determine if the new technology meets the substantial clinical improvement requirement:

- The device offers a treatment option for a patient population unresponsive to, or ineligible for, currently available treatments.
- The device offers the ability to diagnose a medical condition in a patient population where that medical condition is currently undetectable or offers the ability to diagnose a medical condition earlier in a patient population than allowed by currently available methods. There must also be evidence that use of the device to make a diagnosis affects the management of the patient.
- Use of the device significantly improves clinical outcomes for a patient population as compared to currently available treatments. Some examples of outcomes that are frequently evaluated in studies of medical devices are the following:

++ Reduced mortality rate with use of the device.

++ Reduced rate of device-related complications.

++ Decreased rate of subsequent diagnostic or therapeutic interventions (for example, due to reduced rate of recurrence of the disease process).

++ Decreased number of future hospitalizations or physician visits.

++ More rapid beneficial resolution of the disease process treatment because of the use of the device.

++ Decreased pain, bleeding or other quantifiable symptoms.

++ Reduced recovery time.

In addition, we indicated that the requester is required to submit evidence that the technology meets one or more of these criteria.

Section 1886(d)(5)(K)(viii) of the Act specifies that the process for evaluating new medical services and technology applications shall include the following:

- Provide for public input regarding whether a new service or technology represents an advance in medical technology that substantially improves the diagnosis or treatment of Medicare beneficiaries before publication of a proposed rule.
- Make public and periodically update a list of all the services and technologies for which an application is pending.
- Accept comments, recommendations, and data from the public regarding whether the service or technology represents a substantial improvement.
- Provide for a meeting at which organizations representing hospitals, physicians, manufacturers and any other interested party may present comments, recommendations, and data to the clinical staff of CMS as to whether the service or technology represents a substantial improvement before publication of a proposed rule.

The opinions and presentations provided during this meeting will assist us as we evaluate the new medical services and technology applications for FY 2018. In addition, they will help us to evaluate our policy on the IPPS new technology add-on payment process before the publication of the FY 2018 IPPS proposed rule.

**II. Town Hall Meeting and Conference Calling/Live Streaming Information**

*A. Format of the Town Hall Meeting*

As noted in section I. of this notice, we are required to provide for a meeting at which organizations representing hospitals, physicians, manufacturers and any other interested party may present comments, recommendations, and data to the clinical staff of CMS concerning whether the service or technology represents a substantial clinical improvement. This meeting will allow for a discussion of the substantial clinical improvement criteria for each of the FY 2018 new medical services and technology add-on payment applications. Information regarding the applications can be found on our Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/newtech.html.*

The majority of the meeting will be reserved for presentations of comments, recommendations, and data from registered presenters. The time for each presenter's comments will be approximately 10 to 15 minutes and will be based on the number of registered presenters. Individuals who would like to present must register and submit their agenda item(s) via email to *newtech@cms.hhs.gov* by the date specified in the **DATES** section of this notice.

In addition, written comments will also be accepted and presented at the meeting if they are received via email to *newtech@cms.hhs.gov* by the date specified in the **DATES** section of this notice. Written comments may also be submitted after the meeting for our consideration. If the comments are to be considered before the publication of the proposed rule, the comments must be received via email to *newtech@cms.hhs.gov* by the date specified in the **DATES** section of this notice.

*B. Conference Call, Live Streaming, and Webinar Information*

For participants who cannot attend the Town Hall Meeting in person, an open toll-free phone line, (844) 396–8222, has been made available. The Meeting Place meeting ID is 902 252 617.

Also, there will be an option to view and participate in the Town Hall Meeting via live streaming technology

or webinar. Information on the option to participate via live streaming technology or webinar will be provided through an upcoming listserv notice and posted on the New Technology Web site at *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/newtech.html.* Continue to check the Web site for updates.

*C. Disclaimer*

We cannot guarantee reliability for live streaming technology or a webinar.

**III. Registration Instructions**

The Division of Acute Care in CMS is coordinating the meeting registration for the Town Hall Meeting on substantial clinical improvement. While there is no registration fee, individuals planning to attend the Town Hall Meeting in person must register to attend.

Registration may be completed on-line at the following web address: *http://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/AcuteInpatientPPS/newtech.html.* Select the link at the bottom of the page ''Register to Attend the New Technology Town Hall Meeting''. After completing the registration, on-line registrants should print the confirmation page(s) and bring it with them to the meeting.

If you are unable to register online, you may register by sending an email to *newtech@cms.hhs.gov.* Please include your name, address, telephone number, email address and fax number. If seating capacity has been reached, you will be notified that the meeting has reached capacity.

**IV. Security, Building, and Parking Guidelines**

Because the meeting will be located on Federal property, for security reasons, any persons wishing to attend this meeting must register by the date specified in the **DATES** section of this notice. Please allow sufficient time to go through the security checkpoints. It is suggested that you arrive at 7500 Security Boulevard no later than 8:30 a.m. e.s.t. if you are attending the Town Hall Meeting in person so that you will be able to arrive promptly for the meeting.

Security measures include the following:

• Presentation of government-issued photographic identification to the Federal Protective Service or Guard Service personnel.

• CMS policy requires that every foreign national (defined by the Department of Homeland Security is ''an individual who is a citizen of any country other than the United States'') is assigned a host (in accordance with the Department Foreign Visitor Management Policy, Appendix C, Guidelines for Hosts and Escorts). The host/hosting official is required to inform the Division of Physical Security and Strategic Information (DPPSI) at least 12 business days in advance of any visit by a foreign national. Foreign nationals will be required to produce a valid passport at the time of entry.

Attendees that are foreign nationals need to identify themselves as such, and make a request for a special accommodation. Foreign national visitors are defined as non-U.S. citizens; and non-lawful permanent residents, non-resident aliens or non-green card holders. Foreign nationals must provide the following information for security clearance to staff listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice by the date for requesting special accommodations specified in the **DATES** section of this notice:

++ Visitor's full name (as it appears on passport).
++ Gender.
++ Country of origin and citizenship.
++ Date of birth.
++ Place of birth.
++ Passport number.
++ Passport issue date.
++ Passport expiration date.
++ Visa type.
++ Date(s) of visit(s).
++ Company name.
++ Position/Title.

• Inspection of vehicle's interior and exterior (this includes engine and trunk inspection) at the entrance to the grounds. Parking permits and instructions will be issued after the vehicle inspection.

• Inspection, via metal detector or other applicable means of all persons entering the building. We note that all items brought to CMS, whether personal or for the purpose of presentation or to support a presentation, are subject to inspection. We cannot assume responsibility for coordinating the receipt, transfer, transport, storage, set-up, safety, or timely arrival of any personal belongings or items used for presentation or to support a presentation.

**Note:** *Individuals who are not registered in advance will not be permitted to enter the building and will be unable to attend the meeting in person. The public may not enter the building earlier than 45 minutes prior to the convening of the meeting.*

All visitors must be escorted in all areas other than the lower level lobby and cafeteria area and first floor auditorium and conference areas in the Central Building. Seating capacity is limited to the first 250 registrants.

Dated: October 27, 2016.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

[FR Doc. 2016–27007 Filed 11–8–16; 8:45 am]

**BILLING CODE 4120–01–P**

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## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Medicare & Medicaid Services

**[CMS–2397–PN]**

**RIN–0938–ZB29**

### Medicaid Program; Announcement of Medicaid Drug Rebate Program National Rebate Agreement

**AGENCY:** Centers for Medicare & Medicaid Services (CMS), HHS.

**ACTION:** Proposed notice.

**SUMMARY:** This proposed notice with comment period announces changes that would be made to the Medicaid National Drug Rebate Agreement (NDRA) for use by the Secretary of the Department of Health and Human Services (HHS) and manufacturers under the Medicaid Drug Rebate Program (MDRP). We are updating the NDRA to incorporate legislative and regulatory changes that have occurred since the agreement was published in the February 21, 1991 **Federal Register** (56 FR 7049). We are also updating the NDRA to make editorial and structural revisions, such as references to the updated Office of Management and Budget (OMB)-approved data collection forms and electronic data reporting.

**DATES:** To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on February 7, 2017.

**ADDRESSES:** In commenting, refer to file code CMS–2397–PN. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

You may submit comments in one of four ways (please choose only one of the ways listed):

1. *Electronically.* You may submit electronic comments on this regulation to *http://www.regulations.gov.* Follow the ''Submit a comment'' instructions.

2. *By regular mail.* You may mail written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2397–PN, P.O. Box 8016, Baltimore, MD 21244–8016.

Please allow sufficient time for mailed comments to be received before the close of the comment period.

3. *By express or overnight mail.* You may send written comments to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–2397–PN, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* Alternatively, you may deliver (by hand or courier) your written comments ONLY to the following addresses:

a. For delivery in Washington, DC—Centers for Medicare & Medicaid Services, Department of Health and Human Services, Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, DC 20201.

(Because access to the interior of the Hubert H. Humphrey Building is not readily available to persons without Federal government identification, commenters are encouraged to leave their comments in the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

b. For delivery in Baltimore, MD—Centers for Medicare & Medicaid Services, Department of Health and Human Services, 7500 Security Boulevard, Baltimore, MD 21244–1850.

If you intend to deliver your comments to the Baltimore address, call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members.

Comments erroneously mailed to the addresses indicated as appropriate for hand or courier delivery may be delayed and received after the comment period.

For information on viewing public comments, see the beginning of the **SUPPLEMENTARY INFORMATION** section.

**FOR FURTHER INFORMATION CONTACT:** Terry Simananda, (410) 786–8144.

**SUPPLEMENTARY INFORMATION:**

*Inspection of Public Comments:* All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. We post all comments received before the close of the comment period on the following Web site as soon as possible after they have been received: *http://www.regulations.gov.* Follow the search instructions on that Web site to view public comments.

Comments received timely will also be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

## I. Background

Under the Medicaid Program, states may provide coverage of outpatient drugs furnished to eligible individuals as an optional benefit under section 1905(a)(12) of the Social Security Act (the Act). Section 1903(a) of the Act provides for federal financial participation (FFP) in state expenditures for these drugs. In general, for payment to be made available under section 1903 of the Act for most drugs, manufacturers must enter into, and have in effect, a Medicaid National Drug Rebate Agreement (NDRA) with the Secretary of the Department of Health and Human Services (HHS) as set forth in section 1927(a) of the Act.

Authorized under section 1927 of the Act, the Medicaid Drug Rebate Program (MDRP) is a program that includes CMS, State Medicaid Agencies, and participating drug manufacturers that helps to partially offset the federal and state costs of most outpatient prescriptions drugs dispensed to Medicaid patients. Currently there are more than 600 drug manufacturers who participate in the MDRP. The NDRA provides that manufacturers are responsible for notifying states of a new drug's coverage. Additionally, manufacturers are required to report all covered outpatient drugs under their labeler code to the MDRP and may not be selective in reporting their NDCs to the program. Manufacturers are then responsible for paying a rebate on those drugs for which payment was made under the state plan. These rebates are paid by manufacturers on a quarterly basis to states and are shared between the states and the federal government to partially offset the overall cost of prescription drugs under the Medicaid Program.

## II. Provisions of the Proposed Notice

We are updating the NDRA to reflect the changes in the Covered Outpatient Drug final rule with comment period that was published in the February 1, 2016 **Federal Register** (81 FR 5170), as well as operational and other legislative changes that have occurred over the last 20 plus years since the NDRA was first issued in 1991. A sample of the finalized NDRA would be posted on the CMS Web site after we have considered the public comments and published the final notice. Once finalized, the updated NDRA would need to be signed by all participating manufacturers, as well as new manufacturers joining the program. Manufacturers with an active NDRA at the time the updated NDRA is to be executed would not be subject to verification of their proposed covered outpatient drug list. However, prospective manufacturers that request a new NDRA, or reinstatement of a previously active NDRA once the updated NDRA is available, would be subject to the current process of data submission and verification prior to the execution of an NDRA. We intend to provide additional instructions and guidance pertaining to how to execute new and renewal signatures of the finalized NDRA.

In the Addendum to this notice with comment period, we provide a draft of the updated NDRA that we would use in the MDRP. If adopted, a drug manufacturer that seeks Medicaid coverage for its drugs would need to enter into the NDRA with the Secretary agreeing to provide the applicable rebate on those drugs for which payment was made under the state plan. We intend to use the updated NDRA as a standard agreement that will not be subject to further revisions based on negotiations with individual manufacturers.

## III. Collection of Information Requirements

As stated in section 4711(f) of the Omnibus Budget Reconciliation Act of 1990, Chapter 35 of title 44, United States Code, and Executive Order 12291 shall not apply to information and regulations required for purposes of carrying out this Act and implementing the amendments made by this Act. Consequently, there is no need for review by the Office of Management and Budget under the authority of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

## IV. Response to Comments

Because of the large number of public comments we normally receive on **Federal Register** documents, we are not able to acknowledge or respond to them individually. We will consider all comments we receive by the date and time specified in the **DATES** section of this preamble, and, when we proceed with a subsequent document, we will respond to the comments in the preamble to that document.

**Addendum—Draft Agreement: National Drug Rebate Agreement Between the Secretary of Health and Human Services (Hereinafter referred to as ''the Secretary'') and the Manufacturer**

The Secretary, on behalf of the U.S. Department of Health and Human Services and all states which have a Medicaid State Plan approved under 42 U.S.C. 1396a, and the manufacturer, on its own behalf, for purposes of section 1927 of the Social Security Act (''the Act''), 42 U.S.C. 1396r–8, hereby agree to the following:

**I. Definitions**

The terms defined in this section will, for the purposes of this agreement, have the meanings specified in section 1927 of the Act and implementing Federal regulations, as interpreted and applied herein:

*(a)* ''*Average Manufacturer Price (AMP)*'' will have the meaning set forth in section 1927(k)(1) of the Act as implemented by 42 CFR 447.504.

*(b)* ''*Base Consumer Price Index-Urban (CPI–U)*'' is the CPI–U for September, 1990. For drugs approved by the Food and Drug Administration (FDA) after October 1, 1990, ''Base CPI–U'' means the CPI–U for the month before the month in which the drug was first marketed.

*(c)* ''*Base Date AMP*'' will have the meaning set forth in sections 1927(c)(2)(A)(ii)(II) and 1927(c)(2)(B) of the Act.

*(d)* ''*Best Price*'' will have the meaning set forth in section 1927(c)(1)(C) of the Act as implemented by 42 CFR 447.505.

*(e)* ''*Bundled Sale*'' will have the meaning set forth in 42 CFR 447.502.

*(f)* ''*Centers for Medicare & Medicaid Services (CMS)*'' means the agency of the U.S. Department of Health and Human Services having the delegated authority to operate the Medicaid Program.

*(g)* ''*Consumer Price Index-Urban (CPI–U)*'' will have the meaning set forth in 42 CFR 447.502.

*(h)* ''*Covered Outpatient Drug*'' will have the meaning set forth in sections 1927(k)(2), (k)(3) and (k)(4) of the Act as implemented by 42 CFR 447.502.

*(i)* ''*Innovator Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(ii) of the Act as implemented by 42 CFR 447.502.

*(j)* ''*Manufacturer*'' will have the meaning as set forth in section 1927(k)(5) of the Act as implemented by 42 CFR 447.502.

*(k) Marketed*'' means that a covered outpatient drug is available for sale by a manufacturer in the states.

*(l)* ''*Monthly AMP*'' will have the meaning as set forth in 42 CFR 447.510.

*(m)* ''*Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(i) of the Act as implemented by 42 CFR 447.502.

*(n)* ''*National Drug Code (NDC)*'' will have the meaning as set forth in 42 CFR 447.502.

*(o)* ''*Non-innovator Multiple Source Drug*'' will have the meaning as set forth in section 1927(k)(7)(A)(iii) of the Act as implemented by 42 CFR 447.502.

*(p)* ''*Quarterly AMP*'' will have the meaning as set forth in 42 CFR 447.504.

*(q)* ''*Rebate period*'' will have the meaning as set forth in 42 CFR 447.502.

*(r)* ''*Secretary*'' means the Secretary of the U.S. Department of Health and Human Services, or any successor thereto, or any officer or employee of the U.S. Department of Health and Human Services or successor agency to whom the authority to implement this agreement has been delegated. In this agreement, references to CMS indicate such successor authority.

*(s)* ''*Single Source Drug*'' will have the meaning set forth in section 1927(k)(7)(A)(iv) of the Act as implemented by 42 CFR 447.502.

*(t)* ''*State Drug Utilization Data*'' means the total number of both fee-for-service (FFS) and managed care organization (MCO) units of each dosage form and strength of the manufacturer's covered outpatient drugs reimbursed during a rebate period under a Medicaid State Plan, other than units dispensed to Medicaid beneficiaries that were purchased by covered entities through the drug discount program under section 340B of the Public Health Service Act; state utilization data is supplied on the CMS–R–144 form (that is, the state rebate invoice).

*(u)* ''*States*'' will have the meaning as set forth in 42 CFR 447.502.

*(v)* ''*State Medicaid Agency*'' means the agency designated by a state under sections 1902(a)(5) to administer or supervise the administration of the Medicaid program.

*(w)* ''*Unit*'' means drug unit in the lowest dispensable amount. The manufacturer will specify the unit information associated with each covered outpatient drug per the instructions provided in CMS–367c.

*(x)* ''*Unit Rebate Amount (URA)*'' means the computed amount to which the state drug utilization data is applied by states in invoicing the manufacturer for the rebate payment due.

*(y)* ''*United States*'' will have the meaning as set forth in 42 CFR 447.502.

*(z)* ''*Wholesaler*'' will have the meaning as set forth in section 1927(k)(11) of the Act as implemented by 42 CFR 447.502.

**II. Manufacturer's Responsibilities**

In order for the Secretary to authorize that a state receive payment for the manufacturer's drugs under Title XIX of the Act, 42 U.S.C. Section 1396 *et seq.,* the manufacturer agrees to the requirements as implemented by 42 CFR 447.510 and the following:

(a) The manufacturer shall identify an individual point of contact at a United States address to facilitate the necessary communications with states with respect to rebate invoice issues.

(b) Beginning with the quarter in which the National Drug Rebate Agreement (rebate agreement) is signed, calculate, and report all required pricing data on every covered outpatient drug by NDC in accordance with section 1927 of the Act and as implemented by 42 CFR 447.510. Furthermore, except as provided under section V(b) of this agreement, manufacturers are required to make a rebate payment in accordance with each calculated URA to each State Medicaid Agency for the manufacturer's covered outpatient drug(s) by NDC paid for by the state during a rebate period.

(c) In accordance with the specifications pursuant to Office of Management and Budget (OMB)-approved CMS–367c form, report all covered outpatient drugs and corresponding drug product, pricing, and related data to the Secretary, upon entering into this agreement. This information is to be updated as necessary to include new NDCs and updates to existing NDCs. CMS uses drug information listed with FDA, such as Marketing Category and Drug Type, to be able to verify in some cases that an NDC meets the definition of a covered outpatient drug, therefore, manufacturers should ensure that their NDCs are electronically listed with FDA. Reports to CMS should include all applicable NDCs identifying the drug product which may be dispensed to a beneficiary, including package NDCs (outer package NDCs and inner package NDCs).

(d) Beginning with the effective date quarter and in accordance with the specifications pursuant to OMB-approved CMS–367a form, report quarterly pricing data to the Secretary for all covered outpatient drugs in accordance with 42 CFR 447.510. This includes reporting for any package size which may be dispensed to the beneficiary. The manufacturer agrees to provide such information within 30 days of the last day of each rebate period beginning with the effective date quarter. Adjustments to all quarterly pricing data shall be reported on at least a quarterly basis.

(e) In accordance with the OMB-approved CMS–367b form, report information including monthly AMPs and monthly AMP units for all covered outpatient drugs in accordance with 42 CFR 447.510. The manufacturer agrees to provide such information within 30 days of the end of the month of the effective date, and within 30 days of each month thereafter.

(f) Except as provided under V(b), to make rebate payments within 30 days after receiving the state rebate invoice. The manufacturer is responsible for timely payment of the rebate within 30 days so long as the state invoice contains, at a minimum, the number of units paid by NDC in accordance with 1927(b)(1) of the Act. To the extent that changes in product, pricing, or related data cause increases to previously submitted total rebate amounts, the manufacturer will be responsible for timely payment of those increases in the same 30 day time frame as the current rebate invoice.

(g) To comply with the conditions of 42 U.S.C. section 1396r–8, changes thereto, implementing regulations, agency guidance and this Agreement.

(h) In accordance with 1927(a)(1) of the Act, rebate agreements between the Secretary and the manufacturer entered into before March 1, 1991 are retroactive to January 1, 1991. Rebate agreements entered into on or after March 1, 1991 shall have a mandatory effective date equal to the first day of the rebate period that begins more than 60 days after the date the agreement is entered into. Rebate agreements entered into on or after November 29, 1999 will also have an effective date equal to the date the rebate agreement is entered into that will permit optional state coverage of the manufacturer's NDCs as of that date.

(i) To obtain and maintain access to the system used by the Medicaid Drug Rebate program, use that system to report required data to CMS, and ensure that their contact information is kept updated as required in the OMB-approved CMS–367d form.

(j) To continue to make a rebate payment on all of its covered outpatient drugs for as long as an agreement with the Secretary is in force and state utilization data reports that payment was made for that drug, regardless of whether the manufacturer continues to market that drug. If there are no sales by the manufacturer during a rebate period, the AMP and best price reported in the prior rebate period should be used in calculating rebates.

(k) To keep records (written or electronic) of the data and any other material from which the calculations of AMP and best price were derived in accordance with 42 CFR 447.510, and make such records available to the Secretary upon request. In the absence of specific guidance in section 1927 of the Act, federal regulations and the terms of this agreement, the manufacturer may make reasonable assumptions in its calculations of AMP and best price, consistent with the purpose of section 1927 of the Act, federal regulations and the terms of this agreement. A record (written or electronic) explaining these assumptions must also be maintained by the manufacturer in accordance with the recordkeeping requirements in 42 CFR 447.534, and such records must be made available to the Secretary upon request.

(l) To notify CMS of any filing of bankruptcy, and to transmit such filing to CMS within seven days of the date of filing.

**III. Secretary's Responsibilities**

(a) The Secretary will employ best efforts to ensure the State Medicaid Agency shall report to the manufacturer, within 60 days of the last day of each rebate period, the rebate invoice (CMS–R–144) or the minimum utilization information as described in section II(f) of this agreement, that is, information about Medicaid utilization of covered outpatient drugs that were paid for during the rebate period. Additionally, the Secretary will expect any changes to prior quarterly state drug utilization data to be reported at the same time.

(b) The Secretary may survey those wholesalers and manufacturers that directly distribute their covered outpatient drugs to verify manufacturer prices and may impose civil monetary penalties as set forth in section 1927(b)(3)(B) of the Act and section IV of this agreement.

(c) The Secretary may audit manufacturer information reported under section 1927(b)(3)(A) of the Act.

**IV. Penalty Provisions**

(a) The Secretary may impose a civil monetary penalty under section III(b), as set forth in 1927(b)(3)(B) of the Act and applicable regulations, on a wholesaler, manufacturer, or direct seller of a covered outpatient drug, if a wholesaler, manufacturer, or direct seller of a covered outpatient drug refuses a request by the Secretary, or the Secretary's designee, for information about covered outpatient drug charges or prices or knowingly provides false information, including in any of its quarterly reports to the Secretary. The provisions of section 1128A of the Act (other than subsection (a) (with respect to amounts of penalties or additional assessments) and (b)) shall apply as set forth in section 1927(b)(3)(B) of the Act and applicable regulations.

(b) The Secretary may impose a civil monetary penalty, for each item of false information as set forth in 1927(b)(3)(C)(ii) of the Act and applicable regulations.

(c) The Secretary may impose a civil monetary penalty for failure to provide timely information on AMP, best price or base date AMP. The amount of the penalty shall be determined as set forth in 1927(b)(3)(C)(i) of the Act and applicable regulations.

(d) Nothing in this Agreement shall be construed to limit the remedies available to the United States or the states for a violation of this Agreement or any other provision of law.

**V. Dispute Resolution**

(a) In the event a manufacturer discovers a potential discrepancy with state drug utilization data on the rebate invoice, which the manufacturer and state in good faith are unable to resolve prior to the payment due date, the manufacturer will submit a Reconciliation of State Invoice (ROSI) form, the CMS–304, to the state. If such a discrepancy is discovered for a prior rebate period's invoice, the manufacturer will submit a Prior Quarter Adjustment Statement (PQAS) form, CMS–304a, to the state.

(b) If the manufacturer disputes in good faith any part of the state drug utilization data on the rebate invoice, the manufacturer shall pay the state for the rebate units not in dispute within the required due date in II(f). Upon resolution of the dispute, the manufacturer will either pay the balance due, if any, plus interest as set forth in section 1903(d)(5) of the Act, or be issued a credit by the state by the due date of the next quarterly payment in II(f).

(c) The state and the manufacturer will use their best efforts to resolve a dispute arising under (a) or (b) above within 60 days of the state's receipt of the manufacturer's ROSI/PQAS. In the event that the state and manufacturer are not able to resolve the dispute within 60 days, CMS shall require the state to make available to the manufacturer the same state hearing mechanism available to providers for Medicaid payment disputes.

(d) Nothing in this section shall preclude the right of the manufacturer to audit the state drug utilization data reported (or required to be reported) by the state. The Secretary encourages the manufacturer and the state to develop mutually beneficial audit procedures.

(e) The state hearing mechanism is not binding on the Secretary for

purposes of the Secretary's authority to implement the civil money penalty provisions of the statute or this agreement.

**VI. Confidentiality Provisions**

(a) Pursuant to section 1927(b)(3)(D) of the Act and this agreement, information disclosed by the manufacturer in connection with this agreement is confidential and, notwithstanding other laws, will not be disclosed by the Secretary or State Medicaid Agency in a form which reveals the manufacturer, or prices charged by the manufacturer, except as authorized under section 1927(b)(3)(D).

(b) The manufacturer will hold state drug utilization data confidential. If the manufacturer audits this information or receives further information on such data, that information shall also be held confidential. Except where otherwise specified in the Act or agreement, the manufacturer will observe confidentiality statutes, regulations, and other properly promulgated policy concerning such data.

(c) Notwithstanding the nonrenewal or termination of this agreement for any reason, these confidentiality provisions will remain in full force and effect.

**VII. Nonrenewal and Termination**

(a) Unless otherwise terminated by either party pursuant to the terms of this agreement, the agreement shall be effective beginning on the date specified in section II(h) of this agreement and shall be automatically renewed for additional successive terms of one year unless the manufacturer gives written notice of intent not to renew the agreement at least 90 days before the end of the current period.

(b) In accordance with section VII(a) of this agreement, the manufacturer may terminate the agreement for any reason, and such termination shall become effective the later of the first day of the first rebate period beginning 60 days after the manufacturer gives written notice requesting termination, or CMS initiates termination via written notice to the manufacturer.

The Secretary may terminate the agreement for failure of a manufacturer to make rebate payments to the state(s), failure to report required data, for other violations of this agreement, or other good cause upon 60 days prior written notice to the manufacturer of the existence of such violation or other good cause. The Secretary shall provide, upon request, a manufacturer with a hearing concerning such a termination, but such hearing shall not delay the effective date of the termination.

(c) Manufacturers on the Office of Inspector General's (OIG's) List of Excluded Individuals/Entities (Exclusion List) will be subject to immediate termination from the Medicaid drug rebate program unless and until the manufacturer is reinstated by the OIG. Appeals of exclusion and any reinstatement will be handled in accordance with section 1128 of the Act and applicable regulations. Manufacturers that are on the OIG Exclusion List and are reinstated by the OIG under certain circumstances may be evaluated for reinstatement to the Medicaid drug rebate program by CMS. Reinstatement to the Medicaid drug rebate program would be for the next rebate period that begins more than 60 days from the date of the OIG's reinstatement of the manufacturer after exclusion.

(d) If this rebate agreement is terminated, the manufacturer is prohibited from entering into another rebate agreement as set forth in section 1927(b)(4)(C) of the Act for at least one rebate period from the effective date of the termination, and the manufacturer addresses to the satisfaction of CMS any outstanding violations from any previous rebate agreement(s), including, but not limited to, payment of any outstanding rebates and good faith efforts to appeal or resolve matters pending with the OIG, unless the Secretary finds good cause for earlier reinstatement.

(e) Any nonrenewal or termination will not affect rebates due before the effective date of termination.

**VIII. General Provisions**

(a) This agreement is subject to any changes in the Medicaid statute or regulations that affect the rebate program.

(b) Any notice required to be given pursuant to the terms and provisions of this agreement will be permitted in writing or electronically.

Notice to the Secretary will be sent to: Centers for Medicaid and CHIP Services, Disabled & Elderly Health Programs Group, Division of Pharmacy, Mail Stop S2–14–26, 7500 Security Blvd., Baltimore, MD 21244.

The CMS address may be updated upon notice to the manufacturer.

Notice to the manufacturer will be sent to the email and/or physical mailing address as provided under section X of this agreement and updated upon manufacturer notification to CMS at the email and/or address in this agreement.

(c) In the event of a transfer in ownership of the manufacturer, this agreement and any outstanding rebate liability are automatically assigned to the new owner subject to the conditions as set forth in section 1927 of the Act.

(d) Nothing in this agreement will be construed to require or authorize the commission of any act contrary to law. If any provision of this agreement is found to be invalid by a court of law, this agreement will be construed in all respects as if any invalid or unenforceable provision were eliminated, and without any effect on any other provision.

(e) Nothing in this agreement shall be construed as a waiver or relinquishment of any legal rights of the manufacturer or the Secretary under the Constitution, the Act, other federal laws, or state laws.

(f) The rebate agreement shall be construed in accordance with Federal law and ambiguities shall be interpreted in the manner which best effectuates the statutory scheme.

(g) The terms ''State Medicaid Agency'' and ''Manufacturer'' incorporate any contractors which fulfill responsibilities pursuant to the agreement unless specifically provided for in the rebate agreement or specifically agreed to by an appropriate CMS official.

(h) Except for the conditions specified in II(g) and VIII(a), this agreement will not be altered except by an amendment in writing signed by both parties. No person is authorized to alter or vary the terms unless the alteration appears by way of a written amendment, signed by duly appointed representatives of the Secretary and the manufacturer.

(i) In the event that a due date falls on a weekend or Federal holiday, the report or other item will be due on the first business day following that weekend or Federal holiday.

**IX. CMS–367**

CMS–367 attached hereto is part of this agreement.

**X. Signatures**

FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES

By: _____

(signature)

Date: _____

Title: Director

Disabled and Elderly Health Programs Group

Center for Medicaid and CHIP Services

Centers for Medicare & Medicaid Services

U.S. Department of Health and Human Services

ACCEPTED FOR THE MANUFACTURER

I certify that I have made no alterations, amendments or other changes to this rebate agreement.

By: _____
(signature)

(please print name) _____ _____

Title: _____ Manufacturer Labeler Code(s): _____

Name of Manfacturer: _____ Date: _____

Manufacturer Address _____

BILLING CODE 4120–01–P

**CMS-367a**

**CMS RECORD SPECIFICATION**
**DDR QUARTERLY PRICING DATA**
**TEXT FILE FOR TRANSFER TO CMS**

Source: Drug Manufacturers
Target: CMS

| Field | Size | Position | Remarks |
|---|---|---|---|
| ***Record ID*** | 1 | 1 - 1 | Constant of "Q" |
| Labeler Code | 5 | 2 - 6 | NDC #1 |
| Product Code | 4 | 7 - 10 | NDC #2 |
| Package Size | 2 | 11 – 12 | NDC #3 |
| Period Covered | 5 | 13 – 17 | QYYYY (Qtr/Yr) |
| Average Mfr Price | 12 | 18 – 29 | 99999.999999 |
| Best Price | 12 | 30 – 41 | 99999.999999 |
| Nominal Price | 9 | 42 – 50 | ***999999999*** |
| Customary Prompt Pay Disc. | 9 | 51 – 59 | ***999999999*** |
| Initial Drug Available for LE | 1 | 60-60 | ***Y, N, X or Z*** |
| Initial Drug | 9 | 61-69 | ***9 digits alpha-numeric*** |

CMS-367a (Exp. 03/31/2019), OMB No. 0938-0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578. The time required to complete this information collection is estimated to average 34.8 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have

comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

## QUARTERLY PRICING DATA FIELDS – CMS-367a

**Labeler Code**: First segment of National Drug Code that identifies the labeler. Numeric values only, 5-digit field, right-justified and zero-filled.

**Product Code**: Second segment of National Drug Code. Alpha-numeric values, 4-digit field, right justified, zero-filled.

**Package Size Code**: Third segment of National Drug Code. Alpha-numeric values, 2-digit field, right justified, zero-filled.

**Period Covered**: Calendar quarter and year covered by data submission. Numeric 5-digit field, QYYYY.

Valid values for Q:

1 = January 1 - March 31
2 = April 1 - June 30
3 = July 1 - September 30
4 = October 1 - December 31

Valid values for YYYY: 4-digit calendar year.

**Average Manufacturer's Price (AMP)**: The AMP per unit per product code for the period covered. If a drug is distributed in multiple package sizes, there will be one "weighted" AMP for the product, which is the same for all package sizes. Compute to 7 decimal places, and round to 6 decimal places. Numeric values, 12-digit field: 5 whole numbers, the decimal place ('.') and 6 decimal places; right-justified, zero-filled.

**Best Price**: Per the statute and rebate agreement, the lowest price available per product code, regardless of package size. Compute to 7 decimal places and round to 6 decimal places. Zero-fill for Non-Innovator Multiple Source drugs. Numeric values, 12-digit field: 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified, zero-filled.

**Nominal Price (NP)**: Sales that meet the statutory/regulatory definition of NP. Total dollar figure per 11-digit NDC, rounded to nearest dollar. 9-digit field; 9 whole numbers; right-justified, 0-filled. If no sales for a package size, fill with all zeroes.

**Customary Prompt Pay Discount (CPP)**: Labelers may 1) allocate an individual CPP discount dollar amount per 11-digit NDC in each package size's record, or 2) report an aggregate discount dollar amount, by adding up all package sizes, and report this aggregate CPP discount dollar amount in one package size record and zero-fill the remaining package sizes. 9-digit field; 9 whole numbers; right-justified, 0-filled.

**Initial Drug Available for LE:** Identifies whether a line extension drug has an Initial Drug available for the quarter/year being reported.

Valid Values:

Y = Yes
N = No
X = X-Not an LE Drug
Z = Not Applicable (for quarters prior to 2Q2016, or for quarters in which the NDC or labeler was not active).

**Initial Drug:** Identifies the drug (from which a line extension drug is derived) with the highest additional rebate ratio (calculated as a percentage of AMP) for the quarter/year being reported. The Initial Drug's additional rebate ratio is then used in the alternative URA calculation for the line extension drug. The Initial Drug should fall under the same corporation as the corresponding line extension drug, and must be active within the MDR Program at the time it is reported as an Initial Drug. Numeric values only, 9-digit field, right-justified and zero-filled.

**CMS-367b**

**CMS RECORD SPECIFICATION**
**DDR MONTHLY PRICING DATA**
**TEXT FILE FOR TRANSFER TO CMS**

Source: Drug Manufacturers
Target: CMS

| Field | Size | Position | Remarks |
|---|---|---|---|
| ***Record ID*** | 1 | 1 – 1 | Constant of "M" |
| Labeler Code | 5 | 2 – 6 | NDC #1 |
| Product Code | 4 | 7 – 10 | NDC #2 |
| Package Size | 2 | 11 – 12 | NDC #3 |
| ***Month*** | 2 | 13 – 14 | MM |
| Year | 4 | 15 – 18 | YYYY |
| Average Mfr Price | 12 | 19 – 30 | 99999.999999 |
| AMP Units | 14 | 31 – 44 | 99999999999.99 |
| 5i Threshold | 1 | 45 - 45 | Y, N, X, or Z |

CMS-367b (Exp. 03/31/2019), OMB No. 0938-0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578. The time required to complete this information collection is estimated to average 44.8 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

**CMS-367c**

**CMS RECORD SPECIFICATION**
**DDR DRUG PRODUCT DATA**
**TEXT FILE FOR TRANFER TO CMS**

**Source: Drug Manufacturers**

Target: CMS

| Field | Size | Position | Remarks |
|---|---|---|---|
| Record ID | 1 | 1 – 1 | Constant of "P" |
| Labeler Code | 5 | 2 – 6 | NDC #1 |
| Product Code | 4 | 7 – 10 | NDC #2 |
| Package Size Code | 2 | 11 - 12 | NDC #3 |
| Drug Category | 1 | 13 - 13 | See Data Element Definitions |
| Unit Type | 3 | 14 - 16 | See Data Element Definitions |
| FDA Approval Date | 8 | 17 - 24 | MMDDYYYY |
| FDA Thera. Eq. Code | 2 | 25 - 26 | See Data Element Definitions |
| Market Date | 8 | 27 - 34 | MMDDYYYY |
| Termination Date | 8 | 35 - 42 | MMDDYYYY |
| Drug Type Indicator | 1 | 43 – 43 | See Data Element Definitions |
| OBRA'90 Baseline AMP | 12 | 44 – 55 | 99999.999999 |
| Units Per Pkg Size | 11 | 56 – 66 | 9999999.999 |
| FDA Product Name | 63 | 67 – 129 | FDA Product Name |
| DRA Baseline AMP | 12 | 130 – 141 | 99999.999999 |
| Package Size Intro Date | 8 | 142 – 149 | MMDDYYYY |
| Purchased Product Date | 8 | 150 – 157 | MMDDYYYY |
| 5i Drug Indicator | 1 | 158 – 158 | See Data Element Definitions |
| 5i Route of Administration | 3 | 159 – 161 | See Data Element Definitions |
| ACA Baseline AMP | 12 | 162 - 173 | 99999.999999 |
| COD Status | 2 | 174 – 175 | See Data Element Definitions |

| | | | |
|---|---|---|---|
| FDA Appl. No./OTC Mono. No. | 7 | 176 – 182 | See Data Element Definitions |
| Line Extension Drug Indicator | 1 | 183 – 183 | See Data Element Definitions |
| *Reactivation Date | *n/a | *n/a | *This field may only be submitted online via DDR. See Data Element Definitions |

CMS-367c (Exp. 03/31/2019), OMB No. 0938-0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578. The time required to complete this information collection is estimated to average 43.5 hours per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

## DRUG PRODUCT DATA FIELDS – CMS-367c

**Labeler Code**: First segment of National Drug Code that identifies the labeler. Numeric values only, 5-digit field, right-justified and zero-filled.

**Product Code**: Second segment of National Drug Code. Alpha-numeric values, 4-digit field, right justified, zero-filled.

**Package Size Code**: Third segment of National Drug Code. Alpha-numeric values, 2-digit field, right justified, zero-filled.

**Drug Category**: Alpha-numeric values, 1 character.

Valid values:

S = Single source
I = Innovator multiple source

N = Non-innovator multiple source

**Unit Type**: One of the 8 unit types by which the drug is dispensed. Alpha-numeric values, 3-character field, left justified.

Valid values:

AHF = Injectable Anti-Hemophilic Factor
CAP = Capsule
SUP = Suppository
GM = Gram
ML = Milliliter
TAB = Tablet
TDP = Transdermal Patch
EA = EACH

**FDA Approval Date**: NDA or monograph approval date. Numeric values, 8-digit field, format: MMDDYYYY.

**FDA TEC**: FDA-assigned Therapeutic Equivalence Codes. Alpha-numeric values, 2 character field.

Valid values:

| | | |
|---|---|---|
| AA | BC | BS |
| AB | BD | BT |
| AN | BE | BX |
| AO | BN | NR - Not rated |
| AP | BP | A1 thru A9 = AB value |
| AT | BR | |

**Market Date**: For S and I drugs, the date the drug was first marketed by the original labeler (i.e., NDA holder). For N drugs, the date the drug was first marketed under the labeler's rebate agreement. If a Market Date falls on a date that is earlier than 9/30/1990, CMS will change it to 9/30/1990 in both the Medicaid Drug Rebate (MDR) system and the Drug Data Reporting for Medicaid (DDR) system since dates earlier than the start of the Drug Rebate Program have no bearing on the program. Numeric values, 8-digit field, format: MMDDYYYY.

**Termination Date**: The date a drug is withdrawn from the market or the drug's last lot expiration date. (Note: Initial termination date submissions may be provided via file transfer; however, subsequent changes to this field may only be submitted online via DDR.) Zero or blank fill if not present. Numeric values, 8-digit field, format: MMDDYYYY.

**Drug Type Indicator**: Identifies a drug as prescription (Rx) or over-the-counter (OTC).

Valid Values:
1 = Rx
2 = OTC

**OBRA'90 Baseline AMP**: The AMP per unit for the period that establishes the OBRA'90 Baseline AMP for innovator drugs. There will be one weighted baseline AMP for the product, which will be the same for all package sizes. Compute to 7 decimal places and round to 6 decimal places. Numeric values, 12-digit field: 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified, zero-filled.

**Units Per Package Size**: Total number of units in the smallest dispensable amount for the 11-digit NDC. Numeric values, 11-digit field: 7 whole numbers, the decimal ('.') and 3 decimal places; right-justified, zero-filled.

**FDA Product Name**: Drug name as it appears on FDA listing form. Alpha-numeric values, 63 characters, left justified, blank-fill unused positions.

**DRA Baseline AMP (optional):** For active innovator drugs with a Market Date less than July 1, 2007, the OBRA'90 or OBRA'93 Baseline AMP revised in accordance with relevant regulations and program guidance. There will be one weighted DRA Baseline AMP for the product, which will be the same for all package sizes. Per CMS-2238-FC, labelers had 4 quarters (i.e., January 2, 2008 – October 30, 2008) to report this optional field. Numeric values, 12-digit field; 5 whole numbers, the decimal ('.') and 6 decimal places, right- justified, zero-filled. Compute to 7 decimal places and round to 6 decimal places.

**Package Size Introduction Date:** The date the package size is first available on the market. Numeric values, 8-digit field, format: MMDDYYYY

**Purchased Product Date**: The date the company currently holding legal title to the NDC first markets the drug under this NDC (this date can result, for example, from the purchase of an NDC from one company by another company, the re-designation of an NDC from one of a company's labeler codes to another of that same company's labeler codes, cross-licensing arrangements, etc.). Zero or blank fill if not applicable. Numeric values, 8-digit field, format: MMDDYYYY

**5i Drug Indicator:** Identifies whether a product is a 5i Drug. Alpha-numeric values; 1-digit field.

Valid Values:

Y = Yes

N = No

**5i Route of Administration:** Identifies the method by which the 5i drug is administered to a patient. If a product is not a 5i drug, a value of "000" (Not Applicable) should be entered. Numeric values; 3-digit field.

Valid Values:

000 = Not Applicable
001 = Implanted
002 = Infused
003 = Inhaled
004 = Injected
005 = Instilled

**ACA Baseline AMP (Optional):** For active innovator drugs, the OBRA'90, OBRA'93 or DRA Baseline AMP revised in accordance with the statute and relevant program guidance. There will be one weighted ACA Baseline AMP for the product, which will be the same for all package sizes. Numeric values, 12-digit field; 5 whole numbers, the decimal ('.') and 6 decimal places; right-justified; zero-filled. Compute to 7 decimal places and round to 6 decimal places.

**Covered Outpatient Drug (COD) Status:** A category that identifies whether or not a product meets the statutory definition of a covered outpatient drug in accordance with sections 1927(k)(2) to 1927(k)(4) of the Social Security Act. Numeric values, 2-character field.

Valid Values:

01 = Abbreviated New Drug Application (ANDA)
02 = Biologics License Application (BLA)
03 = New Drug Application (NDA)
04 = NDA Authorized Generic
05 = DESI 5* – LTE/IRS drug for all indications
06 = DESI 6* – LTE/IRS drug withdrawn from market
07 = Prescription Pre-Natal Vitamin or Fluoride
08 = Prescription Dietary Supplement/Vitamin/Mineral (Other than Prescription Pre-Natal Vitamin or Fluoride)
09 = OTC Monograph Tentative
10 = OTC Monograph Final
11 = Unapproved Drug – Drug Shortage
12 = Unapproved Drug – Per 1927(k)(2)(A)(ii)
13 = Unapproved Drug – Per 1927(k)(2)(A)(iii)

*NDCs with a COD Status of DESI 5/6 are not eligible for coverage or rebates under the Medicaid Drug Rebate Program.

**FDA Application Number/OTC Monograph Number:** For drugs with a COD status of ANDA, BLA, NDA, or NDA Authorized Generic, this is the seven-digit application number that is assigned by the FDA for approval to market a generic drug or new drug in the United States. Numeric field; 7 characters, fill with leading zeros as needed.

For drugs with a COD status of OTC Monograph Tentative or Final, this is the FDA's regulatory citation for the OTC. 7 alpha-numeric characters. For drugs with a COD Status of OTC Monograph Final, the first four characters are a constant of "PART"; the last three characters are the numeric values for the appropriate regulatory citation for the product (for example, "225"). For drugs with a COD Status of OTC Monograph Tentative, the first four characters are a constant of "PART"; the last three characters are the numeric values for the appropriate regulatory citation for the product, or 3 zeros if a Monograph Number is not available.

For drugs with a COD Status other than ANDA, BLA, NDA, NDA Authorized Generic, OTC Monograph Final, or OTC Monograph Tentative, the FDA Application No./OTC Monograph No. field should be zero-filled.

**Reactivation Date:** The date on which a terminated product is re-introduced to the market. (Note: This field may only be submitted online via DDR and is **NOT** part of the actual File Transfer Layout.)

**Line Extension Drug Indicator:** Identifies whether a product is a line extension drug as defined in Section 1927 (c)(2)(C) of the Social Security Act.

Valid Values:

Y = Yes
N = No

**CMS-367d**

MEDICAID DRUG REBATE AGREEMENT

**ENCLOSURE B (PAGE 1 OF 2)**
**SUPPLEMENTAL DATA**

LABELER CODE (as assigned by FDA)

LABELER NAME (Corporate name associated with labeler code)

LEGAL CONTACT – Person to contact for legal issues concerning the rebate agreement

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

INVOICE CONTACT – Person responsible for processing invoice utilization data

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

Note: This sheet is to be returned with the signed rebate agreement. If more than one labeler code, attach one sheet for each code.

CMS-367d (Exp. 03/31/2019), OMB No. 0938-0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938-0578. The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

MEDICAID DRUG REBATE AGREEMENT

**ENCLOSURE B (PAGE 2 OF 2)**
**SUPPLEMENTAL DATA**

LABELER CODE (as assigned by FDA)

LABELER NAME (Corporate name associated with labeler code)

TECHNICAL CONTACT – Person responsible for sending and receiving data

NAME OF CONTACT

AREA PHONE NUMBER EXTENSION

FAX #

EMAIL ADDRESS:

NAME OF CORPORATION

STREET ADDRESS

CITY STATE ZIP CODE

Note: This sheet is to be returned with the signed rebate agreement. If more than one labeler code, attach one sheet for each code.

CMS-367d (Exp. 03/31/2019), OMB No. 0938-0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information

collection is 0938-0578. The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244-1850.

BILLING CODE 4120–01–C

CMS–367d (Exp. 03/31/2019), OMB No. 0938–0578 According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0938–0578. The time required to complete this information collection is estimated to average 1 hour per response, including the time to review instructions, gather the data needed, and complete and review the information collection. If you have comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to: CMS, 7500 Security Boulevard, Attn: PRA Reports Clearance Officer, Baltimore, Maryland 21244–1850.

Dated: August 11, 2016.

**Andrew M. Slavitt,**

*Acting Administrator, Centers for Medicare & Medicaid Services.*

Approved: October 18, 2016.

**Sylvia Burwell,**

*Secretary, Department of Health and Human Services.*

[FR Doc. 2016–26834 Filed 11–7–16; 11:15 am]

BILLING CODE 4120–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Administration for Children and Families

### Submission for OMB Review; Comment Request

*Title:* Responding to Intimate Violence in Relationship Programs (RIViR).

OMB No.: New Collection.

*Description:* The Administration for Children and Families (ACF), U.S. Department of Health and Human Services (HHS) is proposing a data collection as part of the ''Responding to Intimate Violence in Relationship programs'' (RIViR) study. This notice addresses testing of intimate partner violence (IPV) and teen dating violence (TDV) screener/protocols, to be conducted with approximately 1,200 participants from approximately six Healthy Marriage and Relationship Education (HMRE) grantees funded by the Office of Family Assistance (OFA).

There is little consensus on how HMRE programs should address IPV or TDV in their programs. To date, no IPV or TDV screening tools have been empirically tested among HMRE program participants. The objective of the proposed data collection is to test and validate IPV and TDV screening instruments among HMRE program participants. Findings from this data collection will be used to develop practical, responsive guidance on IPV and TDV screening and surrounding protocols for HMRE programs.

Data collection will entail testing eight screening instruments: Six closed-ended screening instruments (three for IPV, three for TDV), and two open-ended instruments (one for IPV, one for TDV). Trained HMRE grantee staff at approximately 6 grant programs will implement the four IPV screening tools among approximately 600 adult participants and the four TDV screening tools among approximately 600 youth participants. It is anticipated that each participant will engage in four rounds of data collection, one round for each IPV or TDV instrument, at least two weeks apart. Data collection is expected to occur through Spring 2019.

*Respondents:* HMRE grantee program participants: 600 youth (approximately ages 14–18) will participate in the TDV screener testing and 600 adults (ages 18 and older) will participate in the IPV screener testing.

ANNUAL BURDEN ESTIMATES

| Activity | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| IPV Screener 1 | 600 | 300 | 1 | .167 | 50 |
| IPV Screener 2 | 600 | 300 | 1 | .167 | 50 |
| IPV Screener 3 | 600 | 300 | 1 | .25 | 75 |
| TDV Screener 1 | 600 | 300 | 1 | .167 | 50 |
| TDV Screener 2 | 600 | 300 | 1 | .167 | 50 |
| TDV Screener 3 | 600 | 300 | 1 | .25 | 75 |
| Locator section for adults | 600 | 300 | 1 | .1 | 30 |
| Contact information form for parents of youth younger than 18 | 600 | 300 | 1 | .1 | 30 |
| Post screener questions for adults | 600 | 300 | 1 | .1 | 30 |
| Post screener questions for youth | 600 | 300 | 1 | .1 | 30 |
| Participant recruitment | 600 | 300 | 1 | .1 | 30 |

ANNUAL BURDEN ESTIMATES—Continued

| Activity | Total number of respondents | Annual number of respondents | Number of responses per respondent | Average burden per response (in hours) | Total annual burden hours |
|---|---|---|---|---|---|
| Administration of data collection protocol and record-keeping | 600 | 300 | 1 | .167 | 50 |

*Estimated Total Annual Burden Hours:* 520.

*Additional Information:* Copies of the proposed collection may be obtained by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 330 C Street SW., Washington, DC 20201, Attn: OPRE Reports Clearance Officer. All requests should be identified by the title of the information collection. Email address: *OPREinfocollection@acf.hhs.gov*.

*OMB Comment:* OMB is required to make a decision concerning the collection of information between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Email: *OIRA_SUBMISSION@OMB.EOP.GOV*, Attn: Desk Officer for the Administration for Children and Families.

**Mary Jones,**

*ACF/OPRE Certifying Officer.*

[FR Doc. 2016–27034 Filed 11–8–16; 8:45 am]

BILLING CODE 4184–73–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

*Name*: National Committee on Vital and Health Statistics (NCVHS), Full Committee Meeting.

*Dates and Times:*

Tuesday, November 29, 2016: 9:00 a.m.–5:30 p.m.

Wednesday, November 30, 2016: 8:30 a.m.–3:15 p.m.

*Place:* National Center for Health Statistics, 3311 Toledo Road, Hyattsville, Maryland 20782.

*Status:* Open.

*Purpose:* At the November 29–30, 2016 meeting, the Committee will focus on strategic planning resulting in a comprehensive 2017 Committee work plan at the time of adjournment. Individual work plans for each of the Subcommittees and the Work Group on HHS Data Access and Use also will be drafted. On the first day, the Committee will focus on legislatively mandated reports and activities such as the 12th Report to Congress, the next Affordable Care Act (ACA) Review Committee hearing, and requirements set forth in ACA section 10109. Additional areas where the Committee potentially could focus its attention in 2017 and beyond also will be discussed and considered for inclusion in its work plan. On the second day, the Committee will hear input from HHS officials on the Committee's proposed work plan and potential areas in which Committee expertise and input would be useful for the Department. Completion of reports and recommendations undertaken earlier in 2016 will also be discussed on the second day.

*Contact Person for More Information:* Substantive program information may be obtained from Rebecca Hines, MHS, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Hyattsville, Maryland 20782, telephone (301) 458–4715. Summaries of meetings and a roster of Committee members are available on the home page of the NCVHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda and information for remote audio access to the meetings will also be posted.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: November 3, 2016.

**James Scanlon,**

*Deputy Assistant Secretary for Planning and Evaluation, Office of the Assistant Secretary for Planning and Evaluation.*

[FR Doc. 2016–27083 Filed 11–8–16; 8:45 am]

BILLING CODE 4151–05–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Performance Review Board Members; Appointments

Title 5, U.S.C. Section 4314(c)(4) of the Civil Service Reform Act of 1978, Public Law 95–454, requires that the appointment of Performance Review Board Members be published in the **Federal Register**. The following persons may be named to serve on the Performance Review Boards or Panels, which oversee the evaluation of performance appraisals of Senior Executive Service members of the Department of Health and Human Services.

| Employee Last Name | Employee First Name |
|---|---|
| Bush | Lania |
| Conley | Shelia |
| Fantinato | Jessica |
| Gabriel | Edward |
| Gentile | John |
| Goldhaber | Ben |
| Hall | William |
| Horowitz | David |
| Johnson | Jeffrey |
| Kappeler | Evelyn |
| Katz | Ruth |
| Killoran | Beth |
| Kretschmaier | Michon |
| Lee | Gia |
| Lewis | Lisa |
| McDaniel | Eileen |
| Novy | Steven |

| Employee Last Name | Employee First Name |
|---|---|
| Phillips | Sally |
| Posnack | Steven |
| Savage | Lucia |
| Scanlon | James |
| Teti | Catherine |
| Tobias | Constance |
| Ziegler Ragland | Cheryl |

Dated: November 3, 2016.

**Charles McEnerney,**

*Director, Executive and Scientific Resources Division.*

[FR Doc. 2016–27082 Filed 11–8–16; 8:45 am]

BILLING CODE 4151–17–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute on Drug Abuse; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of a meeting of the Board of Scientific Counselors, NIDA.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Institute on Drug Abuse, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* Board of Scientific Counselors, NIDA.

*Date:* December 13–14, 2016.

*Closed:* 8:30 a.m. to 5:00 p.m.

*Agenda:* To review and evaluate personal qualifications and performance, and competence of individual investigators.

*Place:* Intramural Research Program, National Institute on Drug Abuse, NIH, Johns Hopkins Bayview Campus, Baltimore, MD 21223.

*Contact Person:* Joshua Kysiak, Program Specialist, Biomedical Research Center, Intramural Research Program, National Institute on Drug Abuse, NIH, DHHS, 251 Bayview Boulevard, Baltimore, MD 21224, 443–740–2465, *kysiakjo@nida.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos.: 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: November 3, 2016.

**Natasha M. Copeland,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–26970 Filed 11–8–16; 8:45 am]

BILLING CODE 4140–01–P

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of General Medical Sciences Special Emphasis Panel; Review of P01 Application.

*Date:* December 8, 2016.

*Time:* 1:00 p.m. to 3:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Natcher Building, Rm 3AN12, 45 Center Drive, Bethesda, MD 20892, (Telephone Conference Call).

*Contact Person:* Lisa Dunbar, Ph.D., Scientific Review Officer, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, 45 Center Drive, Room 3AN12, Bethesda, MD 20892, 301–594–2849, *dunbarl@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives; 93.859, Biomedical Research and Research Training, National Institutes of Health, HHS)

Dated: November 3, 2016.

**Melanie J. Gray,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–26971 Filed 11–8–16; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### National Institutes of Health

### Eunice Kennedy Shriver National Institute of Child Health & Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

*Name of Committee:* National Institute of Child Health and Human Development Special Emphasis Panel; Structural Birth Defects.

*Date:* December 9, 2016.

*Time:* 1:00 p.m. to 4:00 p.m.

*Agenda:* To review and evaluate grant applications.

*Place:* National Institutes of Health, Building 31, 31 Center Drive, Bethesda, MD 20892 (Telephone Conference Call).

*Contact Person:* Cathy J. Wedeen, Ph.D., Scientific Review Officer, Division of Scientific Review, OD, Eunice Kennedy Shriver National Institute of Child Health and Human Development, NIH, DHHS 6710B Bethesda Drive, Bethesda, MD 20892, 301–435–6878, *wedeenc@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: November 3, 2016.

**Michelle Trout,**

*Program Analyst, Office of Federal Advisory Committee Policy.*

[FR Doc. 2016–26969 Filed 11–8–16; 8:45 am]

**BILLING CODE 4140–01–P**

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Substance Abuse and Mental Health Services Administration

### Center for Substance Abuse Prevention; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given that the Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Substance Abuse Prevention (CSAP) Drug Testing Advisory Board (DTAB) will meet via web conference on December 7, 2016, from 10:00 a.m. to 5:00 p.m. EST.

The Board will meet in closed session on December 7, 2016, from 10:00am to 5:00pm, to review and discuss draft Mandatory Guidelines for Federal Workplace Drug Testing Programs (Hair) proposals. Therefore, this meeting is closed to the public as determined by the Administrator, SAMHSA, in accordance with 5 U.S.C. 552b(c)(9)(B) and 5 U.S.C. App. 2, Section 10(d).

Meeting information and a roster of DTAB members may be obtained by accessing the SAMHSA Advisory Committees Web site, *http://www.samhsa.gov/about-us/advisory-councils/drug-testing-advisory-board-dtab,* or by contacting Brian Makela.

*Committee Name:* Substance Abuse and Mental Health Services Administration's Center for Substance Abuse Prevention, Drug Testing Advisory Board.

*Dates/Time/Type:* December 7, 2016, from 10:00 a.m. to 5:00 p.m., EST: Closed.

*Place:* Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20857.

*Contact:* Brian Makela, Division of Workplace Programs, 5600 Fishers Lane, Room 16N02B, Rockville, Maryland 20857.

*Telephone:* 240–276–2600.

*Fax:* 240–276–2610.

*Email: brian.makela@samhsa.hhs.gov.*

**Brian Makela,**

*Chemist, Substance Abuse and Mental Health Services Administration.*

[FR Doc. 2016–27032 Filed 11–8–16; 8:45 am]

**BILLING CODE 4162–20–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R4–ES–2016–N193]; [FXES11140400000–178–FF04E00000]**

### Endangered Species Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with listed species unless a Federal permit is issued that allows such activities. The Act requires that we invite public comment before issuing these permits.

**DATES:** We must receive written data or comments on the applications at the address given in **ADDRESSES** by December 9, 2016.

**ADDRESSES:**

*Reviewing Documents:* Documents and other information submitted with the applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service Regional Office, Ecological Services, 1875 Century Boulevard, Atlanta, GA 30345 (Attn: Karen Marlowe, Permit Coordinator).

*Submitting Comments:* If you wish to comment, you may submit comments by any one of the following methods:

- *U.S. mail or hand-delivery:* Fish and Wildlife Service's Regional Office (see above).
- *Email: permitsR4ES@fws.gov.* Please include your name and return address in your email message. If you do not receive a confirmation from the Fish and Wildlife Service that we have received your email message, contact us directly at the telephone number listed in **FOR FURTHER INFORMATION CONTACT**.

**FOR FURTHER INFORMATION CONTACT:** Karen Marlowe, Permit Coordinator,

205–726–2667 (telephone) or 205–726–2479 (fax).

**SUPPLEMENTARY INFORMATION:** We invite review and comment from local, State, and Federal agencies and the public on applications we have received for permits to conduct certain activities with endangered and threatened species under section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.;* Act), and our regulations in the Code of Federal Regulations (CFR) at 50 CFR 17. With some exceptions, the Act prohibits activities with listed species unless a Federal permit is issued that allows such activities. The Act requires that we invite public comment before issuing these permits.

**Public Availability of Comments**

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Permit Applications**

*Permit Application Number: TE 136808–3*

Applicant: Loggerhead Marinelife Center, Juno Beach, FL

The applicant requests a permit to tag (flipper tag, PIT-tag, and attach satellite transmitters) to rehabilitated sea turtles prior to release in Florida. The sea turtle species are the green (*Chelonia mydas*), loggerhead (*Caretta caretta*), leatherback (*Dermochelys coriacea*), hawksbill (*Eretmochelys imbricata*), Kemp's ridley (*Lepidochelys kempii*), and olive ridley (*Lepidochelys olivacea*) sea turtles.

*Permit Application Number: TE 06337C–0*

Applicant: Zachary J. Loughman, West Liberty, WV

The applicant requests a permit to take (capture, handle, identify, release) the Guyandotte River crayfish (*Cambarus veteranus*) and Big Sandy crayfish (*Cambarus callainus*) for presence/absence surveys in Kentucky, Virginia, and West Virginia.

*Permit Application Number: TE 06338C–0*

Applicant: David A. Foltz, Weirton, WV

The applicant requests a permit to take (capture, handle, identify, release) the Guyandotte River crayfish (*Cambarus veteranus*) and Big Sandy crayfish (*Cambarus callainus*) in Kentucky, Virginia, and West Virginia and 22 species of endangered and threatened freshwater mussels in Ohio and West Virginia for presence/absence surveys.

*Permit Application Number: TE 139474–8*

Applicant: FTN Associates, Ltd., Little Rock, AR

The applicant requests renewal of their permit to continue to live-trap and release the American burying beetle (*Nicrophorus americanus*) for presence/absence surveys in Arkansas, Kansas, Oklahoma, and Texas.

*Permit Application Number: TE 22311A–3*

Applicant: Anna George, Tennessee Aquarium, Chattanooga, TN

The applicant requests amendment of her current permit to add authorization to take (capture, handle, take fin clips, and release) the Cumberland darter (*Etheostoma susanae*) in Kentucky and Tennessee for a population genetics study.

*Permit Application Number: TE 171516–5*

Applicant: Copperhead Environmental Consulting, Paint Lick, KY

The applicant requests amendment of their current permit to add the State of Virginia as a geographic location in which presence/absence surveys for 36 species of endangered mussels may be conducted and add authorization to take (capture, handle, release) the Kentucky arrow darter (*Etheostoma spilotum*) in Kentucky for presence/absence surveys.

*Permit Application Number: TE 11044C–0*

Applicant: Tyler C. Newman, Richmond, KY

The applicant requests a permit to take (mist-net, handle, band, radio-tag) the gray bat (*Myotis grisescens*), Indiana bat (*Myotis sodalis*), and northern long-eared bat (*Myotis septentrionalis*) in 37 States for presence/absence surveys.

**Authority:** We provide this notice under section 10(c) of the Act.

Dated: November 2, 2016.

**Christine Willis,**

*Acting Assistant Regional Director, Ecological Services, Southeast Region.*

[FR Doc. 2016–27039 Filed 11–8–16; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–HQ–FAC–2016–N183; FF09F42300–FVWF97920900000–XXX]**

### Sport Fishing and Boating Partnership Council

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of meeting.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), announce a public meeting of the Sport Fishing and Boating Partnership Council (Council). A Federal advisory committee, the Council was created in part to foster partnerships to enhance public awareness of the importance of aquatic resources and the social and economic benefits of recreational fishing and boating in the United States. This meeting is open to the public, and interested persons may make oral statements to the Council or may file written statements for consideration.

**DATES:** The meeting will take place Tuesday, November 29, 2016, from 10:30 a.m. to 4:30 p.m. (Eastern Time) and Wednesday, November 30, 2016, from 8:30 a.m. to 4:00 p.m. For deadlines and directions on registering to attend the meeting, submitting written material, and/or giving an oral presentation, please see ''Public Input'' under **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** The meeting will be held at the Department of the Interior, North Penthouse Conference Room, 1849 C Street NW., Washington, DC 20240.

**FOR FURTHER INFORMATION CONTACT:** Brian Bohnsack, Council Coordinator, Sport Fishing and Boating Partnership Council, 5275 Leesburg Pike, Mailstop FAC, Falls Church, VA 22041; telephone (703) 358–2435; fax (703) 358–2487; or email *brian_bohnsack@fws.gov.*

**SUPPLEMENTARY INFORMATION:** In accordance with the requirements of the Federal Advisory Committee Act, 5 U.S.C. App., we announce that the Sport Fishing and Boating Partnership Council will hold a meeting.

**Background**

The Council was formed in January 1993 to advise the Secretary of the Interior, through the Director of the U.S. Fish and Wildlife Service, on aquatic conservation endeavors that benefit recreational fishery resources and recreational boating and that encourage partnerships among industry, the public, and government. The Council represents the interests of the public

and private sectors of the recreational fishing, boating, and conservation communities and is organized to enhance partnerships among industry, constituency groups, and government. The 18-member Council, appointed by the Secretary of the Interior, includes the Service Director and the president of the Association of Fish and Wildlife Agencies, who both serve in ex officio capacities. Other Council members are directors from State agencies responsible for managing recreational fish and wildlife resources and individuals who represent the interests of saltwater and freshwater recreational fishing, recreational boating, the recreational fishing and boating industries, recreational fisheries resource conservation, Native American tribes, aquatic resource outreach and education, and tourism. Background information on the Council is available at *http://www.fws.gov/sfbpc.*

**Meeting Agenda**

The Council will hold a meeting to consider issues affecting recreational fishing and boating programs on federal lands. An abbreviated list of planned agenda items include:

- An update on the effects of the Fixing America's Surface Transportation (FAST) Act on Sport Fish Restoration and Boating Trust Fund grant programs and other updates from the Services' Wildlife and Sport Fish Restoration Program;
- An update and discussion regarding the Council's proposed pilot project to improve the efficiency of federal agencies' permitting processes associated with boating infrastructure projects (*e.g.,* boat dock replacement and maintenance, boat ramp construction and maintenance);
- An update on the joint effort by the Sport Fishing and Boating Partnership Council, Recreational Boating and Fishing Foundation, Association of Fish and Wildlife Agencies and U.S. Fish and Wildlife Service to develop performance metrics for Recreational Boating and Fishing Foundation (RBFF) with its implementation of the National Outreach and Communication Program;
- An update from the RBFF;
- A discussion and development of the Council's recommendations of priorities for Department of the Interior agencies fishing and boating programs for the future;
- An update on the status of the U.S. Fish and Wildlife Service's Fish and Aquatic Conservation Program;
- Other miscellaneous Council business and programmatic updates.

The final agenda will be posted on the Internet at *http://www.fws.gov/sfbpc.*

**Public Input**

| If you wish to | Then you must contact the Council Coordinator (see **FOR FURTHER INFORMATION CONTACT**) no later than |
|---|---|
| Attend the meeting | Wednesday, November 23, 2016. |
| Submit written information or questions before the meeting for the council to consider during the meeting. | Wednesday, November 23, 2016. |
| Give an oral presentation during the meeting | Wednesday, November 23, 2016. |

*Attendance*

The Council meeting will be held at the North Penthouse, Department of the Interior, Main Interior Building, 1849 C Street NW., Washington, DC 20240. Signs will be posted to direct attendees to the specific conference room.

*Submitting Written Information or Questions*

Interested members of the public may submit relevant information or questions for the Council to consider during the meeting. Written statements must be received by the date listed above in ''Public Input,'' so that the information may be made available to the Council for their consideration prior to the meeting. Written statements must be supplied to the Council Coordinator in one of the following formats: One hard copy with original signature, and one electronic copy via email (acceptable file formats are Adobe Acrobat PDF, MS Word, MS PowerPoint, or rich text file).

*Giving an Oral Presentation*

Individuals or groups requesting to make an oral presentation during the meeting will be limited to 2 minutes per speaker, with no more than a total of 30 minutes for all speakers. Interested parties should contact the Council Coordinator, in writing (preferably via email; see **FOR FURTHER INFORMATION CONTACT**), to be placed on the public speaker list for this meeting. To ensure an opportunity to speak during the public comment period of the meeting, members of the public must register with the Council Coordinator. Registered speakers who wish to expand upon their oral statements, or those who had wished to speak but could not be accommodated on the agenda, may submit written statements to the Council Coordinator up to 30 days subsequent to the meeting.

**Meeting Minutes**

Summary minutes of the meeting will be maintained by the Council's Designated Federal Officer (see **FOR FURTHER INFORMATION CONTACT**) and will be available for public inspection within 90 days of the meeting and will be posted on the Council's Web site at *http://www.fws.gov/sfbpc.*

Dated: October 25, 2016.

**Stephen Guertin,**

*Deputy Director.*

[FR Doc. 2016–27042 Filed 11–8–16; 8:45 am]

**BILLING CODE 4333–15–P**

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

**[FWS–R8–ES–2016–N194]; [FXES11130800000–178–FF08E00000]**

### Endangered Species Recovery Permit Applications

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of receipt of permit applications; request for comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (Act) prohibits activities with endangered and threatened species unless a Federal permit allows such activity. The Act also requires that we invite public comment before issuing recovery permits to conduct certain activities with endangered species.

**DATES:** Comments on these permit applications must be received on or before December 9, 2016.

**ADDRESSES:** Written data or comments should be submitted to the Endangered Species Program Manager, U.S. Fish and Wildlife Service, Region 8, 2800 Cottage

Way, Room W–2606, Sacramento, CA 95825 (telephone: 916–414–6464; fax: 916–414–6486). Please refer to the respective permit number for each application when submitting comments.

**FOR FURTHER INFORMATION CONTACT:** Daniel Marquez, Fish and Wildlife Biologist; see **ADDRESSES** (telephone: 760–431–9440; fax: 760–431–9624).

**SUPPLEMENTARY INFORMATION:**

The following applicants have applied for scientific research permits to conduct certain activities with endangered species under section 10(a)(1)(A) of the Act (16 U.S.C. 1531 *et seq.*). We seek review and comment from local, State, and Federal agencies and the public on the following permit requests

**Applicants**

*Permit No. TE–04969C*

Applicant: Tara DeSilva, Livermore, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–06677C*

Applicant: Mercedes Gaffney, Sadie McGarvey, Brisbane, California

The applicant requests a permit to take (harass by survey, capture, handle, and release) the California tiger salamander (Santa Barbara County and Sonoma County Distinct Population Segment (DPS)) (*Ambystoma californiense*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–007520*

Applicant: Julie Simonsen, San Diego, California

The applicant requests a permit renewal to take (harass by survey, capture, and release) the Casey's June beetle (*Dinacoma caseyi*); and take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California, for the purpose of enhancing the species' survival.

*Permit No. TE–787644*

Applicant: William Vanherweg, San Luis Obispo, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, mark, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), and San Joaquin kit fox (*Vulpes macrotis mutica*); and take (harass by survey, capture, handle, and release) the giant kangaroo rat (*Dipodomys ingens*), and Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–810380*

Applicant: Whitney Environmental Consulting, Rocklin, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–176209*

Applicant: San Francisco International Airport, San Francisco, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, transfer, hold for less than 24 hours, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*) in conjunction with survey and habitat enhancement activities in lands on and near the San Francisco International Airport within San Mateo county, California for the purpose of enhancing the species' survival.

*Permit No. TE–97717A*

Applicant: Melissa Blundell, Oxnard, California

The applicant requests a permit renewal to take (locate and monitor nests and remove brown-headed cowbird (*Molothrus ater*) eggs and chicks from parasitized nests) the least Bell's vireo (*Vireo bellii pusillus*); and take (harass by survey) the southwestern willow flycatcher (*Empidonax traillii extimus*) in conjunction with survey and population monitoring activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–781220*

Applicant: William Wagner, Hemet, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–081306*

Applicant: Howard Clark, Clovis, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), San Bernardino Merriam's kangaroo rat (*Dipodomys merriami parvus*), Stephens' kangaroo rat (*Dipodomys stephensi*), Morro Bay kangaroo rat (*Dipodomys heermanni morroensis*), Pacific pocket mouse (*Perognathus longimembris pacificus*), riparian brush rabbit (*Sylvilagus bachmani riparius*), riparian woodrat (*Neotoma fuscipes riparia*), Buena Vista Lake shrew (*Sorex ornatus relictus*), salt marsh harvest mouse (*Reithrodontomys raviventris*), and blunt-nosed leopard lizard (*Gambelia silus*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–797267*

Applicant: Triple HS, Inc., Los Gatos, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the Fresno kangaroo rat (*Dipodomys nitratoides exilis*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat (*Dipodomys ingens*), and tidewater goby (*Eucyclogobius newberryi*); take (harass by survey, capture, handle, measure, mark, collect fur samples, and release) the salt marsh harvest mouse (*Reithrodontomys raviventris*); take (harass by survey, capture, handle, collect tissue samples for genetic analysis, and release) the California tiger salamander ((central distinct population segment (DPS), Santa Barbara County DPS, and Sonoma County DPS)

(*Ambystoma californiense*)); take (harass by survey using taped vocalization and collect sediment samples from occupied habitat) the California Ridgway's rail (California clapper r.) (*Rallus obsoletus obsoletus*) (*R. longirostris o.*); take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey and research activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–06873C*

Applicant: Environmental Science Associates, San Diego, California

The applicant requests a new permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–163017*

Applicant: California Department of Fish and Wildlife, Sacramento, California

The applicant requests a permit renewal to take (capture, handle, mark, collect biological samples, radio-collar, survey, translocate, and release) the Peninsular bighorn sheep (*Ovis canadensis nelsoni*) in conjunction with survey activities and collection of biological information throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–163017*

Applicant: The Living Desert, Palm Desert, California

The applicant requests a new permit to take (administer veterinary care for, house, and display for educational purposes) the Peninsular bighorn sheep (*Ovis canadensis nelsoni*) in conjunction with general husbandry activities at the Living Desert Zoological park in Palm Desert California for the purpose of enhancing the species' survival.

*Permit No. TE–022230*

Applicant: Jeff Kidd, Murrieta, California

The applicant requests a permit renewal to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*) and take (harass by performing predator control activities within habitat) the California least tern (*Sternula antillarum browni*) (*Sterna a. browni*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–793645*

Applicant: Donald Alley, Brookdale, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in Monterey, San Mateo, Santa Cruz, and San Luis Obispo Counties, California, in conjunction with survey activities for the purpose of enhancing the species' survival.

*Permit No. TE–08276C*

Applicant: Shannon Brown, Encinitas, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–08288C*

Applicant: Robin Kinmont, Escondido, California

The applicant requests a new permit to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–08293C*

Applicant: Travis Marella, Santa Paula, California

The applicant requests a new permit to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–016591*

Applicant: Condor Country Consulting, Inc., Martinez, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, collect branchiopod cysts, collection and translocation of inocula from dry vernal pools to created pools) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); take (harass by survey, capture, handle, mark, and release) the San Francisco garter snake (*Thamnophis sirtalis tetrataenia*); and take (harass by survey, capture, handle, and release) the California tiger salamander ((central distinct population segment (DPS), Santa Barbara County DPS, and Sonoma County DPS) (*Ambystoma californiense*)) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–93072A*

Applicant: Joel Mulder, Ventura, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, and release) the tidewater goby (*Eucyclogobius newberryi*) and the unarmored threespine stickleback (*Gasterosteus aculeatus williamsoni*) in conjunction with survey activities throughout the range of the species in California, for the purpose of enhancing the species' survival.

*Permit No. TE–046262*

Applicant: Blake Claypool, San Diego, California

The applicant requests a new permit to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–221294*

Applicant: Michael Galloway, San Diego, California

The applicant requests a permit renewal and amendment to take (survey by pursuit) the Quino checkerspot butterfly (*Euphydryas editha quino*); and take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*) in conjunction with survey activities in San Diego County, California, for the purpose of enhancing the species' survival.

*Permit No. TE–035336*

Applicant: Vollmar Natural Lands Consulting, Berkeley, California

The applicant requests a permit renewal to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), San Diego fairy shrimp (*Branchinecta sandiegonensis*), Riverside fairy shrimp (*Streptocephalus woottoni*), and vernal pool tadpole shrimp (*Lepidurus packardi*); take (harass by survey, capture, handle, and release) the California tiger salamander ((central distinct population segment (DPS), Santa Barbara County DPS, and Sonoma County DPS) (*Ambystoma californiense*)); and remove/reduce to possession *Amsinckia grandiflora* (large-flowered fiddleneck) from lands under Federal jurisdiction in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

*Permit No. TE–048739*

Applicant: Daniel A. Cordova of U.S. Bureau of Reclamation, Sacramento, California

The applicant requests a permit amendment to take (harass by survey, capture, handle, release, collect vouchers, and collect branchiopod cysts) the Conservancy fairy shrimp (*Branchinecta conservatio*), longhorn fairy shrimp (*Branchinecta longiantenna*), and vernal pool tadpole shrimp (*Lepidurus packardi*); in conjunction with survey activities throughout the range of the species in California for the purpose of enhancing the species' survival.

**Public Comments**

We invite public review and comment on each of these recovery permit applications. Comments and materials we receive will be available for public inspection, by appointment, during normal business hours at the address listed in the **ADDRESSES** section of this notice.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

**Karen A. Jensen,**

*Acting Regional Director, Pacific Southwest Region, Sacramento, California.*

[FR Doc. 2016–27043 Filed 11–8–16; 8:45 am]

BILLING CODE 4333–15–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLORW00000.L16100000 .DF0000.LXSS1080000.17XL1109AF .HAG17–0030]**

### Notice of Public Meeting for the San Juan Islands National Monument Advisory Committee

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Notice of public meeting.

**SUMMARY:** In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972, and the U.S. Department of the Interior, Bureau of Land Management (BLM), the San Juan Islands National Monument Advisory Committee (MAC) will meet as indicated below:

**DATES:** The MAC will hold a public meeting Monday, November 28th, 2016. The meeting will run from 8:30 a.m. to 4:30 p.m. The meeting will be held at San Juan Island Grange Hall in Friday Harbor on San Juan Island. Public comment periods will be available in the afternoon from noon until 12:30 and 3:00 p.m. until 3:30 p.m.

**FOR FURTHER INFORMATION CONTACT:** Marcia deChadenèdes, San Juan Islands National Monument Manager, P.O. Box 3, 37 Washburn Pl., Suite 101, Lopez Island, Washington 98261, (360) 468–3051, or *mdechade@blm.gov.* Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1 (800) 877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The twelve member San Juan Islands MAC was chartered to provide information and advice regarding the development of the San Juan Islands National Monuments Resource Management Plan. Members represent an array of stakeholder interests in the land and resources from within the local area and statewide. All advisory committee meetings are open to the public. At noon and at 3:00 p.m. members of the public will have the opportunity to make comments to the MAC during half-hour public comment periods. Persons wishing to make comments during the public comment period should register in person with the Bureau of Land Management (BLM) by 11:00 a.m. or 2:00 p.m. respectively on the meeting day, at the meeting location. Depending on the number of persons wishing to comment, the length of comments may be limited. The public may send written comments to the MAC at San Juan Islands National Monument, Attn. MAC, P.O. Box 3, 37 Washburn Pl., Suite 101, Lopez Island, Washington 98261. The BLM appreciates all comments.

**Linda Clark,**

*Spokane District Manager.*

[FR Doc. 2016–27038 Filed 11–8–16; 8:45 am]

BILLING CODE 4310–33–P

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

**[LLAK930000.L13100000.EI0000.241A]**

### Notice of the 2016 Oil and Gas Lease Sale in the National Petroleum Reserve in Alaska and Notice of Availability of the Detailed Statement of Sale for the 2016 Oil and Gas Lease Sale in the National Petroleum Reserve in Alaska

**AGENCY:** Bureau of Land Management, Department of the Interior.

**ACTION:** Notice.

**SUMMARY:** The Bureau of Land Management's (BLM) Alaska State Office hereby notifies the public that it will hold an oil and gas lease sale bid opening for tracts in the National Petroleum Reserve in Alaska. The United States reserves the right to withdraw any tract from this sale prior to issuance of a written acceptance of a bid.

**DATES:** The sealed oil and gas lease sale bid opening will be held at 1 p.m. on Wednesday, December 14, 2016. Sealed bids must be received by 4:00 p.m., Monday, December 12, 2016.

**ADDRESSES:** The oil and gas lease sale bids will be opened at the Anchorage Federal Building, Denali Room (fourth floor), 222 West 7th Avenue, Anchorage, AK. Sealed bids must be sent to Carol Taylor (AK932), BLM-Alaska State Office, 222 West 7th Avenue #13, Anchorage, AK 99513–7504.

**FOR FURTHER INFORMATION CONTACT:** Wayne Svejnoha, 907–271–4407. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 to contact the above individual during normal business hours. The FIRS is available 24 hours a day, 7 days a week, to leave a message or question with the above individual. You will receive a reply during normal business hours.

**SUPPLEMENTARY INFORMATION:** The Bureau of Land Management's (BLM) Alaska State Office, under the authority of 43 CFR 3131.4–1(a), hereby notifies the public it will hold an oil and gas lease sale bid opening for tracts in the National Petroleum Reserve in Alaska. All bids must be submitted by sealed bid in accordance with the provisions identified in the Detailed Statement of Sale. The bids must be received at the BLM-Alaska State Office, ATTN: Carol Taylor (AK932), 222 West 7th Avenue #13, Anchorage, AK 99513–7504, no later than 4:00 p.m. on Monday, December 12, 2016.

The Detailed Statement of Sale for the 2016 Oil and Gas Lease Sale in the National Petroleum Reserve in Alaska may be obtained from the BLM-Alaska Web site at *www.blm.gov/ak,* or by request from the Public Information Center, BLM-Alaska State Office, 222 West 7th Avenue #13, Anchorage, AK 99513–7504, telephone 907–271–5960.

The Detailed Statement of Sale will include a description of the tracts to be offered for lease on December 14, 2016, the lease terms, conditions, special stipulations, required operating procedures, and how and where to submit bids for the lease tracts offered.

**Authority:** 43 CFR 3131.4–1 and 43 U.S.C. 1733 and 1740.

**Ted A. Murphy,**

*Associate State Director.*

[FR Doc. 2016–27059 Filed 11–8–16; 8:45 am]

**BILLING CODE 4310–JA–P**

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–22297; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Gettysburg Foundation, Gettysburg, PA

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Gettysburg Foundation has completed an inventory of human remains, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the Gettysburg Foundation. If no additional requestors come forward, transfer of control of the human remains Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the Gettysburg Foundation at the address in this notice by December 9, 2016.

**ADDRESSES:** Daniel Bringman, Gettysburg Foundation, 1195 Baltimore Pike, Gettysburg, PA 17325, telephone (717) 339–2116, email *dbringman@gettysburgfoundation.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains under the control of the Gettysburg Foundation, Gettysburg, PA. The human remains were reportedly removed by a private citizen from the Josiah Benner Farm, PA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains. The National Park Service is not responsible for the determinations in this notice.

#### Consultation

A detailed assessment of the human remains was made by the professional staff at the Gettysburg Foundation with representatives of the Hopi Tribe of Arizona; Jicarilla Apache Nation, New Mexico; Kewa Pueblo, New Mexico (previously listed as the Pueblo of Santo Domingo); Mescalero Apache Tribe of the Mescalero Reservation, New Mexico; Navajo Nation, Arizona, New Mexico & Utah; Ohkay Owingeh, New Mexico (previously listed as the Pueblo of San Juan); Pueblo of Acoma, New Mexico; Pueblo of Cochiti, New Mexico; Pueblo of Isleta, New Mexico; Pueblo of Jemez, New Mexico; Pueblo of Laguna, New Mexico; Pueblo of Nambe, New Mexico; Pueblo of Picuris, New Mexico; Pueblo of Pojoaque, New Mexico; Pueblo of San Felipe, New Mexico; Pueblo of San Ildefonso, New Mexico; Pueblo of Sandia, New Mexico; Pueblo of Santa Ana, New Mexico; Pueblo of Santa Clara, New Mexico; Pueblo of Taos, New Mexico; Pueblo of Tesuque, New Mexico; Pueblo of Zia, New Mexico; Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado; Ute Indian Tribe of the Uintah & Ouray Reservation, Utah; Ute Mountain Ute Tribe (previously listed as the Ute Mountain Reservation, Colorado, New Mexico & Utah; Ysleta del Sur Pueblo (previously listed as the Ysleta Del Sur Pueblo of Texas); and Zuni Tribe of the Zuni Reservation, New Mexico.

Hereafter, all tribes listed in this section are referred to as ''The Consulted Tribes.''

#### History and Description of the Remains

At an unknown date, human remains representing, a minimum, 1 individual

were removed from an unknown location. In June 2014, an auction was posted that contained a human cranium, reportedly recovered by a private citizen from the Josiah Benner Farm, PA. The auction included a photograph, some battlefield objects, and an accompanying description that attributed the human remains and Civil War Era objects to the Battle of Gettysburg in 1863. The Josiah Benner Farm served as a field hospital during and immediately following the Battle of Gettysburg from July 1 to July 4, 1863.

Due to the public outcry and threat of a riot, the auction was cancelled. The human cranium and Civil War objects were donated to the Gettysburg Foundation. At the request of the Gettysburg Foundation, the human cranium was sent to the Smithsonian Institution's National Museum of Natural History for analysis. Forensic analysis of the cranium was used to determine whether the human cranium represented the remains of a Civil War soldier.

Forensic analysis indicates that the human cranium likely is the remains of a male, aged 22 to 25 years, whose ancestry is Native American and most closely associated with Indian tribes of the southwestern United States based on craniometrics measurements.

Stable isotope analysis and a radiocarbon sample were extracted from a fragmented left maxillary third molar. Stable isotope analysis indicates a diet largely comprised of C4 plants, likely maize, with moderate to low levels of meat protein. The AMS radiocarbon dating yielded results of 700 BP + 20 years. Calibrated date ranges are calculated to Cal AD 1269–1299 (94.53%) and Cal AD 1370–1379 (5.47%), respectively. The Civil War Era objects in the auction with the human cranium are not associated funerary objects.

Pursuant to 43 CFR 10.16, the Secretary of the Interior may make a recommendation for a transfer of control of culturally unidentifiable Native American human remains. In July 2016, the Gettysburg Foundation requested that the Secretary, through the Native American Graves Protection and Repatriation Review Committee, recommend the proposed transfer of control of the culturally unidentifiable Native American human remains in this notice to the Pueblo of San Felipe, New Mexico. The Review Committee, acting pursuant to its responsibility under 25 U.S.C. 3006(c)(5), considered the request at its September 2016 meeting and recommended to the Secretary that the proposed transfer of control proceed. An October 20, 2016 letter on behalf of the Secretary of Interior from the National Park Service Associate Director, Cultural Resources, Partnerships, and Science transmitted the Secretary's independent review and concurrence with the Review Committee that:

- The Gettysburg Foundation consulted with the appropriate Indian tribes or Native Hawaiian organizations,
- none of The Consulted Tribes objected to the proposed transfer of control, and
- the Gettysburg Foundation may proceed with the agreed upon transfer of control of the culturally unidentifiable human remains to the Pueblo of San Felipe, New Mexico.

Transfer of control is contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

**Determinations Made by the Gettysburg Foundation**

Officials of the Gettysburg Foundation have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on the forensic analysis.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of one individual of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human and any present-day Indian tribe.
- Pursuant to 43 CFR 10.16, the disposition of the human remains will be to the Pueblo of San Felipe, New Mexico.

**Additional Requestors and Disposition**

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Daniel Bringman, Gettysburg Foundation, 1195 Baltimore Pike, Gettysburg, PA 17325, phone 717–339–2116, email *dbringman@gettysburgfoundation.org* by December 9, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Pueblo of San Felipe, New Mexico may proceed.

The Gettysburg Foundation is responsible for notifying The Consulted Tribes that this notice has been published.

Dated: October 31, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26979 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–22252; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Intent To Repatriate Cultural Items: U.S. Army Corps of Engineers, Omaha District, Omaha, NE

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Army Corps of Engineers, Omaha District (Omaha District), in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of unassociated funerary objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to the Omaha District. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to the Omaha District at the address in this notice by December 9, 2016.

**ADDRESSES:** Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone, (402) 995–2674, email *sandra.v.barnum@usace.army.mil*.

**SUPPLEMENTARY INFORMATION:** Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of the Omaha District, Omaha, NE., that meet the definition of unassociated funerary objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of

the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

**History and Description of the Cultural Item(s)**

Cultural items consisting of seven unassociated funerary objects that were collected from 39WW7, the Swan Creek site, Dewey County, South Dakota, are presently located at the South Dakota State Archaeological Research Center (SARC), under the managerial control of the Omaha District.

The Swan Creek site, 39WW2 was an earthlodge village and cemetery that was excavated between 1954 and 1956 prior to inundation by flood waters of the Oahe Reservoir. Over 125 sets of human remains were recovered, and 102 of these individuals are currently housed at SARC and reported under a separate Notice of Inventory Completion. Human remains of the other individuals were reburied in 1986 at site 39ST15.

SARC currently holds seven funerary objects that were originally collected with individuals that were reburied. The excavation records clearly show these items as having been removed from the burial of a specific individual. These seven unassociated funerary objects are one lithic projectile point and six ceramic body sherds from the same ceramic vessel.

Site 39WW7 is an earthlodge village and associated cemetery. Based on village organization, fortifications, geographic location and features, as well as the associated artifact assemblage, the site is believed to represent at least two major time periods, the Akaska Focus of the Extended Coalescent (A.D. 1500–1675) and the Le Beau Phase of the Post Contact Coalescent (A.D. 1675–1780) of the Plans Village tradition. Based on oral tradition, historic accounts, archaeological evidence, geographical location, and physical anthropological interpretations, both the Extended and Post Contact Coalescent variants are believed to be ancestral Arikara. The Arikara are represented today by the Three Affiliated Tribes of the Fort Berthold Reservation. Consultation with the Three Affiliated Tribes of the Fort Berthold Reservation indicates that these objects represent the kinds of objects that are placed with individuals at the time of death.

**Determinations Made by the Omaha District**

Officials of the Omaha District have determined that:

- Pursuant to 25 U.S.C. 3001(3)(B), the seven cultural items described above are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony and are believed, by a preponderance of the evidence, to have been removed from a specific burial site of a Native American individual.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the unassociated funerary objects and Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone, (402) 995–2674, email *sandra.v.barnum@usace.army.mil,* by December 9, 2016. After that date, if no additional claimants have come forward, transfer of control of the unassociated funerary objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

The Omaha District is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, that this notice has been published.

Dated: October 24, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26975 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–22251; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Intent To Repatriate Cultural Items: Albion College, Albion, MI

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** Albion College, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, has determined that the cultural items listed in this notice meet the definition of sacred objects. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request to Albion College. If no additional claimants come forward, transfer of control of the cultural items to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Albion College at the address in this notice by December 9, 2016.

**ADDRESSES:** Bille Wickre, Department of Art and Art History, Albion College, 611 East Porter Street, Albion, MI 49224, telephone (517) 629–0246, email *bwickre@albion.edu.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3005, of the intent to repatriate cultural items under the control of Albion College, Albion, MI, that meet the definition of sacred objects under 25 U.S.C. 3001.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American cultural items. The National Park Service is not responsible for the determinations in this notice.

**History and Description of the Cultural Item**

At an unknown date before 1973, one sacred object was removed from Zuni lands, most likely from a location in New Mexico. The sacred object is a cottonwood cylinder, 71 cm. long and 23.7 cm. in diameter. It is rounded at both ends and carved to resemble a human figure with a face, ears, hair and cap or helmet at one end and hands at the other end. There is a hole in the front center at a place where some scholars suggest is an umbilicus. The wood is significantly weathered and shows signs of aging. Based upon the form and condition, the object has been determined to be a Zuni *Ahayu:da* or war god.

In 1973, the sacred object (*Ahayu:da*) was donated by an individual to Albion College. There is no further information regarding its origin or date. After the donor's death in 1990, Bille Wickre contacted the donor's children and

grandchildren in an effort to find out more about the *Ahayu:da,* but no one remembered anything about it. Once the *Ahayu:da* was discovered in the collection, Bille Wickre and students of Albion College undertook a research project to authenticate the object. Written and visual evidence suggested the object is an *Ahayu:da.* Wickre telephoned the Zuni Tribe of the Zuni Reservation, New Mexico, to initiate consultation. She spoke with Kurt Dongoske, RPA, Principal Investigator and Tribal Historic Preservation Officer. Zuni bow priests and tribal elders confirmed the authenticity of the object.

**Determinations Made by Albion College**

Officials of Albion College have determined that*:*

- Pursuant to 25 U.S.C. 3001(3)(C), one cultural item described above is a specific ceremonial object needed by traditional Native American religious leaders for the practice of traditional Native American religions by their present-day adherents.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the sacred object and the Zuni Tribe of the Zuni Reservation, New Mexico.

**Additional Requestors and Disposition**

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to claim these cultural items should submit a written request with information in support of the claim to Bille Wickre, Department of Art and Art History, Albion College, 611 East Porter Street, Albion, MI 49224, telephone (517) 629–0246, email *bwickre@albion.edu,* by December 9, 2016. After that date, if no additional claimants have come forward, transfer of control of the sacred object to the Zuni Tribe of the Zuni Reservation, New Mexico, may proceed.

Albion College is responsible for notifying the Zuni Tribe of the Zuni Reservation, New Mexico, that this notice has been published.

Dated: October 24, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26977 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–22248; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Phoebe A. Hearst Museum of Anthropology at the University of California, Berkeley

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Phoebe A. Hearst Museum of Anthropology at the University of California, Berkeley has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request to the University of California, Berkeley. If no additional requestors come forward, transfer of control of the human remains to the Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to the University California, Berkeley at the address in this notice by December 9, 2016.

**ADDRESSES:** Jordan Jacobs, Phoebe A. Hearst Museum of Anthropology, 103 Kroeber Hall, University of California, Berkeley, Berkeley, CA 94720–3712, telephone (510) 643–8230, email *PAHMA-Repatriation@berkeley.edu.*

**SUPPLEMENTARY INFORMATION:** Adapting the notification procedures of the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, notice is here given of the completion of an inventory of human remains and associated funerary objects in the physical custody of the Phoebe A. Hearst Museum of Anthropology, at the University of California, Berkeley. The human remains and associated funerary objects were removed from the Cardinal Site (CA–Sjo–154) in Stockton, San Joaquin County, CA.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3) and 43 CFR 10.11(d). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has physical custody of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

**Consultation**

A detailed assessment of the human remains was made by the professional staff of the Phoebe A. Hearst Museum of Anthropology, at the University of California, Berkeley in consultation with the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and Wilton Rancheria, California.

**History and Description of the Remains**

In 1976, 36 sets of human remains were removed from the Cardinal Site (CA–Sjo–154) in Stockton, San Joaquin County, CA, by Drs. Richard Hughes and James Bennyhoff. Michael Hoffman, then Curator of Human Osteology at the Lowie Museum of Anthropology, was independently contracted by Hughes and Bennyhoff to conduct analysis, and the human remains were loaned to the Lowie Museum for the duration of the study. Subsequent transfers of the human remains occurred to researchers at Colorado College and Cornell University for study. Following the studies, the human remains were transferred to the physical custody of the Phoebe A. Hearst Museum of Anthropology at the University of California, Berkeley (formerly Lowie Museum) in 1995.

The 106 associated funerary objects are 49 lots of unsorted shell, lithic

fragments, baked clay fragments, faunal remains, and plant matter; 29 lots of shell beads; 7 lots of lithic fragments; 7 lots of shell ornaments and fragments; 4 lots of fish spears and fragments; 2 lots of baked clay fragments; 2 lots of olivella shells; 2 stone pestles; 1 lot of polished bone fragments; 1 bone awl; 1 bone hair pin; and 1 bone harpoon.

**Determinations Made by the Phoebe A. Hearst Museum of Anthropology**

Officials of the Phoebe A. Hearst Museum of Anthropology have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on geographical, biological, archeological, linguistic, folklore, oral tradition, and anthropological evidence.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent 36 sets of physical human remains of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 106 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Treaties, Acts of Congress, Executive Orders, evidence submitted via consultation, and anthropological sources indicate that the land from which the Native American human remains and associated funerary objects were removed is the aboriginal land of the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and Wilton Rancheria, California.
- Pursuant to 43 CFR 10.11(c)(1), the disposition of the human remains may be to the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and Wilton Rancheria, California.

**Additional Requestors and Disposition**

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains should submit a written request with information in support of the request to Jordan Jacobs, Phoebe A. Hearst Museum of Anthropology, 103 Kroeber Hall, University of California, Berkeley, Berkeley, CA 94720–3712, telephone (510) 643–8230, email *PAHMA-Repatriation@berkeley.edu,* by December 9, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains to the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and Wilton Rancheria, California, may proceed.

The University of California, Berkeley assumes responsibility for notifying the Buena Vista Rancheria of Me-Wuk Indians of California; California Valley Miwok Tribe, California; Cher-Ae Heights Indian Community of the Trinidad Rancheria, California; Chicken Ranch Rancheria of Me-Wuk Indians of California; Federated Indians of Graton Rancheria, California; Ione Band of Miwok Indians of California; Jackson Band of Miwuk Indians (previously listed as the Jackson Rancheria of Me-Wuk Indians of California); Middletown Rancheria of Pomo Indians of California; Picayune Rancheria of Chukchansi Indians of California; Santa Rosa Indian Community of the Santa Rosa Rancheria, California; Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California; Table Mountain Rancheria of California; Tule River Indian Tribe of the Tule River Reservation, California; Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California; United Auburn Indian Community of the Auburn Rancheria of California; and Wilton Rancheria, California, that this notice has been published.

Dated: October 18, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26981 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

### National Park Service

**[NPS–WASO–NAGPRA–22250; PPWOCRADN0–PCU00RP14.R50000]**

### Notice of Inventory Completion: Lake County Discovery Museum, Wauconda, IL; Correction

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice; correction.

**SUMMARY:** The Lake County Discovery Museum has corrected a Notice of Inventory Completion in the **Federal Register** on June 8, 2016. This notice corrects the list of The Consulted and Invited Tribes.

**ADDRESSES:** Diana Dretske, Lake County Discovery Museum, 27277 North Forest Preserve Road, Wauconda, IL 60084, telephone (847) 968–3381, email *ddretske@lcfpd.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the correction of an inventory of human remains and associated funerary objects under the control of the Lake County Discovery Museum, Wauconda, IL.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

## Correction

In the **Federal Register** (81 FR 36948, June 8, 2016), column 1, paragraph 1 is corrected by substituting the following paragraph:

A detailed assessment of the human remains was made by the Lake County Discovery Museum with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Match-e-be-nash-she-wish Band of the Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Sac & Fox Nation, Oklahoma; Saginaw Chippewa Indian Tribe of Michigan; and Sault Ste. Marie Tribe of Chippewa Indians, Michigan. The following tribes were invited to consult but did not respond to the invitation: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rock Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Confederate Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Eastern Band of Cherokee Indians; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indian of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sac & Fox Tribe of the Mississippi in Iowa; Sac & Fox Nation of Missouri in Kansas and Nebraska; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota. All tribes listed above are hereafter referred to as ''The Consulted and Invited Tribes.''

The Lake County Discovery Museum is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 24, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26980 Filed 11–8–16; 8:45 am]

**BILLING CODE 4312–52–P**

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## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–22249; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Inventory Completion: Lake County Discovery Museum, Wauconda, IL

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The Lake County Discovery Museum has completed an inventory of human remains and associated funerary object, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is no cultural affiliation between the human remains and associated funerary objects and any present-day Indian tribes or Native Hawaiian organizations. Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Lake County Discovery Museum. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects Indian tribes or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Lake County Discovery Museum at the address in this notice by December 9, 2016.

**ADDRESSES:** Diana Dretske, Lake County Discovery Museum, 27277 North Forest Preserve Road, Wauconda, IL 60084, telephone (847) 968–3381, email *ddretske@lcfpd.org.*

**SUPPLEMENTARY INFORMATION:** Notice is here given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Lake County Discovery Museum, Wauconda, IL. The human remains and associated funerary objects were removed from unknown locations.

This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

## Consultation

A detailed assessment of the human remains was made by the Lake County Discovery Museum professional staff in consultation with representatives of the Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana; Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan; Little River Band of Ottawa Indians, Michigan; Match-e-be-nash-she-wish Band of Pottawatomi Indians of Michigan; Nottawaseppi Huron Band of the Potawatomi, Michigan (previously listed as the Huron Potawatomi, Inc.); Pokagon Band of Potawatomi Indians, Michigan and Indiana; Sac & Fox Nation, Oklahoma; Saginaw Chippewa Indian Tribe of Michigan; and the Sault Ste. Marie Tribe of Chippewa Indians, Michigan. The following tribes with aboriginal territory in Lake County, IL, were also invited to participate but were not involved in consultations: Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin; Bay Mills Indian Community, Michigan; Chippewa Cree Indians of the Rocky Boy's Reservation, Montana (previously listed as the Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana); Citizen Potawatomi Nation, Oklahoma; Confederated Tribes of the Umatilla Indian Reservation (previously listed as the Confederated Tribes of the Umatilla Reservation, Oregon); Eastern Band of Cherokee Indians; Forest County Potawatomi Community, Wisconsin; Grand Traverse Band of Ottawa and

Chippewa Indians, Michigan; Hannahville Indian Community, Michigan; Keweenaw Bay Indian Community, Michigan; Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin; Lac du Flambeau Band of Lake Superior Chippewa Indian of the Lac du Flambeau Reservation of Wisconsin; Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band); Ottawa Tribe of Oklahoma; Prairie Band Potawatomi Nation (previously listed as the Prairie Band of Potawatomi Nation, Kansas); Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin; Red Lake Band of Chippewa Indians, Minnesota; Sokaogon Chippewa Community, Wisconsin; St. Croix Chippewa Indians of Wisconsin; and the Turtle Mountain Band of Chippewa Indians of North Dakota. All tribes listed are hereafter referred to as ''The Consulted and Invited Tribes.''

**History and Description of the Remains**

In 1970, human remains representing, at minimum, 13 individuals were placed in the Lake County Discovery Museum collection. The museum has no record of when these human remains were added to the collection or how they came to the museum. There is no additional information available about the human remains. No known individuals were identified. The human remains have been stored in the museum based on the type of bone fragment (*i.e.* vertebrae are stored together). Accession records indicate that some of the bone fragments are related to other bone fragments in the collection. The two associated funerary objects are one lot of pottery sherds and one bird skull.

Pursuant to 43 CFR 10.16, the Secretary of the Interior may make a recommendation for a transfer of control of culturally unidentifiable human remains and associated funerary objects. In June 2016, the Lake County Discovery Museum requested that the Secretary, through the Native American Graves Protection and Repatriation Review Committee, recommend the proposed transfer of control of the culturally unidentifiable Native American human remains and associated funerary objects in this notice to the Sault Ste. Marie Tribe of Chippewa Indians, Michigan. The Review Committee, acting pursuant to its responsibility under 25 U.S.C. 3006(c)(5), considered the request at its July 2016 meeting and recommended to the Secretary that the proposed transfer of control proceed. A September 9, 2016, letter on behalf of the Secretary of Interior from the National Park Service Associate Director, Cultural Resources, Partnerships, and Science transmitted the Secretary's independent review and concurrence with the Review Committee that:

- The Lake County Discovery Museum consulted with appropriate Indian tribes or Native Hawaiian organizations,
- None of The Consulted and Invited Tribes objected to the proposed transfer of control, and
- The Lake County Discovery Museum may proceed with the agreed upon transfer of control of the culturally unidentifiable human remains and associated funerary objects to the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

Transfer of control is contingent on the publication of a Notice of Inventory Completion in the **Federal Register**. This notice fulfills that requirement.

**Determinations Made by the Lake County Discovery Museum**

Officials of the Lake County Discovery Museum have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice are Native American based on accession records and consultation.
- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of a minimum of 13 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 2 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), a relationship of shared group identity cannot be reasonably traced between the Native American human remains and associated funerary objects and any present-day Indian tribe.
- Pursuant to 43 CFR 10.16, the disposition of the human remains and associated funerary objects will be to the Sault Ste. Marie Tribe of Chippewa Indians, Michigan.

**Additional Requestors and Disposition**

Representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Diana Dretske, Lake County Discovery Museum, 27277 North Forest Preserve Road, Wauconda, IL 60084, telephone (847) 968–3381, email *ddretske@lcfpd.org,* by December 9, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Sault Ste. Marie Tribe of Chippewa Indians, Michigan, may proceed.

The Lake County Discovery Museum is responsible for notifying The Consulted and Invited Tribes that this notice has been published.

Dated: October 24, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26978 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

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## DEPARTMENT OF THE INTERIOR

## National Park Service

**[NPS–WASO–NAGPRA–22253; PPWOCRADN0–PCU00RP14.R50000]**

## Notice of Inventory Completion: U.S. Army Corps of Engineers, Omaha District, Omaha, NE

**AGENCY:** National Park Service, Interior.

**ACTION:** Notice.

**SUMMARY:** The U.S. Army Corps of Engineers, Omaha District (Omaha District), has completed an inventory of human remains and associated funerary objects, in consultation with the appropriate Indian tribes or Native Hawaiian organizations, and has determined that there is a cultural affiliation between the human remains and associated funerary objects and present-day Indian tribes or Native Hawaiian organizations. Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request to the Omaha District. If no additional requestors come forward, transfer of control of the human remains and associated funerary objects to the lineal descendants, Indian tribes, or Native Hawaiian organizations stated in this notice may proceed.

**DATES:** Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to the Omaha District at the address in this notice by December 9, 2016.

**ADDRESSES:** Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone, (402) 995–2674, email *sandra.v.barnum@usace.army.mil.*

**SUPPLEMENTARY INFORMATION:** Notice is hereby given in accordance with the Native American Graves Protection and Repatriation Act (NAGPRA), 25 U.S.C. 3003, of the completion of an inventory of human remains and associated funerary objects under the control of the Omaha District. The human remains and associated funerary objects were removed from one site, 39WW7, in Walworth, SD. This notice is published as part of the National Park Service's administrative responsibilities under NAGPRA, 25 U.S.C. 3003(d)(3). The determinations in this notice are the sole responsibility of the museum, institution, or Federal agency that has control of the Native American human remains and associated funerary objects. The National Park Service is not responsible for the determinations in this notice.

### Consultation

A detailed assessment of the human remains and associated funerary objects was made by State Archaeological Research Center and Omaha District professional staff in consultation with representatives of the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

### History and Description of the Remains

Between 1954 and 1956, human remains representing, at minimum, 125 individuals were removed from site 39WW7, also known as Swan Creek Site, in Walworth County, SD. The partial human remains of 102 of these individuals are currently located at the South Dakota State Archaeological Research Center (SARC), under the managerial control of the Omaha District.

The human remains were originally reported to be all stored at the W. H. Over Museum, SD, but were transferred to SARC beginning in 1974. During the 1980s much of the collection was sent to the University of Tennessee, Knoxville, to be inventoried. When returned to SARC, inventoried human remains were reburied at site 39ST15 in 1986. Since the reburial, however, additional fragmentary human remains of 102 individuals (mostly individual elements) and 31 associated funerary objects have been located in the collections. Human remains of 95 of these individuals were identified at SARC and seven of these individuals were identified in the collections at the University of Wisconsin, Madison. The University of Wisconsin material was transferred to SARC in 2015. Currently SARC houses all known materials from 39WW7.

Based on morphological characteristics, archaeological context, and associated funerary objects, the remains are determined to be Native American. No known individuals were identified. The 31 associated funerary objects are 1 basketry fragment, 17 beads, 1 ceramic body sherd, 3 projectile point fragments, 2 stone knives, 1 sandstone abrader, 1 piece modified shell, 1 piece unmodified shell, 1 squash seed, 1 faunal fragment, 1 lot of cedar wood fragments, and 1 lot of wood sticks.

Site 39WW7 is an earthlodge village and associated cemetery. Based on village organization, fortifications, geographic location, and features, as well as the associated artifact assemblage, the site is believed to represent at least two major time periods, the Akaska Focus of the Extended Coalescent (AD 1500–1675) and the Le Beau Phase of the Post Contact Coalescent (AD 1675–1780) of the Plans Village tradition. Based on oral tradition, historic accounts, archaeological evidence, geographical location, and physical anthropological interpretations, both the Extended and Post Contact Coalescent variants are believed to be ancestral Arikara. The Arikara are represented today by the Three Affiliated Tribes of the Fort Berthold Reservation.

### Determinations Made by the Omaha District

Officials of the Omaha District have determined that:

- Pursuant to 25 U.S.C. 3001(9), the human remains described in this notice represent the physical remains of 102 individuals of Native American ancestry.
- Pursuant to 25 U.S.C. 3001(3)(A), the 31 objects described in this notice are reasonably believed to have been placed with or near individual human remains at the time of death or later as part of the death rite or ceremony.
- Pursuant to 25 U.S.C. 3001(2), there is a relationship of shared group identity that can be reasonably traced between the Native American human remains and associated funerary objects and the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota.

### Additional Requestors and Disposition

Lineal descendants or representatives of any Indian tribe or Native Hawaiian organization not identified in this notice that wish to request transfer of control of these human remains and associated funerary objects should submit a written request with information in support of the request to Ms. Sandra Barnum, U.S. Army Engineer District, Omaha, ATTN: CENWO–PM–AB, 1616 Capital Avenue, Omaha, NE 68102, telephone, (402) 995–2674, email *sandra.v.barnum@usace.army.mil,* by December 9, 2016. After that date, if no additional requestors have come forward, transfer of control of the human remains and associated funerary objects to the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, may proceed.

The U.S. Army Corps of Engineers, Omaha District is responsible for notifying the Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota, that this notice has been published.

Dated: October 24, 2016.

**Melanie O'Brien,**

*Manager, National NAGPRA Program.*

[FR Doc. 2016–26976 Filed 11–8–16; 8:45 am]

BILLING CODE 4312–52–P

## INTERNATIONAL TRADE COMMISSION

### Notice of Receipt of Complaint; Solicitation of Comments Relating to the Public Interest

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that the U.S. International Trade Commission has received a complaint entitled *Certain Single-Molecule Nucleic Acid Sequencing Systems and Reagents, Consumables, and Software for Use With Same, DN 3182;* the Commission is soliciting comments on any public interest issues raised by the complaint or complainant's filing under the Commission's Rules of Practice and Procedure.

**FOR FURTHER INFORMATION CONTACT:** Lisa R. Barton, Secretary to the Commission, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. The public version of the complaint can be accessed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov,* and will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW.,

Washington, DC 20436, telephone (202) 205–2000.

General information concerning the Commission may also be obtained by accessing its Internet server at United States International Trade Commission (USITC) at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's Electronic Document Information System (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

**SUPPLEMENTARY INFORMATION:** The Commission has received a complaint and a submission pursuant to § 210.8(b) of the Commission's Rules of Practice and Procedure (19 CFR 210.8(b)) filed on behalf of Pacific Biosciences of California, Inc. on November 2, 2016. The complaint alleges violations of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain single-molecule nucleic acid sequencing systems and reagents, consumables, and software for use with same. The complaint names as respondents Oxford Nanopore Technologies Ltd. of the United Kingdom; Oxford Nanopore Technologies, Inc. of Cambridge, MA; and Metrichor, Ltd of the United Kingdom. The complainant requests that the Commission issue an exclusion order, cease and desist orders and impose a bond upon respondents' alleged infringing articles during the 60-day Presidential review period pursuant to 19 U.S.C. 1337(j).

Proposed respondents, other interested parties, and members of the public are invited to file comments, not to exceed five (5) pages in length, inclusive of attachments, on any public interest issues raised by the complaint or § 210.8(b) filing. Comments should address whether issuance of the relief specifically requested by the complainant in this investigation would affect the public health and welfare in the United States, competitive conditions in the United States economy, the production of like or directly competitive articles in the United States, or United States consumers.

In particular, the Commission is interested in comments that:

(i) Explain how the articles potentially subject to the requested remedial orders are used in the United States;

(ii) identify any public health, safety, or welfare concerns in the United States relating to the requested remedial orders;

(iii) identify like or directly competitive articles that complainant, its licensees, or third parties make in the United States which could replace the subject articles if they were to be excluded;

(iv) indicate whether complainant, complainant's licensees, and/or third party suppliers have the capacity to replace the volume of articles potentially subject to the requested exclusion order and/or a cease and desist order within a commercially reasonable time; and

(v) explain how the requested remedial orders would impact United States consumers.

Written submissions must be filed no later than by close of business, eight calendar days after the date of publication of this notice in the **Federal Register**. There will be further opportunities for comment on the public interest after the issuance of any final initial determination in this investigation.

Persons filing written submissions must file the original document electronically on or before the deadlines stated above and submit 8 true paper copies to the Office of the Secretary by noon the next day pursuant to § 210.4(f) of the Commission's Rules of Practice and Procedure (19 CFR 210.4(f)). Submissions should refer to the docket number (''Docket No. 3182'') in a prominent place on the cover page and/or the first page. (*See* Handbook for Electronic Filing Procedures, Electronic Filing Procedures [1]). Persons with questions regarding filing should contact the Secretary (202–205–2000).

Any person desiring to submit a document to the Commission in confidence must request confidential treatment. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. *See* 19 CFR 201.6. Documents for which confidential treatment by the Commission is properly sought will be treated accordingly. All information, including confidential business information and documents for which confidential treatment is properly sought, submitted to the Commission for purposes of this Investigation may be disclosed to and used: (i) By the Commission, its employees and Offices, and contract personnel (a) for developing or maintaining the records of this or a related proceeding, or (b) in internal investigations, audits, reviews, and evaluations relating to the programs, personnel, and operations of the Commission including under 5 U.S.C. Appendix 3; or (ii) by U.S. government employees and contract personnel,[2] solely for cybersecurity purposes. All nonconfidential written submissions will be available for public inspection at the Office of the Secretary and on EDIS.[3]

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and of §§ 201.10 and 210.8(c) of the Commission's Rules of Practice and Procedure (19 CFR 201.10, 210.8(c)).

By order of the Commission.

Issued: November 3, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016–27019 Filed 11–8–16; 8:45 am]

**BILLING CODE 7020–02–P**

[1] Handbook for Electronic Filing Procedures: *https://www.usitc.gov/documents/handbook_on_filing_procedures.pdf*

[2] All contract personnel will sign appropriate nondisclosure agreements.

[3] Electronic Document Information System (EDIS): *http://edis.usitc.gov*

## INTERNATIONAL TRADE COMMISSION

**[Investigation No. 731–TA–1314 (Final)]**

## Phosphor Copper from Korea; Scheduling of the Final Phase of an Antidumping Duty Investigation

**AGENCY:** United States International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** The Commission hereby gives notice of the scheduling of the final phase of antidumping investigation No. 731–TA–1314 (Final) pursuant to the Tariff Act of 1930 (''the Act'') to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of phosphor copper from Korea, provided for in subheading 7405.00.10 of the Harmonized Tariff Schedule of the United States, preliminarily determined by the

Department of Commerce to be sold at less-than-fair-value.[1]

**DATES:** *Effective Date:* October 14, 2016.

**FOR FURTHER INFORMATION CONTACT:** Porscha Stiger (205–3241), 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 investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.*

**SUPPLEMENTARY INFORMATION:**

*Background.*—The final phase of this investigation is being scheduled, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), as a result of an affirmative preliminary determination by the Department of Commerce that imports of phosphor copper from Korea are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. 1673b). The investigation was requested in a petition filed on March 9, 2016, by Metallurgical Products Company, West Chester, Pennsylvania.

For further information concerning the conduct of this phase of the investigation, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A and B (19 CFR part 201), and part 207, subparts A and C (19 CFR part 207).

*Participation in the investigation 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 final phase of this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigation need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigation.

*Limited disclosure of business proprietary information (BPI) under an administrative protective order (APO) and BPI service list.*—Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of this investigation available to authorized applicants under the APO issued in the investigation, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigation. A party granted access to BPI in the preliminary phase of the investigation need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

*Staff report.*—The prehearing staff report in the final phase of this investigation will be placed in the nonpublic record on February 13, 2017, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

*Hearing.*—The Commission will hold a hearing in connection with the final phase of this investigation beginning at 9:30 a.m. on Tuesday, February 28, 2017, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 23, 2017. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should participate in a prehearing conference to be held on February 27, 2017, at the U.S. International Trade Commission Building, if deemed necessary. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 business days prior to the date of the hearing.

*Written submissions.*—Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is February 21, 2017. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules. The deadline for filing posthearing briefs is March 7, 2017. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigation, including statements of support or opposition to the petition, on or before March 7, 2017. On March 24, 2017, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 28, 2017, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's *Handbook on E-Filing,* available on the Commission's Web site at *https://edis.usitc.gov,* elaborates upon the Commission's rules with respect to electronic filing.

Additional written submissions to the Commission, including requests pursuant to section 201.12 of the Commission's rules, shall not be accepted unless good cause is shown for accepting such submissions, or unless the submission is pursuant to a specific request by a Commissioner or Commission staff.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified

[1] For purposes of this investigation, the Department of Commerce has defined the subject merchandise as master alloys of copper containing between five percent and 17 percent phosphor by nominal weight, regardless of form (including but not limited to shot, pellet, waffle, ingot, or nugget), and regardless of size or weight. Subject merchandise consists predominantly of copper (by weight), and may contain other elements, including but not limited to iron (Fe), lead (Pb), or tin (Sn), in small amounts (up to one percent by nominal weight). Phosphor copper is frequently produced to JIS H2501 and ASTM B–644, Alloy 3A standards or higher; however, merchandise covered by this investigation includes all phosphor copper, regardless of whether the merchandise meets, fails to meet, or exceeds these standards. Merchandise covered by this investigation is currently classified in the Harmonized Tariff Schedule of the United States (HTSUS) under subheading 7405.00.1000. This HTSUS subheading is provided for convenience and customs purposes; the written description of the scope of this investigation is dispositive.

by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

**Authority:** This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: November 3, 2016.

**Lisa R. Barton,**

*Secretary to the Commission.*

[FR Doc. 2016–27016 Filed 11–8–16; 8:45 am]

**BILLING CODE 7020–02–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under The Comprehensive Environmental Response, Compensation and Liability Act

On November 3, 2016, the Department of Justice lodged a proposed Consent Decree with the United States District Court for the Western District of Virginia in the lawsuit entitled *United States* v. *Poor Charlie and Company,* Civil Action No. 1:16–CV–00043.

The proposed Consent Decree will resolve claims alleged under the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA'') against Poor Charlie and Company (''Poor Charlie'') for costs incurred in responding to releases and threatened releases of hazardous substances at the Twin Cities Iron and Metal Site (the ''Site'') located in Bristol, Virginia. The Consent Decree is based on Poor Charlie's limited ability to pay. Under the proposed Consent Decree, Poor Charlie: (1) Consents to entry of judgment against it in the amount of $3,401,833.31, and (2) assigns the rights to any proceeds from its insurance policies to the United States. In addition, Poor Charlie commits to creating an environmental trust for the benefit of the United States and West Virginia, to which Poor Charlie and all of its assets will be transferred. Under the environmental trust, Poor Charlie will direct its assets toward remediating certain properties it owns in West Virginia, and then distribute any remaining assets as specified in the trust agreement and the Consent Decree.

The publication of this notice opens a period for public comment on the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *Poor Charlie and Company,* D.J. Ref. No. 90–11–3–10712/1. All comments must be submitted no later than thirty (30) days after the publication date of this notice. Comments may be submitted either by email or by mail:

| *To submit comments:* | *Send them to:* |
|---|---|
| By email ..... | *pubcomment-ees.enrd@usdoj.gov.* |
| By mail ..... | Assistant Attorney General, U.S. DOJ—ENRD, P.O. Box 7611, Washington, D.C. 20044–7611. |

During the public comment period, the Consent Decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the Consent Decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $26.50 (25 cents per page reproduction cost) payable to the United States Treasury. For a paper copy without the exhibits and signature pages, the cost is $8.00.

**Robert Brook,**

*Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.*

[FR Doc. 2016–27056 Filed 11–8–16; 8:45 am]

**BILLING CODE 4410–15–P**

## DEPARTMENT OF JUSTICE

### Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liabilty Act

On November 1, 2016, the Department of Justice lodged a proposed consent decree with the United States District Court for the Central District of California in the lawsuit entitled *United States* v. *JPMorgan Chase Bank, N.A., et al.,* Civil Action No. 16–cv–08127.

The United States filed this lawsuit under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). The United States' complaint names JPMorgan Chase Bank, N.A., WMI Liquidating Trust, and WMI Rainier LLC. The complaint requests recovery of costs that the United States incurred responding to releases and threatened releases of hazardous substances at the BKK Sanitary Landfill Site in West Covina, California. All three defendants signed the consent decree. JPMorgan Chase Bank N.A. agrees to pay $1 million of the United States' response costs on behalf of all three defendants. In return, the United States agrees not to sue the defendants under sections 106 and 107(a) of CERCLA or under section 7003 of the Resource Conservation and Recovery Act. The consent decree provides that the United States' agreement not to sue the defendants is also conditioned on JPMorgan Chase Bank N.A.'s payment of $85 million to be directed toward cleanup of the Site under a separate pending consent decree it signed with the California Department of Toxic Substances Control in a separate case relating to the BKK Sanitary Landfill Site, *California Department of Toxic Substances Control and the California Toxic Substances Control Account* v. *American Honda Motor Co., Inc., et al.,* Civil Action No. 05–cv–07746.

The publication of this notice opens a period for public comment on the consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and should refer to *United States* v. *JPMorgan Chase Bank, N.A., et al.,* D.J. Ref. No. 90–11–3–10782. 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. |

Under section 7003(d) of RCRA, a commenter may request an opportunity for a public meeting in the affected area.

During the public comment period, the consent decree may be examined and downloaded at this Justice Department Web site: *https://www.justice.gov/enrd/consent-decrees.* We will provide a paper copy of the consent decree upon written request and payment of reproduction costs. Please mail your request and payment to: Consent Decree Library, U.S. DOJ—ENRD, P.O. Box 7611, Washington, DC 20044–7611.

Please enclose a check or money order for $9.25 (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. 2016–27018 Filed 11–8–16; 8:45 am]

BILLING CODE 4410–15–P

## DEPARTMENT OF JUSTICE

### Parole Commission

### Sunshine Act Meeting

### Record of Vote of Meeting Closure

(Public Law 94–409) (5 U.S.C. Sec. 552b)

I, J. Patricia W. Smoot, of the United States Parole Commission, was present at a meeting of said Commission, which started at approximately 11 p.m., on Wednesday, October 26, 2016 at the U.S. Parole Commission, 90 K Street NE., Third Floor, Washington, DC 20530. The purpose of the meeting was to discuss three original jurisdiction cases pursuant to 28 CFR 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of the General Counsel that this meeting may be closed by votes of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: J. Patricia W. Smoot, Patricia Cushwa and Charles T. Massarone.

*In witness whereof,* I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: November 4, 2016.

**J. Patricia W. Smoot,**

*Chairman, U.S. Parole Commission.*

[FR Doc. 2016–27182 Filed 11–7–16; 4:15 pm]

BILLING CODE 4410–31–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–91,257]**

### Huntley Power LLC, A Subsidiary Of NRG Energy, Inc., Including On-Site Leased Workers FromPontoon Solutions, Inc. And Clean MD Tonawanda, New York; Amended Certification Regarding EligibilityTo Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 29, 2016, applicable to workers of Huntley Power LLC, a subsidiary of NRG Energy, Inc., including on-site leased workers from Pontoon Solutions, Inc., Tonawanda, New York (TA–W–91,257). The Department's notice of determination was published in the **Federal Register** on February 25, 2016 (81 FR 9510).

At the request of the International Brotherhood of Electrical Workers, Local Union 97, the Department reviewed the certification for workers of the subject firm. The workers firm is engaged in activities related to the supply of electrical generation, capacity and ancillary services. The Tonawanda facility is a coal-fired electric generation facility.

The company reports that workers leased from Clean MD were employed on-site at the Tonawanda, New York location of Huntley Power LLC, a subsidiary of NRG Energy, Inc. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by customer imports of electricity from a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from Clean MD working on-site at the Tonawanda, New York location of the subject firm.

The amended notice applicable to TA–W–91,257 is hereby issued as follows:

All workers from Huntley Power LLC, a subsidiary of NRG Energy, Inc., including on-site leased workers from Pontoon Solutions, Inc. and Clean MD, Tonawanda, New York who became totally or partially separated from employment on or after December 22, 2014 through January 29, 2018, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 19th day of September 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–26997 Filed 11–8–16; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–91,027]**

### Indiana Marujun, LLC, Including On-Site Leased Workers From Adecco, First Call And MS Companies Winchester, Indiana; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on November 12, 2015, applicable to workers of Indiana Marujun, LLC, including on-site leased workers from Adecco and First Call, Winchester, Indiana (TA–W–91,027). The Department's notice of determination was published in the **Federal Register** on January 11, 2016 (81 FR 1228).

At the request of the Indiana Department of Workforce Development, the Department reviewed the certification for workers of the subject firm. The workers firm is engaged in activities related to the production of automotive part components.

The Department has determined that MS Companies was sufficiently under the operational control of Indiana Marujun, LLC, Winchester, Indiana to be considered leased workers.

The intent of the Department's certification is to include all workers of the subject firm who were adversely affected by a shift in production of automotive part components or articles like or directly competitive to a foreign country.

Based on these findings, the Department is amending this certification to include workers leased from MS Companies working on-site at the Winchester, Indiana location of the subject firm.

The amended notice applicable to TA–W–91,027 is hereby issued as follows:

All workers from Indiana Marujun, LLC, including on-site leased workers from Adecco, First Call, and MS Companies, Winchester, Indiana who became totally or partially separated from employment on or after October 2, 2014 through November 12, 2017 and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 7th day of September 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–26998 Filed 11–8–16; 8:45 am]

**BILLING CODE P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–85,742]**

### General Motors Lake Orion Assembly, Including On-Site Leased Workers From Development Dimensions International, Eurest Services, Inc., Labor Ready, and Team Industrial Services, Inc. dba Team Solutions, Lake Orion, Michigan; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance and Alternative Trade Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 21, 2015, applicable to workers of General Motors Lake Orion Assembly, Lake Orion, Michigan, including on-site leased workers from Development Dimensions International. The Department's notice of determination was published in the **Federal Register** on February 18, 2015 (80 FR 8696).

At the request of the State Workforce Office, the Department reviewed the certification for workers of the subject firm. The workers were engaged in activities related to the production of mini/subcompact and compact automobiles.

The company reports that workers leased from Eurest Services, Inc., Labor Ready, and Team Industrial Services, Inc. dba Team Solutions, were on-site at the Lake Orion, Michigan location of General Motors Lake Orion Assembly, Lake Orion, Michigan. The Department has determined that these workers were sufficiently under the control of the subject firm to be considered leased workers.

Based on these findings, the Department is amending this certification to include workers leased from Eurest Services, Inc., Labor Ready, and Team Industrial Services, Inc. dba Team Solutions, working on-site at the Lake Orion, Michigan, location of General Motors Lake Orion Assembly.

The amended notice applicable to TA–W–85,742 is hereby issued as follows:

All workers of General Motors Lake Orion Assembly, including on-site leased workers from Development Dimensions International, Eurest Services, Inc., Labor Ready, and Team Industrial Services, Inc. dba Team Solutions, Lake Orion, Michigan, who became totally or partially separated from employment on or after December 19, 2013 through January 21, 2017, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended, and are also eligible to apply for alternative trade adjustment assistance under Section 246 of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 26th day of September, 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–26999 Filed 11–8–16; 8:45 am]

**BILLING CODE 4510–FN–P**

## DEPARTMENT OF LABOR

### Employment and Training Administration

### Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *August 8, 2016 through August 19, 2016.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) the sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) the increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) there has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) the shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or

are threatened to become totally or partially separated;

(2) the workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) either—

(A) the workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) a loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(e) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) an affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) an affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) an affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) the petition is filed during the 1-year period beginning on the date on which—

(A) a summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) the workers have become totally or partially separated from the workers' firm within—

(A) the 1-year period described in paragraph (2); or

(B) not withstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

**Affirmative Determinations for Worker Adjustment Assistance**

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 91,199 | Gibson County Coal LLC, Alliance Resource Partners L.P., Custom Staffing. | Princeton, IN | December 4, 2014. |
| 91,454 | Allegheny Ludlum, LLC, ATI Flat Rolled Products, Latrobe Operations, Allegheny Technologies Inc. | Latrobe, PA | February 9, 2015. |
| 91,512 | Jaya Apparel Group LLC, 24 Seven Staffing Inc., SBH Fashion Inc. and Career Group Inc. | Vernon, CA | February 24, 2015. |
| 91,517 | Encore Repair Services, LLC, Encore Repair Holdings, LLC, Select Staffing. | Simi Valley, CA | February 3, 2015. |
| 91,826 | US Synthetic Corporation, Dover Corporation | Orem, UT | May 19, 2015. |
| 91,851 | TRW Automotive U.S. LLC, Action Electric, Adecco, Butler America, Tradesman International. | Lafayette, IN | May 25, 2015. |
| 92,020 | American Light Bulb Manufacturing Inc | Mullins, SC | July 15, 2015. |

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 90,288 | Cartus Corporation, Realogy Services Group, LLC | Memphis, TN | January 1, 2014. |
| 90,317 | Nokia Solutions and Networks US LLC, Nokia Solutions and Networks Holdings USA, Inc. | Arlington Heights, IL | January 1, 2014. |
| 91,212 | Amdocs, Inc., Program and Business Services Division, Rose, Next Gen, etc. | Richardson, TX | December 10, 2014. |
| 91,413 | First Advantage Background Services Corporation, STG-Fairway U.S., LLC. | St. Petersburg, FL | January 29, 2015. |
| 91,500 | Orica USA, Accounts Payable/Receivable Department | Georgetown, KY | February 22, 2015. |
| 91,548 | Sensata Technologies, Incorporated, Industrial Sensing Business Division, Sensata Technologies Holding Company. | Everett, WA | March 3, 2015. |
| 91,700 | Manitowoc FSG Operations, LLC, Manitowoc Foodservice, Inc., ABR Employment Services, etc. | Manitowoc, WI | May 22, 2016. |
| 91,810 | National Oilwell Varco LP, Rig Systems, Offshore Division, iSymphony LLC. | Houston, TX | May 13, 2015. |
| 91,828 | Waste Management National Services, Inc., Centralized Billing Center, Waste Management Holdings, Inc., Robert Half. | Phoenix, AZ | May 19, 2015. |
| 91,844 | MediGain, LLC, Formerly Millennium Practice Management Associates | Upper Saddle River, NJ | May 24, 2015. |
| 91,844A | MediGain, LLC, Formerly Millennium Practice Management Associates, Randstad. | Plano, TX | May 24, 2015. |
| 91,857 | Antenex, Inc., Intrastructure Antennas Systems Business Unit, Laird Technologies, Inc. | Schaumburg, IL | May 25, 2015. |

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 91,878 | TRUMPF Photonics, Inc., Ultra-Precision Machining (UPM) Division, TRUMPF Group. | Cranbury, NJ | May 31, 2015. |
| 91,894 | Brake Parts Inc., LLC, BPI Holdings International, Inc., Adecco, Select Staffing, and Cornerstone. | Chowchilla, CA | June 8, 2015. |
| 91,933 | Panasonic Avionics Corporation, Dallas Repair Station, Aerotek | Coppell, TX | June 17, 2015. |
| 91,971 | InnoVista Sensors Americas, Inc., InnoVista Sensors Ltd, Custom Sensors and Technologies, Inc. | Thousand Oaks, CA | June 28, 2015. |
| 91,980 | American Express Travel Related Services Company, Inc., Credit Fraud Risk Controllership Group, American Express Company. | Phoenix, AZ | July 3, 2015. |
| 91,999 | Fluke Corporation, Pacific Laser Systems Division, Adecco | San Rafael, CA | July 7, 2015. |
| 92,003 | Hewlett Packard Enterprise, ES Applications Delivery Management Division. | Plano, TX | July 8, 2015. |
| 92,004 | Atlas Copco Hurricane LLC, Atlas Copco Portable Energy Division | Franklin, IN | July 11, 2015. |
| 92,007 | DSI Underground Systems, LLC, Frank Calandra, Inc | Martinsburg, WV | July 11, 2015. |
| 92,015 | Mattel, Inc., Mattel Global Shared Service Solutions (MGSSS), Personnel Resources, etc. | East Aurora, NY | July 13, 2015. |
| 92,021 | Sanford LP, Newell Brands, Lifestyle Temp Agency | Shelbyville, TN | July 18, 2015. |
| 92,042 | Shimadzu USA Manufacturing, Inc., Shimadzu America, Inc., Randstad USA, Selec-Temp Employment Services, etc. | Canby, OR | July 21, 2015. |
| 92,043 | SeaChange International, Inc., In-Home Division | Portland, OR | July 21, 2015. |
| 92,043A | SeaChange International, Inc., In-Home Division, Tech Mahindra, Capstone Consulting, Progressive Solutions. | Milpitas, CA | July 21, 2015. |
| 92,044 | Northwest Pipe Company, Aerotek Commercial Staffing | Denver, CO | July 21, 2015. |
| 92,071 | Caterpillar High Performance Extrusions Group, Industry Solutions, Components, and Distribution Division, etc. | Oxford, MS | July 28, 2015. |
| 92,071A | Caterpillar High Performance Extrusions Group, Industry Solutions, Components, and Distribution Division, etc. | Memphis, TN | July 28, 2015. |
| 92,075 | SONA BLW Precision Forge, Inc., SONA AUTOCOMP USA LLC, Executive Personnel Group. | Selma, NC | July 29, 2015. |

The following certifications have been issued. The requirements of Section 222(b) (supplier to a firm whose workers are certified eligible to apply for TAA) of the Trade Act have been met.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 92,022 | Indiana Tool Manufacturing Company, Inc | Plymouth, IN | July 19, 2015. |

**Negative Determinations for Worker Adjustment Assistance**

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1) (employment decline or threat of separation) of section 222 has not been met.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 91,791 | Woodard Curran, @Work | Madison, ME. | |

The investigation revealed that the criteria under paragraphs (a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 90,280 | SCI Box, LLC, Oasis Outsourcing | Joplin, MO. | |
| 90,322 | Jaylor Dental Solutions, Inc | Beacon, NY. | |
| 91,417 | AK Coal Resources, Inc., AK Steel Corporation | Friedens, PA. | |
| 91,489 | TeleTech Services Corporation, TeleTech Holdings, Inc | Springfield, MO. | |
| 91,522 | Primetals Technologies USA LLC, Primetals Technologies USA Holdings, Inc., COR-Tech, LLC, etc. | Worchester, MA. | |
| 91,525 | Teknetix Inc., Nolans Services, LLC | Parkersburg, WV. | |
| 91,533 | Clean Harbors Environmental Services | San Leon, TX. | |
| 91,545 | Covanta Maine, LLC, Covanta, Manpower | Jonesboro, ME. | |
| 91,545A | Covanta Maine, LLC, Covanta, Manpower | West Enfield, ME. | |
| 91,625 | Preferred Podiatry Management, LLC | Northbrook, IL. | |
| 91,646 | Matrox International Corporation, Matrox Electronic Systems LTD, Westaff. | Plattsburgh, NY. | |
| 91,877 | GT Exhaust, Inc., International Acoustics Company Ltd | Lincoln, NE. | |
| 91,942 | SM Energy Company, Consultants Corporation | Tulsa, OK. | |

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 91,990 | Quality Saws and Supplies LLC | West Enfield, ME. | |

**Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance**

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 90,325 | Amsco, Limited | Cranston, RI. | |
| 92,035 | Federal Republic of Germany, Aircraft Mechanics Division | Holloman Air Force Base, NM. | |
| 92,038 | Berry Plastics | Dunkirk, NY. | |
| 92,047 | TechMahindra | Overland Park, KS. | |

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

| TA–W No. | Subject firm | Location | Impact date |
|---|---|---|---|
| 91,574 | Sensata Technologies, Inc | Everett, WA. | |
| 91,704 | ITT Corporation—Interconnect Solutions, ITT Cannon LLC, ITT Corporation. | Santa Ana, CA. | |

I hereby certify that the aforementioned determinations were issued during the period of *August 8, 2016 through August 19, 2016*. These determinations are available on the Department's Web site *https://www.doleta.gov/tradeact/taa/taa_search_form.cfm* under the searchable listing determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Signed at Washington, DC, this 7th day of October 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–27001 Filed 11–8–16; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–91,567; TA–W–91,567A]**

### Titan Tire Corporation of Bryan, a Subsidiary of Titan International, Inc., Bryan, Ohio; Per Mar Security Services and Elwood Staffing Working On-Site at Titan Tire Corporation of Bryan, a Subsidiary of Titan International, Inc., Bryan, Ohio; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on June 7, 2016, applicable to workers of Titan Tire Corporation of Bryan, a subsidiary of Titan International, Inc., including on-site leased workers from Per Mar Security Services and Elwood Staffing, Bryan, Ohio. The Department's notice of determination was published in the **Federal Register** on July 18, 2016 (81 FR 46706).

At the request of a state workforce office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in production of construction and mining tires.

The review shows that on June 7, 2016, a certification of eligibility to apply for adjustment assistance was issued for all workers of Titan Tire Corporation of Bryan, a subsidiary of Titan International, Inc., including on-site leased workers from Per Mar Security Services and Elwood Staffing, Bryan, Ohio, separated, or threatened with worker separations on or after March 8, 2015 through June 7, 2018.

In order to avoid an overlap in worker group coverage, the Department is amending the March 8, 2015 impact date established for TA–W–91,567, to read February 20, 2016 (TA–W–91,567) and March 8, 2015 (TA–W–91,567A).

The amended notice applicable to TA–W–91,567 is hereby issued as follows:

All workers of Titan Tire Corporation of Bryan, a subsidiary of Titan International, Inc., Bryan, Ohio (TA–W–91,567), who became totally or partially separated from employment on or after February 20, 2016 through June 7, 2018, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended;

AND,

All workers of Per Mar Security Services and Elwood Staffing, working on-site at Titan Tire Corporation of Bryan, a subsidiary of Titan International, Inc., Bryan, Ohio (TA–W–91,567A), who became totally or partially separated from employment on or after March 8, 2015 through June 7, 2018, and all workers in the group threatened with total or partial separation from employment on the date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 22nd day of September, 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–26996 Filed 11–8–16; 8:45 am]

BILLING CODE P

## DEPARTMENT OF LABOR

### Employment and Training Administration

**[TA–W–86,065F]**

### Northshore Mining, a Wholly Owned Subsidiary of Cliffs Natural Resources, Inc., Including On-Site Leased Workers From Silver Bay Power Company, Silver Bay, Minnesota; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (''Act''), 19 U.S.C. 2273, the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on September 18, 2015, applicable to workers of Northshore Mining, a wholly owned subsidiary of Cliffs Natural Resources, Inc., Silver Bay, Minnesota. The Department's notice of determination was published in the **Federal Register** on October 28, 2015 (80 FR 66046).

At the request of a state workforce office, the Department reviewed the certification for workers of the subject firm. The workers are engaged in activities related to the production of iron ore pellets (magnetite and hematite).

The state workforce office reports that on-site leased workers from Silver Bay Power Company should be included in the certification. The investigation revealed that the workers from Silver Bay Power Company were on-site and under the operational control of Northshore Mining, a wholly owned subsidiary of Cliffs Natural Resources, Inc., Silver Bay, Minnesota.

The amended notice applicable to TA–W–86,065F is hereby issued as follows:

All workers of Northshore Mining, a wholly owned subsidiary of Cliffs Natural Resources, Inc., including on-site leased workers from Silver Bay Power Company, Silver Bay, Minnesota who became totally or partially separated from employment on or after June 4, 2014 through September 18, 2017, and all workers in the group threatened with total or partial separation from employment on date of certification through two years from the date of certification, are eligible to apply for adjustment assistance under Chapter 2 of Title II of the Trade Act of 1974, as amended.

Signed in Washington, DC, this 7th day of September, 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

[FR Doc. 2016–27002 Filed 11–8–16; 8:45 am]

**BILLING CODE P**

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## DEPARTMENT OF LABOR

### Employment and Training Administration

### Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, no later than November 21, 2016.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than November 21, 2016.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 7th day of October 2016.

**Hope D. Kinglock,**

*Certifying Officer, Office of Trade Adjustment Assistance.*

### Appendix

33 TAA petitions instituted between 8/8/16 and 8/19/16

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 92094 | C3i, Healthcare Connections (Company) | Pittston, PA | 08/08/16 | 08/05/16 |
| 92095 | 360training.com, Inc. (State/One-Stop) | El Segundo, CA | 08/09/16 | 08/08/16 |
| 92096 | A1 Staffing (State/One-Stop) | Livonia, MI | 08/09/16 | 08/08/16 |
| 92097 | Terex USA, LLC (State/One-Stop) | Waverly, IA | 08/09/16 | 08/08/16 |
| 92098 | Caterpillar G.I.S. Division (Workers) | Mossville Building E, IL | 08/10/16 | 08/02/16 |
| 92099 | Springer Science+Business Media LLC (Workers) | Philadephia, PA | 08/10/16 | 08/09/16 |
| 92100 | Micron Technology (State/One-Stop) | Boise, ID | 08/10/16 | 08/09/16 |
| 92101 | Integrated Manufacturing and Assembly (State/One-Stop) | Highland Park, MI | 08/10/16 | 08/09/16 |
| 92102 | Cameron International (Workers) | Oklahoma City, OK | 08/10/16 | 08/09/16 |
| 92103 | ADP, LLC (State/One-Stop) | Augusta, GA | 08/11/16 | 08/09/16 |
| 92104 | Shade Structures, Inc. (Workers) | Dallas, TX | 08/11/16 | 08/10/16 |
| 92105 | Randstad Sourceright (Workers) | Alpharetta, GA | 08/10/16 | 08/10/16 |
| 92106 | Gonzalez Group, LLC (State/One-Stop) | Litchfield, MI | 08/12/16 | 08/11/16 |
| 92107 | Keurig Green Mountain (State/One-Stop) | Essex, VT | 08/12/16 | 08/11/16 |
| 92108 | Kennametal Inc. (Company) | Chilhowie, VA | 08/12/16 | 08/11/16 |
| 92109 | Malvern Instruments Inc. (State/One-Stop) | Houston, TX | 08/15/16 | 08/12/16 |
| 92110 | ClubCorp Financial Management Company (State/One-Stop). | Dallas, TX | 08/15/16 | 08/12/16 |
| 92111 | Hodge Foundry, Inc. (Union) | Greenville, PA | 08/15/16 | 08/15/16 |
| 92112 | Mattel, Inc. (Workers) | East Aurora, NY | 08/16/16 | 08/16/16 |
| 92113 | GE Power Chattanooga Turbines (Company) | Chattanooga, TN | 08/16/16 | 08/16/16 |
| 92114A | HERE North America, LLC (State/One-Stop) | Roseville, MN | 08/17/16 | 08/16/16 |
| 92114B | HERE North America, LLC (State/One-Stop) | Roseville, MN | 08/17/16 | 08/16/16 |
| 92114 | HERE North America, LLC (State/One-Stop) | Roseville, MN | 08/17/16 | 08/16/16 |

| TA–W | Subject firm (petitioners) | Location | Date of institution | Date of petition |
|---|---|---|---|---|
| 92115 | International Business Machines Corporation (IBM) (State/One-Stop). | Hartford, CT | 08/17/16 | 08/16/16 |
| 92116 | Eaton Corporation (State/One-Stop) | Belmond, IA | 08/18/16 | 08/09/16 |
| 92117 | WestRock (State/One-Stop) | Jacksonville, FL | 08/18/16 | 08/17/16 |
| 92118 | CVG Alabama, LLC (Company) | Piedmont, AL | 08/18/16 | 06/24/16 |
| 92119 | Bergstrom Inc. (Company) | Joliet, IL | 08/18/16 | 08/17/16 |
| 92120 | Reliable Drilling Fluids, LLC (State/One-Stop) | Denver, CO | 08/18/16 | 08/17/16 |
| 92121 | NCR (Workers) | Duluth, GA | 08/18/16 | 07/20/16 |
| 92122 | Manitowoc FSG Operations LLC (Company) | Sellersburg, IN | 08/18/16 | 08/18/16 |
| 92123 | Bayer Cropscience LP (Union) | Institute, WV | 08/19/16 | 08/18/16 |
| 92124 | PanJit Americas, Inc. (Workers) | Tempe, AZ | 08/19/16 | 08/18/16 |

[FR Doc. 2016–27000 Filed 11–8–16; 8:45 am]

BILLING CODE 4510–FN–P

## DEPARTMENT OF LABOR

### Wage and Hour Division

### Agency Information Collection Activities; Comment Request; Information Collections: Pertaining to Special Employment Under the Fair Labor Standards Act

**AGENCY:** Wage and Hour Division, Department of Labor.

**ACTION:** Notice.

**SUMMARY:** The Department of Labor (DOL) is soliciting comments concerning a proposed extension and revision of the information collection request (ICR) titled, ''Information Collections: Pertaining to Special Employment Under the Fair Labor Standards Act.'' This comment request is part of continuing Departmental efforts to reduce paperwork and respondent burden in accordance with the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501 *et seq.*

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. A copy of the proposed information request can be obtained by contacting the office listed below in the **FOR FURTHER INFORMATION CONTACT** section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the **ADDRESSES** section below on or before January 9, 2017.

**ADDRESSES:** You may submit comments identified by Control Number 1235–0001, by either one of the following methods: *Email: WHDPRAComments@dol.gov; Mail, Hand Delivery, Courier:* Division of Regulations, Legislation, and Interpretation, Wage and Hour, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210. *Instructions:* Please submit one copy of your comments by only one method. All submissions received must include the agency name and Control Number identified above for this information collection. Because we continue to experience delays in receiving mail in the Washington, DC area, commenters are strongly encouraged to transmit their comments electronically via email or to submit them by mail early. Comments, including any personal information provided, become a matter of public record. They will also be summarized and/or included in the request for Office of Management and Budget (OMB) approval of the information collection request.

**FOR FURTHER INFORMATION CONTACT:** Robert Waterman, Compliance Specialist, Division of Regulations, Legislation, and Interpretation, Wage and Hour Division, U.S. Department of Labor, Room S–3502, 200 Constitution Avenue NW., Washington, DC 20210; telephone: (202) 693–0406 (this is not a toll-free number). Copies of this notice may be obtained in alternative formats (Large Print, Braille, Audio Tape, or Disc), upon request, by calling (202) 693–0023 (not a toll-free number). TTY/TTD callers may dial toll-free (877) 889–5627 to obtain information or request materials in alternative formats.

**SUPPLEMENTARY INFORMATION:**

*I. Background:* The Wage and Hour Division of the Department of Labor administers the Fair Labor Standards Act (FLSA), 29 U.S.C. 201, *et seq.,* which sets the Federal minimum wage, overtime pay, recordkeeping, and youth employment standards of most general application. *See* 29 U.S.C. 206; 207; 211; 212. Section 11(d) of the FLSA authorizes the Secretary of Labor to regulate, restrict or prohibit industrial homework as necessary to prevent circumvention or evasion of the minimum wage requirements of the Act. 29 U.S.C. 211(d). The Department of Labor (DOL) restricts homework in seven industries (*i.e.,* knitted outwear, women's apparel, jewelry manufacturing, gloves and mittens, button and buckle manufacturing, and embroideries) to those employers who obtain certificates. See 29 CFR 530.1–.2. The DOL may also issue individual certificates in any industry for an individual homeworker who is unable to leave home because of a disability [or must remain at home to care for a person with a disability in the home.] See 29 CFR 530.3–.4. The DOL allows employers to obtain general (employer) certificates to employ homeworkers in all restricted industries, except women's apparel and hazardous jewelry manufacturing operations. See 29 CFR 530.101. Consistent with FLSA sections 11(d) and 14(c), the DOL's Wage and Hour Division (WHD) regulates the employment of industrial homeworkers and workers with disabilities covered by special certificates and governs the application and approval process for obtaining the certificates. Note that the Department proposes to revise this collection to allow for electronic submission of the data on the WH–226 and WH–226A. These forms are currently only available in paper form.

The FLSA also requires that the Secretary of Labor, to the extent necessary to prevent curtailment of employment opportunities, provide certificates authorizing the employment of full-time students at not less than 85 percent of the applicable minimum wage or less than $1.60, whichever is higher, in (1) retail or service establishments and agriculture (29 U.S.C. 214(b)(1); 29 CFR 519.11(a)). The FLSA and the regulations set forth the application requirements as well as the terms and conditions for the employment of full-time students at subminimum wages under certificates and temporary authorization to employ such students at subminimum wages. The subminimum wage programs are designed to increase employment opportunities for full-time students.

Regulations issued by the DOL, Office of Apprenticeship no longer permit the payment of subminimum wages to apprentices in an approved program. 29 CFR 29.5(b)(5). Thus, the DOL has issued no apprentice certificates since 1987. However, the WHD must maintain the information collection in order for the agency to fulfill its statutory obligation under FLSA to maintain this program. This information collection is currently approved for use through May, 2017.

*II. Review Focus:* The Department of Labor is particularly interested in comments which:

- 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;
- Enhance the quality, utility, and clarity of the information to be collected;
- 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;
- 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.

*III. Current Actions:* The Department of Labor seeks an approval for the extension and revision of this information collection in order to ensure effective administration of the government contract programs.

*Type of Review:* Extension and Revision.

*Agency:* Wage and Hour Division.

*Title:* Information Collections: Pertaining to Special Employment Under the Fair Labor Standards Act.

*OMB Number:* 1235–0001.

*Affected Public:* Business or other for-profit, Not-for-profit institutions, Farms, State, Local, or Tribal Government.

*Total Respondents:* 336,607.

*Total Annual Responses:* 1,345,307.

*Estimated Total Burden Hours:* 691,315.

*Estimated Time per Response:* various.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operation/maintenance):* $3,498.

Dated: November 3, 2016.

**Melissa Smith,**

*Director, Division of Regulations, Legislation and Interpretation.*

[FR Doc. 2016–27013 Filed 11–8–16; 8:45 am]

**BILLING CODE 4510–27–P**

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

### Proposed Extension of Existing Collection; Comment Request

**AGENCY:** Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, Department of Labor.

**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 Office of Workers' Compensation Programs is soliciting comments concerning the proposal to extend OMB approval of the information collection: Application for Approval of a Representative's Fee in Black Lung Claim Proceedings Conducted by the U.S. Department of Labor (CM–972). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before January 9, 2017.

**ADDRESSES:** Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone/fax (202) 354–9647, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

**SUPPLEMENTARY INFORMATION:**

*I. Background:* Individuals filing for benefits under the Black Lung Benefits Act (BLBA) may elect to be represented or assisted by an attorney or other representative. For those cases that are approved, 30 U.S.C. 901 of the Black Lung Benefits Act and 20 CFR 725.365–6 established standards for the information and documentation that must be submitted to the Program for review to approve a fee for services. The CM–972 is used to collect the pertinent data to determine if the representative's services and amounts charged can be paid under the Black Lung Act. This information collection is currently approved for use through March 31, 2017.

*II. Review Focus:* The Department of Labor is particularly interested in comments which:

* 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.

*III. Current Actions:* The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to gather information to determine the amounts of Black Lung benefits paid to beneficiaries. Black Lung amounts are reduced dollar for dollar, for other Black Lung related workers' compensation awards the beneficiary may be receiving from State or Federal programs.

*Agency:* Office of Workers' Compensation Programs.

*Title:* Application for Approval of a Representative's Fee in Black Lung Claim Proceedings Conducted by the U.S. Department of Labor.

*OMB Number:* 1240–0011.

*Agency Number:* CM–972.

*Affected Public:* Business or other for-profit.

*Total Respondents:* 338.

*Total Annual Responses:* 338.

*Average Time per Response:* 42 minutes.

*Estimated Total Burden Hours:* 237.

*Frequency:* On occasion.

*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 will also become a matter of public record.

Dated: November 1, 2016.

**Yoon Ferguson,**

*Agency Clearance Officer, Office of Workers' Compensation Programs, U.S. Department of Labor.*

[FR Doc. 2016–27014 Filed 11–8–16; 8:45 am]

**BILLING CODE 4510–CK–P**

## DEPARTMENT OF LABOR

### Office of Workers' Compensation Programs

### Proposed Extension of Existing Collection; Comment Request

**AGENCY:** Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, Department of Labor.

**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 Office of Workers' Compensation Programs is soliciting comments concerning the proposal to extend OMB approval of the information collection: Operator Response to Schedule for Submission of Additional Evidence (CM–2970) and Operator Response to Notice of Claim (CM–2970a). A copy of the proposed information collection request can be obtained by contacting the office listed below in the addresses section of this Notice.

**DATES:** Written comments must be submitted to the office listed in the addresses section below on or before January 9, 2017.

**ADDRESSES:** Ms. Yoon Ferguson, U.S. Department of Labor, 200 Constitution Ave. NW., Room S–3323, Washington, DC 20210, telephone/fax (202) 354–9647, Email *Ferguson.Yoon@dol.gov.* Please use only one method of transmission for comments (mail, fax, or Email).

**SUPPLEMENTARY INFORMATION:**

### I. Background

The Division of Coal Mine Workers' Compensation administers the Black Lung Benefits Act (30 U.S.C. 901 *et seq.*) which provides benefits to coal miners totally disabled due to pneumoniosis, and their surviving dependents. When the Division of Coal Mine Workers' Compensation (DCMWC) makes a preliminary analysis of a claimant's eligibility for benefits, and if a coal mine operator has been identified as potentially liable for payment of those benefits, the responsible operator is notified of the preliminary analysis. Regulations require that a coal mine operator be identified and notified of potential liability as early in the adjudication process as possible. Regulatory authority is found in 20 CFR 725.410 for the CM–2970 and 20 CFR 725.408 for the CM–2970a. This information collection is currently approved for use through March 31, 2017.

### II. Review Focus

The Department of Labor is particularly interested in comments which:

* 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.

### III. Current Actions

The Department of Labor seeks the approval for the extension of this currently-approved information collection in order to carry out its responsibility to administer the Black Lung Benefits Act.

*Agency:* Office of Workers' Compensation Programs.

*Title:* Operator Response to Schedule for Submission of Additional Evidence (CM–2970) and Operator Response to Notice of Claim (CM–2970a).

*OMB Number:* 1240–0033.

*Agency Number:* CM–2970 and CM–2970a.

*Affected Public:* Business or other for profit.

| Form | Time to complete | Frequency of response | Number of respondents | Number of responses | Hours burden |
|---|---|---|---|---|---|
| CM–2970 | 10 min | occasion | 4,800 | 4,800 | 800 |
| CM–2970A | 15 min | occasion | 4,800 | 4,800 | 1,200 |
| Totals | | | 9,600 | 9,600 | 2,000 |

*Total Respondents:* 9,600.

*Total Annual Responses:* 9,600.

*Average Time per Response:* 10–15 minutes.

*Estimated Total Burden Hours:* 2,000.

*Frequency:* On occasion.

*Total Burden Cost (capital/startup):* $0.

*Total Burden Cost (operating/maintenance):* $4,800.

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 will also become a matter of public record.

Dated: November 1, 2016.

**Yoon Ferguson,**

*Agency Clearance Officer, Office of Workers' Compensation Programs, US Department of Labor.*

[FR Doc. 2016–27015 Filed 11–8–16; 8:45 am]

**BILLING CODE 4510–CK–P**

## NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

**[Notice (16–080)]**

### Notice of Intent To Grant an Exclusive License

**AGENCY:** National Aeronautics and Space Administration.

**ACTION:** Notice of intent to grant an exclusive license.

**SUMMARY:** The National Aeronautics and Space Administration (NASA) hereby gives notice of its intent to grant an exclusive license, in the field of use of human and/or animal healthcare, in the Australia, Brazil, Canada, China, Chile, Colombia, Hong Kong, European Union (EPO), India, Indonesia, Israel, Japan, Malaysia, Mexico, New Zealand, Philippines, Russia, Saudi Arabia, Singapore, South Africa, South Korea, United States and Vietnam, to practice the inventions described and claimed in Patent Cooperative Treaty (PCT) Application Number PCT/US15/20964 and national/regional phase patent applications resulting therefrom, titled ''Infrasonic Stethoscope for Monitoring Physiological Processes,'' NASA Case Number LAR–18509–1–PCT, to Infrasonix Inc., having its principal place of business in Lawrenceville, GA. Certain patent rights in these inventions have been assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. The prospective exclusive license will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7.

**DATES:** The prospective exclusive license may be granted unless, within fifteen (15) days from the date of this published notice, NASA receives written objections including evidence and argument that establish that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7. Competing applications completed and received by NASA within fifteen (15) days of the date of this published notice will also be treated as objections to the grant of the contemplated partially exclusive license.

Objections submitted in response to this notice will not be made available to the public for inspection and, to the extent permitted by law, will not be released under the Freedom of Information Act, 5 U.S.C. 552.

**ADDRESSES:** Objections relating to the prospective license may be submitted to Patent Counsel, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–3221 (phone), (757) 864–9190 (fax).

**FOR FURTHER INFORMATION CONTACT:** Andrea Z. Warmbier, Patent Attorney, Office of Chief Counsel, NASA Langley Research Center, MS 30, Hampton, VA 23681; (757) 864–7686; Fax: (757) 864–9190. Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.* This notice is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(b)(1)(i).

**Mark P. Dvorscak,**

*Agency Counsel for Intellectual Property.*

[FR Doc. 2016–27005 Filed 11–8–16; 8:45 am]

**BILLING CODE 7510–13–P**

## NATIONAL SCIENCE FOUNDATION

### Agency Information Collection Activities: Comment Request

**AGENCY:** National Science Foundation.

**ACTION:** Submission for OMB Review; Comment Request.

**SUMMARY:** The National Science Foundation (NSF) has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. This is the second notice for public comment; the first was published in the **Federal Register** at 81 FR 45183, and no comments were received. NSF is forwarding the proposed submission to the Office of Management and Budget (OMB) for clearance simultaneously with the publication of this second notice. The full submission (including comments) may be found at: *http://www.reginfo.gov/public/do/PRAMain.*

*Comments:* Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Office of Information and Regulatory Affairs of OMB, Attention: Desk Officer for National Science Foundation, 725—17th Street NW., Room 10235, Washington, DC 20503, and to Suzanne H. Plimpton, Reports Clearance Officer, National Science Foundation, 4201 Wilson Boulevard, Suite 1265, Arlington, Virginia 22230 or send email to *splimpto@nsf.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339, which is accessible 24 hours a day, 7 days a week, 365 days a year (including federal holidays).

**DATES:** Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling 703–292–7556.

NSF may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

**SUPPLEMENTARY INFORMATION:**

*Title of Collection:* Grantee Reporting Requirements for NSF Prediction of and Resilience against Extreme Events (PREEVENTS) Track 1 (Conference) Awards.

*OMB Number:* 3145–NEW.

*Expiration Date of Approval:* Not applicable.

*Type of Request:* Intent to seek approval to establish an information collection.

*Overview of this Information Collection:* NSF and the Directorate for Geosciences (GEO) have long supported basic research in scientific and engineering disciplines necessary to understand natural hazards and extreme events. The Prediction of and Resilience against Extreme Events (PREEVENTS) program is one element of the NSF-wide Risk and Resilience activity, which has the overarching goal of improving predictability and risk assessment, and increasing resilience, in order to reduce the impact of extreme events on our life, society, and economy. PREEVENTS provides an additional mechanism to support research and related activities that will improve our understanding of the fundamental processes underlying natural hazards and extreme events in the geosciences.

PREEVENTS is intended to encourage new scientific directions in the domains of natural hazards and extreme events. PREEVENTS will consider proposals for conferences that will foster development of interdisciplinary or multidisciplinary communities required to address complex questions

surrounding natural hazards and extreme events. Such proposals are called PREEVENTS Track 1 proposals.

In addition to standard NSF annual and final report requirements, PIs for all PREEVENTS Track 1 awards will be required to submit to NSF a public report that summarizes the conference activities, attendance, and outcomes; describes scientific and/or technical challenges that remain to be overcome in the areas discussed during the conference; and identifies specific next steps to advance knowledge in the areas of natural hazards and extreme events that were considered during the conference. These reports will be made publicly available via the NSF Web site, and are intended to foster nascent interdisciplinary or multidisciplinary communities and to enable growth of new scientific directions.

*Use of the Information:* NSF will use the information to understand and evaluate the outcomes of the conference, to foster growth of new scientific communities, and to evaluate the progress of the PREEVENTS program.

*Estimate of Burden:* 80 hours per award for 10 conference awards for a total of 800 hours.

*Respondents:* Universities and Colleges; Non-profit, non-academic organizations; For-profit organizations; NSF-funded Federally Funded Research and Development Centers (FFRDCs).

*Estimated Number of Responses per Report:* One from each five to ten Track 1 awardees.

*Comments:* Comments are invited on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information shall have practical utility; (b) the accuracy of the Agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information on respondents, including through the use of automated collection techniques or other forms of information technology; and (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Dated: November 4, 2016.

**Suzanne H. Plimpton,**

*Reports Clearance Officer, National Science Foundation.*

[FR Doc. 2016–27047 Filed 11–8–16; 8:45 am]

BILLING CODE 7555–01–P

## NUCLEAR REGULATORY COMMISSION

**[Docket No. 50–609; NRC–2013–0235]**

## Construction Permit Application for the Northwest Medical Isotopes, LLC, Medical Radioisotope Production Facility

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Draft environmental impact statement; public meeting and request for comment.

**SUMMARY:** The U.S. Nuclear Regulatory Commission (NRC) is issuing for public comment a draft environmental impact statement (EIS) for the construction permit application submitted by Northwest Medical Isotopes, LLC (NWMI) for the NWMI Medical Radioisotope Production Facility (NWMI facility). The proposed NWMI facility would be located in Columbia, Missouri. Possible alternatives to the proposed action (issuance of the construction permit) include no action, an alternative site, and two alternative technologies. The NRC staff plans to hold a public meeting during the public comment period to present an overview of the draft EIS and to accept public comments on the document.

**DATES:** Submit comments by December 29, 2016. 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 (unless this document describes a different method for submitting comments on a specific subject):

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0235. 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:* Cindy Bladey, Office of Administration, Mail Stop: OWFN–12–H08, 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:** David Drucker, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6223; email: *David.Drucker@nrc.gov.*

**SUPPLEMENTARY INFORMATION:**

### I. Obtaining Information and Submitting Comments

*A. Obtaining Information*

Please refer to Docket ID NRC–2013–0235 when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2013–0235.
- *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 referenced. The draft EIS for the construction permit for the proposed NWMI facility is available in ADAMS under Accession No. ML16305A029.
- *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–2013–0235 in the subject line of your comment submission, to ensure that the NRC is able to make your comment submission available to the public in this docket.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC posts all comment submissions at *http://www.regulations.gov* as well as entering the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, you should inform those persons not to include identifying or contact information that

they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment submissions into ADAMS.

**II. Discussion**

The NRC is issuing for public comment a draft EIS for the construction permit for the proposed NWMI facility. This draft EIS includes the preliminary analysis that evaluates the environmental impacts of the proposed action and alternatives to the proposed action. The preliminary recommendation is that after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, the NRC staff recommends, the issuance of the requested construction permit to NWMI, unless safety issues mandate otherwise.

**III. Public Meeting**

The NRC staff will hold a public meeting prior to the close of the public comment period to present an overview of the draft EIS for the proposed construction permit and to accept public comment on the document. The meeting will be held on December 6, 2016, at the Holiday Inn Columbia-East, 915 Port Way, Columbia, Missouri 65201. The meeting will convene at 6:00 p.m. and will continue until approximately 8:00 p.m., as necessary. The meeting will be transcribed and will include: (1) A presentation of the contents of the draft EIS; and (2) the opportunity for interested government agencies, organizations, and individuals to provide comments on the draft EIS. Additionally, the NRC staff will host an informal discussion 1 hour before the start of the meeting at the same location. No comments on the draft EIS will be accepted during the informal discussion. To be considered in the final EIS, comments must be provided either at the transcribed public meeting or submitted in writing by the comment deadline identified in the **DATES** section of this document. Persons may pre-register to attend or present oral comments at the meeting by contacting the NRC Environmental Project Manager, David Drucker, by telephone at 1–800–368–5642, ext. 6223, or by email at *David.Drucker@nrc.gov* no later than Thursday, December 1, 2016. Members of the public may also register to provide oral comments within 15 minutes of the start of the meeting. Individual oral comments may be limited by the time available, depending on the number of persons who register. If special equipment or accommodations are needed to attend or present information at the public meeting, the need should be brought to Mr. Drucker's attention no later than Tuesday, November 29, 2016, to provide the NRC staff adequate notice to determine whether the request can be accommodated.

Dated at Rockville, Maryland, this 3rd day of November, 2016.

For the Nuclear Regulatory Commission.

**Jeffery J. Rikhoff,**

*Acting Chief, Environmental Review and Projects Branch, Division of License Renewal, Office of Nuclear Reactor Regulation.*

[FR Doc. 2016–27058 Filed 11–8–16; 8:45 am]

**BILLING CODE 7590–01–P**

## POSTAL REGULATORY COMMISSION

**[Docket Nos. CP2016–11; CP2016–150; MC2017–14 and CP2017–30; MC2017–15 and CP2017–31; MC2017–16 and CP2017–32]**

## 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:* November 14, 2016 (Comment due date applies to all Docket Nos. listed above).

**ADDRESSES:** Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Those who cannot submit comments electronically should contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section by telephone for advice on filing alternatives.

**FOR FURTHER INFORMATION CONTACT:** David A. Trissell, General Counsel, at 202–789–6820.

**SUPPLEMENTARY INFORMATION:**

**Table of Contents**

I. Introduction
II. Docketed Proceeding(s)

**I. Introduction**

The Commission gives notice that the Postal Service filed request(s) for the Commission to consider matters related to negotiated service agreement(s). The request(s) may propose the addition or removal of a negotiated service agreement from the market dominant or the competitive product list, or the modification of an existing product currently appearing on the market dominant or the competitive product list.

Section II identifies the docket number(s) associated with each Postal Service request, the title of each Postal Service request, the request's acceptance date, and the authority cited by the Postal Service for each request. For each request, the Commission appoints an officer of the Commission to represent the interests of the general public in the proceeding, pursuant to 39 U.S.C. 505 (Public Representative). Section II also establishes comment deadline(s) pertaining to each request.

The public portions of the Postal Service's request(s) can be accessed via the Commission's Web site (*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).:* CP2016–11; *Filing Title:* Notice of United States Postal Service of Change in Prices Pursuant to Amendment to Priority Mail Express, Priority Mail & First-Class Package Service Contract 5, with Portions Filed Under Seal; *Filing Acceptance Date:* November 2, 2016; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Kenneth R. Moeller; *Comments Due:* November 14, 2016.

2. *Docket No(s).:* CP2016–150; *Filing Title:* Notice of United States Postal Service of Amendment to Priority Mail Express & Priority Mail Contract 29, with Portions Filed Under Seal; *Filing Acceptance Date:* November 2, 2016; *Filing Authority:* 39 CFR 3015.5; *Public Representative:* Curtis E. Kidd; *Comments Due:* November 14, 2016.

3. *Docket No(s).:* MC2017–14 and CP2017–30; *Filing Title:* Request of the United States Postal Service to Add First-Class Package Service Contract 65 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* November 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Katalin K. Clendenin; *Comments Due:* November 14, 2016.

4. *Docket No(s).:* MC2017–15 and CP2017–31; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 254 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* November 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Jennaca D. Upperman; *Comments Due:* November 14, 2016.

5. *Docket No(s).:* MC2017–16 and CP2017–32; *Filing Title:* Request of the United States Postal Service to Add Priority Mail Contract 255 to Competitive Product List and Notice of Filing (Under Seal) of Unredacted Governors' Decision, Contract, and Supporting Data; *Filing Acceptance Date:* November 2, 2016; *Filing Authority:* 39 U.S.C. 3642 and 39 CFR 3020.30 *et seq.; Public Representative:* Jennaca D. Upperman; *Comments Due:* November 14, 2016.

This notice will be published in the **Federal Register**.

**Stacy L. Ruble,**

*Secretary.*

[FR Doc. 2016–27011 Filed 11–8–16; 8:45 am]

BILLING CODE 7710–FW–P

## POSTAL SERVICE

### Temporary Emergency Committee of the Board of Governors; Sunshine Act Meeting

**TIME AND DATE:** November 4, 2016 at 1 p.m.

**PLACE:** Washington, DC, via Teleconference.

**STATUS:** *Committee Votes to Close November 4, 2016, Meeting:* By telephone vote on November 4, 2016, members of the Temporary Emergency Committee of the Board of Governors of the United States Postal Service met and voted unanimously to close to public observation its meeting held in Washington, DC, via teleconference. The Committee determined that no earlier public notice was possible.

**Matters Considered**

*Friday, November 4, 2016 at 1 p.m.*

1. Pricing.
2. Strategic Issues.

*General Counsel Certification:* The General Counsel of the United States Postal Service has certified that the meeting was properly closed under the Government in the Sunshine Act.

**CONTACT PERSON FOR MORE INFORMATION:** Julie S. Moore, Secretary of the Board, U.S. Postal Service, 475 L'Enfant Plaza SW., Washington, DC 20260–1000, telephone (202) 268–4800.

**Julie S. Moore,**

*Secretary, Board of Governors.*

[FR Doc. 2016–27145 Filed 11–7–16; 11:15 am]

BILLING CODE 7710–12–P

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79234; File No. SR–BatsEDGA–2016–23]**

### Self-Regulatory Organizations; Bats EDGA Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend EDGA Rule 2.5, Restrictions, Regarding Members and Associated Persons of Members Who Are or Become Subject to a Statutory Disqualification

November 3, 2016.

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 October 24, 2016, Bats EDGA Exchange, Inc. (the ''Exchange'' or ''EDGA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend EDGA Rules regarding Members and associated persons of Members who are or become subject to a statutory disqualification.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 2.5 (Restrictions) to add language which provides the Exchange with the discretion to determine whether to permit a person to become a Member or an associated person of a Member or continue as a Member or in association with a Member on the Exchange.

Currently, Rule 2.5 restricts any persons from becoming a Member or continuing as a Member where (1) such person is other than a natural person and is not a registered broker or dealer, (2) such person is a natural person who is not either a registered broker or dealer or associated with a registered broker or dealer, (3) such person is subject to a statutory disqualification,[5] except that a person may become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[6] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member, or (4) such person is not a member of another registered national securities exchange or association.

The Exchange notes that the proposed rule changes below are substantially

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange uses the definition of statutory disqualification set forth in the Act. *See* Exchange Rule 1.5(bb); 15 U.S.C. 78c(a)(39).

[6] *See* 17 CFR 240.19d–1, 17 CFR 240.19d–2, 17 CFR 240.19d–3, and 17 CFR 240.19h–1.

similar to the rules of the International Securities Exchange (''ISE''),[7] the rules of the Chicago Board Options Exchange (''CBOE''),[8] and a recent amendment made by the BOX Options Exchange LLC (''BOX'').[9]

The Exchange first proposes to amend the language of Rule 2.5 to give itself the discretion to determine if a restriction on a Member becoming or continuing on as a Member is appropriate. The Exchange also proposes to make clear that the limitations of Rule 2.5 are equally applicable to persons associated with Members as they are to Members.

The Exchange then proposes to amend Rule 2.5(a)(3) to delete the language that allows a person to become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[10] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member. The Exchange does not believe that this language reflects the Commission's current review process, as an order is not necessarily required in every instance.

The Exchange then proposes to add three more situations with regard to whether a person may become a Member or continue as a Member in any capacity on the Exchange. The additional restrictions are when: (1) Such person fails to meet any of the qualification requirements for becoming a Member or associated with a Member after approval thereof; (2) such person fails to meet any condition placed by the Exchange on such Member or association with a Member; and (3) such person violates any agreement with the Exchange. The Exchange proposes these additions in order to allow the Exchange more discretion in its determination as to whether a person may become or continue as a Member or in association with a Member. The Exchange notes that the Exchange must act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[11] Further, any prospective Member that has been denied membership in the Exchange or barred from becoming associated with a Member is entitled to certain due process pursuant to Chapter X of the Exchange's rules, which includes, but is not limited to, potential review by the Commission.[12]

The Exchange also proposes to add language with regard to a Member or associated person that becomes subject to a statutory disqualification under the Act. The proposed rule would allow a Member or associated person who becomes subject to a statutory disqualification and who wants to continue as a Member of the Exchange or in association with a Member, to submit a request to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification.[13]

The Exchange also proposes to add language which allows Members and associated persons whose request to become a Member or associated with a Member is denied or conditioned, or any person whose association with a Member is denied or conditioned pursuant to the restrictions codified in Rule 2.5(a), and any Member or person associated with a Member who is not permitted to continue as a Member or be an associate with a Member or to which association is conditioned to seek review under the provisions of the Exchange Rules relating to adverse actions.[14]

Lastly, the Exchange proposes to add Interpretation and Policy .05, which will allow the Exchange to waive the provisions of Rule 2.5 when a proceeding is pending before another self-regulatory organization (''SRO'') to determine whether to permit a Member or associated person to continue membership or association notwithstanding a statutory disqualification. The Exchange notes that this proposed rule change is substantially similar to the comparable rules of the CBOE,[15] and the rules of BOX, as amended.[16] Further, in the event the Exchange determines to waive the provisions of this Rule with respect to a Member or associated person, the Exchange shall determine whether the Exchange will concur in any Exchange Act Rule 19h–1 filing made by another SRO with respect to the Member or associated person.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[18] 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 changes are consistent with the requirements above. Specifically, the Exchange believes the proposed changes will better enable the Exchange to use its discretion in determining whether a person may become or continue as a Member or associated person. Because of the discretionary language and additional restrictions, the Exchange may consider additional circumstances when determining whether a person may become or continue as a Member or associated person on the Exchange.

The Exchange believes that Proposed Rule 2.5(c) regarding any person or Member's ability to appeal a denied or conditioned request to become or continue as a Member or to associate with a Member is reasonable because it provides a fair procedure for the Members and persons associated with Members pursuant to Rule 7.6 (Summary Suspension of Exchange Services).

The Exchange also believes the proposed rule change regarding the waiver of the provisions of Rule 2.5 will better enable the Exchange to focus Exchange resources on other matters while another SRO is determining whether to permit a Member or associated person to become or continue being a Member or associated person on the exchange.

Lastly, the Exchange believes is it reasonable to remove language in Rule 2.5(a)(3) because the Exchange is eliminating any potential for confusion

[7] *See* ISE Rule 302; Securities Exchange Act Release No. 42455, 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

[8] *See* CBOE Rule 3.18; Securities Exchange Act Release No. 43056 (July 19, 2000), 65 FR 46524 (July 28, 2000) (SR–CBOE–1999–15) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules).

[9] *See* BOX Rule 2040; Securities Exchange Act Release No. 78449 (August 1, 2016), 81 FR 51947 (August 5, 2016) (SR–BOX–2016–26).

[10] *See* supra, note 6.

[11] *See* 15 U.S.C. 78f(b)(5).

[12] *See* Chapter X of the Exchange's Rules.

[13] The Member or person associated with a Member must submit the request within thirty (30) days of becoming subject to a statutory disqualification.

[14] *See* Chapter X of the Exchange's Rules.

[15] *See* Interpretation and Policy .01 to CBOE Rule 3.18.

[16] *See* IM–2040–8 to BOX Rule 2040.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

by simplifying the Exchange Rules, ensuring that Members, regulators, and the public can more easily navigate the Exchange's Rulebook.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As noted above, although the proposal will provide the Exchange with additional discretionary authority with respect to potential Members of the Exchange, the Exchange is bound by the Act to act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[19] Further, the proposal is not a competitive proposal designed to either attract or prevent prospective Members from joining the Exchange, but rather, is primarily focused on modifying the Exchange's rules to ensure clarity and consistency with other SROs.

*(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**

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f)(6) of Rule 19b–4 thereunder,[21] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGA–2016–23 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGA–2016–23. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGA–2016–23 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27027 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4.

[22] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79233; File No. SR–BatsBYX–2016–28]**

## Self-Regulatory Organizations; Bats BYX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend BYX Rule, 2.5, Restrictions, Regarding Members and Associated Persons of Members Who Are or Become Subject to a Statutory Disqualification

November 3, 2016.

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 October 24, 2016, Bats BYX Exchange, Inc. (the ''Exchange'' or ''BYX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange filed a proposal to amend BYX Rules regarding Members and associated persons of Members who are or become subject to a statutory disqualification.

The text of the proposed rule change is available at the Exchange's Web site

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

## II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

### *(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 2.5 (Restrictions) to add language which provides the Exchange with the discretion to determine whether to permit a person to become a Member or an associated person of a Member or continue as a Member or in association with a Member on the Exchange.

Currently, Rule 2.5 restricts any persons from becoming a Member or continuing as a Member where (1) such person is other than a natural person and is not a registered broker or dealer, (2) such person is a natural person who is not either a registered broker or dealer or associated with a registered broker or dealer, (3) such person is subject to a statutory disqualification,[5] except that a person may become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[6] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member, or (4) such person is not a member of another registered national securities exchange or association.

The Exchange notes that the proposed rule changes below are substantially similar to the rules of the International Securities Exchange (''ISE''),[7] the rules of the Chicago Board Options Exchange (''CBOE''),[8] and a recent amendment made by the BOX Options Exchange LLC (''BOX'').[9]

The Exchange first proposes to amend the language of Rule 2.5 to give itself the discretion to determine if a restriction on a Member becoming or continuing on as a Member is appropriate. The Exchange also proposes to make clear that the limitations of Rule 2.5 are equally applicable to persons associated with Members as they are to Members.

The Exchange then proposes to amend Rule 2.5(a)(3) to delete the language that allows a person to become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[10] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member. The Exchange does not believe that this language reflects the Commission's current review process, as an order is not necessarily required in every instance.

The Exchange then proposes to add three more situations with regard to whether a person may become a Member or continue as a Member in any capacity on the Exchange. The additional restrictions are when: (1) Such person fails to meet any of the qualification requirements for becoming a Member or associated with a Member after approval thereof; (2) such person fails to meet any condition placed by the Exchange on such Member or association with a Member; and (3) such person violates any agreement with the Exchange. The Exchange proposes these additions in order to allow the Exchange more discretion in its determination as to whether a person may become or continue as a Member or in association with a Member. The Exchange notes that the Exchange must act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[11] Further, any prospective Member that has been denied membership in the Exchange or barred from becoming associated with a Member is entitled to certain due process pursuant to Chapter X of the Exchange's rules, which includes, but is not limited to, potential review by the Commission.[12]

The Exchange also proposes to add language with regard to a Member or associated person that becomes subject to a statutory disqualification under the Act. The proposed rule would allow a Member or associated person who becomes subject to a statutory disqualification and who wants to continue as a Member of the Exchange or in association with a Member, to submit a request to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification.[13]

The Exchange also proposes to add language which allows Members and associated persons whose request to become a Member or associated with a Member is denied or conditioned, or any person whose association with a Member is denied or conditioned pursuant to the restrictions codified in Rule 2.5(a), and any Member or person associated with a Member who is not permitted to continue as a Member or be an associate with a Member or to which association is conditioned to seek review under the provisions of the Exchange Rules relating to adverse actions.[14]

Lastly, the Exchange proposes to add Interpretation and Policy .05, which will allow the Exchange to waive the provisions of Rule 2.5 when a proceeding is pending before another self-regulatory organization (''SRO'') to determine whether to permit a Member or associated person to continue membership or association notwithstanding a statutory disqualification. The Exchange notes that this proposed rule change is substantially similar to the comparable rules of the CBOE,[15] and the rules of BOX, as amended.[16] Further, in the event the Exchange determines to waive the provisions of this Rule with respect to a Member or associated person, the Exchange shall determine whether the Exchange will concur in any Exchange Act Rule 19h–1 filing made by another SRO with respect to the Member or associated person.

[5] The Exchange uses the definition of statutory disqualification set forth in the Act. *See* Exchange Rule 1.5(z); 15 U.S.C. 78c(a)(39).

[6] *See* 17 CFR 240.19d–1, 17 CFR 240.19d–2, 17 CFR 240.19d–3, and 17 CFR 240.19h–1.

[7] *See* ISE Rule 302; Securities Exchange Act Release No. 42455, 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

[8] *See* CBOE Rule 3.18; Securities Exchange Act Release No. 43056 (July 19, 2000), 65 FR 46524 (July 28, 2000) (SR–CBOE–1999–15) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules).

[9] *See* BOX Rule 2040; Securities Exchange Act Release No. 78449 (August 1, 2016), 81 FR 51947 (August 5, 2016) (SR–BOX–2016–26).

[10] *See* supra, note 6.

[11] *See* 15 U.S.C. 78f(b)(5).

[12] *See* Chapter X of the Exchange's Rules.

[13] The Member or person associated with a Member must submit the request within thirty (30) days of becoming subject to a statutory disqualification.

[14] *See* Chapter X of the Exchange's Rules.

[15] *See* Interpretation and Policy .01 to CBOE Rule 3.18.

[16] *See* IM–2040–8 to BOX Rule 2040.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[18] 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 changes are consistent with the requirements above. Specifically, the Exchange believes the proposed changes will better enable the Exchange to use its discretion in determining whether a person may become or continue as a Member or associated person. Because of the discretionary language and additional restrictions, the Exchange may consider additional circumstances when determining whether a person may become or continue as a Member or associated person on the Exchange.

The Exchange believes that Proposed Rule 2.5(c) regarding any person or Member's ability to appeal a denied or conditioned request to become or continue as a Member or to associate with a Member is reasonable because it provides a fair procedure for the Members and persons associated with Members pursuant to Rule 7.6 (Summary Suspension of Exchange Services).

The Exchange also believes the proposed rule change regarding the waiver of the provisions of Rule 2.5 will better enable the Exchange to focus Exchange resources on other matters while another SRO is determining whether to permit a Member or associated person to become or continue being a Member or associated person on the exchange.

Lastly, the Exchange believes is it reasonable to remove language in Rule 2.5(a)(3) because the Exchange is eliminating any potential for confusion by simplifying the Exchange Rules, ensuring that Members, regulators, and the public can more easily navigate the Exchange's Rulebook.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As noted above, although the proposal will provide the Exchange with additional discretionary authority with respect to potential Members of the Exchange, the Exchange is bound by the Act to act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[19] Further, the proposal is not a competitive proposal designed to either attract or prevent prospective Members from joining the Exchange, but rather, is primarily focused on modifying the Exchange's rules to ensure clarity and consistency with other SROs.

*(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**

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f)(6) of Rule 19b–4 thereunder,[21] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBYX–2016–28 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsBYX–2016–28. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBYX–

2016–28 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27026 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79225; File No. SR–MSRB–2016–13]**

## Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Requirements in MSRB Rule A–4, on Meetings of the Board, Regarding the Formation of a Quorum

November 3, 2016.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'' or ''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on October 24, 2016, the Municipal Securities Rulemaking Board (the ''MSRB'' or ''Board'') 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 MSRB. 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 MSRB filed with the Commission a proposed amendment to MSRB Rule A–4, on meetings of the Board, to amend the requirements regarding the formation of a quorum (the ''proposed rule change''). The MSRB has designated the proposed rule change as concerned solely with the administration of the self-regulatory organization under paragraph (f)(3) of Rule 19b–4 under the Act,[3] which renders the proposal effective upon receipt of this filing by the Commission. The proposed rule change is concerned solely with the administration of the MSRB in that it simply amends the quorum requirements applicable to the Board. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

The text of the proposed rule change is available on the MSRB's Web site at *www.msrb.org/Rules-and-Interpretations/SEC-Filings/2016-Filings.aspx,* at the MSRB's principal office, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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 Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 (the ''Dodd-Frank Act'') [4] amended Section 15B of the Exchange Act [5] to provide for the regulation by the Commission and the MSRB of municipal advisors. The Dodd Frank Act grants the MSRB broad rulemaking authority over municipal advisors and municipal advisory activities.[6] The Dodd-Frank Act also requires that the MSRB Board include persons associated with a municipal advisor. Specifically, Section 15B(b)(1) of the Exchange Act [7] requires that the MSRB Board include at least one individual who is associated with a municipal advisor (an ''advisor representative'') among the members of the Board that are ''regulated representatives,'' as that term is used in Section 15B(b)(1).[8] The composition of the MSRB Board reflects and complies with this requirement.

The MSRB has adopted administrative rules that pertain to the operation and administration of the Board, which are identified by the prefix A,[9] and include MSRB Rule A–4, regarding quorum and voting requirements. Existing Rule A–4(c) provides that a quorum of the Board shall consist of two-thirds of the members of the whole Board, which must include at least one member of the Board who is a public representative, at least one member who is a broker-dealer representative and at least one member who is a bank representative. Existing Rule A–4(c) also provides that any action taken by the affirmative vote of a majority of the whole Board at any meeting at which a quorum is present, shall, except as otherwise provided by rule of the Board, constitute the action of the Board. Rule A–4(c) also provides for Board action by resolution, except where otherwise specified by the Exchange Act or a rule of the Board.

The MSRB proposes to amend Rule A–4(c) to incorporate a requirement that at least one member of any Board group constituting a quorum be an advisor representative. The proposed rule change ensures representation of all categories of persons required to be members of the Board in any quorum established under Rule A–4. The MSRB also proposes minor technical amendments to Rule A–4(c) to clarify the provision.

2. Statutory Basis

The MSRB has adopted the proposed rule change pursuant to Sections 15B(b)(1) and (2) of the Exchange Act,[10] which require, among other things, that the Board include at least one individual who is associated with a municipal advisor, and the rules of the Board establish fair procedures for the nomination and election of members of the Board and assure fair representation in such nominations and elections of public representatives, broker-dealer representatives, bank representatives, and advisor representatives and the terms that shall be served by such members. The MSRB believes the proposed rule change is appropriate and consistent with Sections 15B(b)(1) and (2) of the Exchange Act [11] in that the proposed rule change would amend the quorum requirements in a manner consistent with requirements regarding the composition of the Board that were previously put in place.[12] The MSRB also believes the proposed rule change appropriately complements the Board's governance procedures that are structured to obtain the diverse views of the public and various entities that are

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.19b–4(f)(3).

[4] Pub. Law No. 111–203, 124 Stat. 1376 (2010).

[5] 15 U.S.C. 78*o*–4.

[6] *See* Section 15B(b)(2) of the Exchange Act (15 U.S.C. 78*o*–4(b)(2)).

[7] 15 U.S.C. 78*o*–4(b)(1).

[8] *Id.*

[9] *See* MSRB Rule A–1.

[10] 15 U.S.C. 78*o*–4(b)(1)–(2).

[11] *Id.*

[12] *See* Securities Exchange Act Release No. 63025 (Sept. 30, 2010), 75 FR 61806 (Oct. 6, 2010) (File No. SR–MSRB–2010–08) (SEC order approving amendments to Rule A–3 to provide for, among other requirements, municipal advisor representation on the MSRB Board).

subject to the MSRB's regulation and oversight and to provide for their representation in the decision-making processes of the Board.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

Section 15B(b)(2)(C) of the Act [13] requires that MSRB rules not be designed to impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. The MSRB believes that the proposed rule change does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act, in that the proposed rule change simply amends the quorum requirements applicable to the MSRB Board, and does not affect or impose a burden on competition.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

Written comments were neither solicited nor received on the proposed rule change.

**III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action**

The foregoing proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [14] and paragraph (f) of Rule 19b–4 thereunder.[15] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2016–13 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–MSRB–2016–13. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the MSRB. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–MSRB–2016–13 and should be submitted on or before November 30, 2016.

For the Commission, pursuant to delegated authority.[16]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27021 Filed 11–8–16; 8:45 am]

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[13] 15 U.S.C. 78*o*–4(b)(2)(C).

[14] 15 U.S.C. 78s(b)(3)(A).

[15] 17 CFR 240.19b–4(f).

[16] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79232; File No. SR–NYSEMKT–2016–96]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Add to the Rules of the Exchange the Eleventh Amended and Restated Operating Agreement of the New York Stock Exchange LLC

November 3, 2016.

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 October 24, 2016, NYSE MKT LLC (the ''Exchange'' or ''NYSE MKT'') 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 the Substance of the Proposed Rule Change**

The Exchange proposes to add to the rules of the Exchange the Eleventh Amended and Restated Operating Agreement of the New York Stock Exchange LLC (''NYSE LLC''). The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

*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 add to the rules of the Exchange the Eleventh Amended and Restated Operating Agreement of NYSE LLC (the ''Eleventh NYSE Operating Agreement'').

In September 2015, the Exchange filed the Eighth Amended and Restated Operating Agreement of NYSE LLC (the ''Eighth NYSE Operating Agreement'') as a ''rule of the exchange'' under Section 3(a)(27) of the Act because NYSE LLC has a wholly-owned subsidiary, NYSE Market (DE), Inc., which owns a majority interest in NYSE Amex Options LLC (''NYSE Amex Options''), a facility of the Exchange.[4] The Exchange subsequently removed the obsolete Eighth NYSE Operating Agreement and replaced it with the Ninth Amended and Restated Operating Agreement of NYSE LLC as a ''rule of the exchange'' under Section 3(a)(27) of the Act.[5] In turn, when the Ninth Amended and Restated Operating Agreement of NYSE LLC was amended, the Exchange removed it and replaced it with the Tenth Amended and Restated Operating Agreement of NYSE LLC (the ''Tenth NYSE Operating Agreement'') as a ''rule of the exchange'' under Section 3(a)(27) of the Act.[6]

On October 6, 2016, NYSE LLC filed on an immediately effective basis to amend Section 4.05 of the Tenth NYSE Operating Agreement regarding the use of regulatory assets, fees, fines and penalties, and to make additional, non-substantive edits.[7] On October 18, 2016, NYSE LLC's rule filing amending the Tenth NYSE Operating Agreement was noticed.[8] Such rule change will become operative 30 days from the date on which it was filed, or such shorter time as the Commission may designate.[9]

The Exchange is accordingly filing to remove the obsolete Tenth NYSE Operating Agreement as a ''rule of the exchange'' under Section 3(a)(27) of the Act, and replace it with the Eleventh NYSE Operating Agreement as a ''rule of the exchange'' under Section 3(a)(27) of the Act.[10] The Exchange proposes that the rule change become effective on the date that the rule change amending the Tenth NYSE Operating Agreement becomes operative.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Exchange Act [11] in general, and with Section 6(b)(1) [12] in particular, in that it enables the Exchange to be so organized as to have the capacity to be able to carry out the purposes of the Exchange Act and to comply, and to enforce compliance by its exchange members and persons associated with its exchange members, with the provisions of the Exchange Act, the rules and regulations thereunder, and the rules of the Exchange.

The Exchange believes that the proposed rule change would contribute to the orderly operation of the Exchange and would enable the Exchange to be so organized as to have the capacity to carry out the purposes of the Act and comply and enforce compliance by its members and persons associated with its members, with the provisions of the Act because, by removing the obsolete Tenth NYSE Operating Agreement and making the Eleventh NYSE Operating Agreement a rule of the Exchange, the Exchange would be ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect.

The Exchange notes that, as with the Tenth NYSE Operating Agreement, it would be required to file any changes to the Eleventh NYSE Operating Agreement with the Commission as a proposed rule change.[13] In addition, the Exchange believes that the proposed changes are consistent with and will facilitate an ownership structure of the Exchange's facility NYSE Amex Options that will provide the Commission with appropriate oversight tools to ensure that the Commission will have the ability to enforce the Act with respect to NYSE Amex Options and its direct and indirect parent entities.

The Exchange also believes that this filing furthers the objectives of Section 6(b)(5) of the Act [14] because the proposed rule change would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that removing the obsolete Tenth NYSE Operating Agreement and making the Eleventh NYSE Operating Agreement a rule of the Exchange will remove impediments to the operation of the Exchange by ensuring that its rules remain consistent with the NYSE LLC operating agreement in effect. The Exchange notes that, as with the Tenth NYSE Operating Agreement, no amendment to the Eleventh NYSE Operating Agreement could be made without the Exchange filing a proposed rule change with the Commission. For the same reasons, the proposed rule change is also designed to protect investors as well as the public interest.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act. The proposed rule change is not intended to address competitive issues but rather is concerned solely with ensuring that the Commission will have the ability to enforce the Act with respect to NYSE Amex Options and its direct and indirect parent entities.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act [15] and Rule 19b–4(f)(6) thereunder.[16] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on

[4] *See* 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 75984 (September 25, 2015), 80 FR 59213, 59214 (October 1, 2015) (SR–NYSEMKT–2015–71).

[5] *See* 15 U.S.C. 78c(a)(27); Securities Exchange Act Release No. 76637 (December 14, 2015), 80 FR 79124 (December 18, 2015) (SR–NYSEMKT–2015–102).

[6] *See* Securities Exchange Act Release No. 78436 (July 28, 2016), 81 FR 51249 (August 3, 2016) (SR–NYSE–2016–51).

[7] *See* Securities Exchange Act Release No. 79115 (October 18, 2016), 81 FR 73187 (October 24, 2016) (SR–NYSE–2016–66).

[8] *Id.*

[9] *Id.* at 73189.

[10] *See* 15 U.S.C. 78c(a)(27).

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(1).

[13] The Exchange notes that any amendment to the NYSE LLC Operating Agreement would also require that NYSE LLC file a proposed rule change with the Commission.

[14] 15 U.S.C. 78f(b)(5).

[15] 15 U.S.C. 78s(b)(3)(A)(iii).

[16] 17 CFR 240.19b–4(f)(6).

competition; and (iii) become operative for 30 days from the date on which it was filed, or such shorter time as the Commission may designate, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.[17]

A proposed rule change filed under Rule 19b–4(f)(6)[18] normally does not become operative prior to 30 days after the date of the filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposal may become operative on November 5, 2016, the same date that the proposed rule change to amend the Tenth NYSE Operating Agreement and to renumber it as the Eleventh NYSE Operating Agreement becomes operative.[19] The Commission believes that waiver of the 30-day operative delay is appropriate because it would permit the Eleventh NYSE Operating Agreement to become ''rules of an exchange'' of NYSE MKT without delay.[20] Based on the foregoing, the Commission believes that the waiver of the operative delay is consistent with the protection of investors and the public interest.[21] The Commission hereby grants the waiver and designates the proposal operative upon November 5, 2016, the same date that the rule change amending the Tenth NYSE Operating Agreement and renumbering it as the Eleventh NYSE Operating Agreement becomes operative.[22]

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[23] 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–NYSEMKT–2016–96 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–96. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549–1090, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–96 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[24]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27025 Filed 11–8–16; 8:45 am]

BILLING CODE 8011–01–P

[17] In addition, Rule 19b–4(f)(6)(iii) requires the Exchange to give the Commission written notice of the Exchange's intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

[18] 17 CFR 240.19b–4(f)(6).

[19] *See supra* note 7.

[20] *See* 15 U.S.C. 78c(a)(27).

[21] 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).

[22] *See supra* note 7.

[23] 15 U.S.C. 78s(b)(2)(B).

[24] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79229; File No. SR–BatsBZX–2016–67]**

## Self-Regulatory Organizations; Bats BZX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend BZX Rule 2.5, Restrictions, Regarding Members and Associated Persons of Members Who Are or Become Subject to a Statutory Disqualification

November 3, 2016.

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 October 24, 2016, Bats BZX Exchange, Inc. (the ''Exchange'' or ''BZX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend BZX Rules regarding Members and associated persons of Members who are or become subject to a statutory disqualification.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 2.5 (Restrictions) to add language which provides the Exchange with the discretion to determine whether to permit a person to become a Member or an associated person of a Member or continue as a Member or in association with a Member on the Exchange.

Currently, Rule 2.5 restricts any persons from becoming a Member or continuing as a Member where (1) such person is other than a natural person and is not a registered broker or dealer, (2) such person is a natural person who is not either a registered broker or dealer or associated with a registered broker or dealer, (3) such person is subject to a statutory disqualification,[5] except that a person may become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[6] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member, or (4) such person is not a member of another registered national securities exchange or association.

The Exchange notes that the proposed rule changes below are substantially similar to the rules of the International Securities Exchange (''ISE''),[7] the rules of the Chicago Board Options Exchange (''CBOE''),[8] and a recent amendment made by the BOX Options Exchange LLC (''BOX'').[9]

The Exchange first proposes to amend the language of Rule 2.5 to give itself the discretion to determine if a restriction on a Member becoming or continuing on as a Member is appropriate. The Exchange also proposes to make clear that the limitations of Rule 2.5 are equally applicable to persons associated with Members as they are to Members.

The Exchange then proposes to amend Rule 2.5(a)(3) to delete the language that allows a person to become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[10] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member. The Exchange does not believe that this language reflects the Commission's current review process, as an order is not necessarily required in every instance.

The Exchange then proposes to add three more situations with regard to whether a person may become a Member or continue as a Member in any capacity on the Exchange. The additional restrictions are when: (1) Such person fails to meet any of the qualification requirements for becoming a Member or associated with a Member after approval thereof; (2) such person fails to meet any condition placed by the Exchange on such Member or association with a Member; and (3) such person violates any agreement with the Exchange. The Exchange proposes these additions in order to allow the Exchange more discretion in its determination as to whether a person may become or continue as a Member or in association with a Member. The Exchange notes that the Exchange must act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[11] Further, any prospective Member that has been denied membership in the Exchange or barred from becoming associated with a Member is entitled to certain due process pursuant to Chapter X of the Exchange's rules, which includes, but is not limited to, potential review by the Commission.[12]

The Exchange also proposes to add language with regard to a Member or associated person that becomes subject to a statutory disqualification under the Act. The proposed rule would allow a Member or associated person who becomes subject to a statutory disqualification and who wants to continue as a Member of the Exchange or in association with a Member, to submit a request to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification.[13]

The Exchange also proposes to add language which allows Members and associated persons whose request to become a Member or associated with a Member is denied or conditioned, or any person whose association with a Member is denied or conditioned pursuant to the restrictions codified in Rule 2.5(a), and any Member or person associated with a Member who is not permitted to continue as a Member or be an associate with a Member or to which association is conditioned to seek review under the provisions of the Exchange Rules relating to adverse actions.[14]

Lastly, the Exchange proposes to add Interpretation and Policy .05, which will allow the Exchange to waive the provisions of Rule 2.5 when a proceeding is pending before another self-regulatory organization (''SRO'') to determine whether to permit a Member or associated person to continue membership or association notwithstanding a statutory disqualification. The Exchange notes that this proposed rule change is substantially similar to the comparable rules of the CBOE,[15] and the rules of BOX, as amended.[16] Further, in the event the Exchange determines to waive the provisions of this Rule with respect to a Member or associated person, the Exchange shall determine whether the Exchange will concur in any Exchange Act Rule 19h–1 filing made by another SRO with respect to the Member or associated person.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the

[5] The Exchange uses the definition of statutory disqualification set forth in the Act. *See* Exchange Rule 1.5(z); 15 U.S.C. 78c(a)(39).

[6] *See* 17 CFR 240.19d–1, 17 CFR 240.19d–2, 17 CFR 240.19d–3, and 17 CFR 240.19h–1.

[7] *See* ISE Rule 302; Securities Exchange Act Release No. 42455, 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

[8] *See* CBOE Rule 3.18; Securities Exchange Act Release No. 43056 (July 19, 2000), 65 FR 46524 (July 28, 2000) (SR–CBOE–1999–15) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules).

[9] *See* BOX Rule 2040; Securities Exchange Act Release No. 78449 (August 1, 2016), 81 FR 51947 (August 5, 2016) (SR–BOX–2016–26).

[10] *See* supra, note 6.

[11] *See* 15 U.S.C. 78f(b)(5).

[12] *See* Chapter X of the Exchange's Rules.

[13] The Member or person associated with a Member must submit the request within thirty (30) days of becoming subject to a statutory disqualification.

[14] *See* Chapter X of the Exchange's Rules.

[15] *See* Interpretation and Policy .01 to CBOE Rule 3.18.

[16] *See* IM–2040–8 to BOX Rule 2040.

requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[18] 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 changes are consistent with the requirements above. Specifically, the Exchange believes the proposed changes will better enable the Exchange to use its discretion in determining whether a person may become or continue as a Member or associated person. Because of the discretionary language and additional restrictions, the Exchange may consider additional circumstances when determining whether a person may become or continue as a Member or associated person on the Exchange.

The Exchange believes that Proposed Rule 2.5(c) regarding any person or Member's ability to appeal a denied or conditioned request to become or continue as a Member or to associate with a Member is reasonable because it provides a fair procedure for the Members and persons associated with Members pursuant to Rule 7.6 (Summary Suspension of Exchange Services).

The Exchange also believes the proposed rule change regarding the waiver of the provisions of Rule 2.5 will better enable the Exchange to focus Exchange resources on other matters while another SRO is determining whether to permit a Member or associated person to become or continue being a Member or associated person on the exchange.

Lastly, the Exchange believes is it reasonable to remove language in Rule 2.5(a)(3) because the Exchange is eliminating any potential for confusion by simplifying the Exchange Rules, ensuring that Members, regulators, and the public can more easily navigate the Exchange's Rulebook.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As noted above, although the proposal will provide the Exchange with additional discretionary authority with respect to potential Members of the Exchange, the Exchange is bound by the Act to act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[19] Further, the proposal is not a competitive proposal designed to either attract or prevent prospective Members from joining the Exchange, but rather, is primarily focused on modifying the Exchange's rules to ensure clarity and consistency with other SROs.

*(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**

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f)(6) of Rule 19b–4 thereunder,[21] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsBZX–2016–67 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR-BatsBZX–2016–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsBZX–

2016–67 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27023 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79236; File No. SR–BatsEDGX–2016–59]**

## Self-Regulatory Organizations; Bats EDGX Exchange, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend EDGX Rule 2.5, Restrictions, Regarding Members and Associated Persons of Members Who Are or Become Subject to a Statutory Disqualification

November 3, 2016.

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 October 24, 2016, Bats EDGX Exchange, Inc. (the ''Exchange'' or ''EDGX'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Exchange has designated this proposal as a ''non-controversial'' proposed rule change pursuant to Section 19(b)(3)(A) of the Act[3] and Rule 19b–4(f)(6)(iii) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange filed a proposal to amend EDGX Rules regarding Members and associated persons of Members who are or become subject to a statutory disqualification.

The text of the proposed rule change is available at the Exchange's Web site at *www.batstrading.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant parts of such statements.

*(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to amend Rule 2.5 (Restrictions) to add language which provides the Exchange with the discretion to determine whether to permit a person to become a Member or an associated person of a Member or continue as a Member or in association with a Member on the Exchange.

Currently, Rule 2.5 restricts any persons from becoming a Member or continuing as a Member where (1) such person is other than a natural person and is not a registered broker or dealer, (2) such person is a natural person who is not either a registered broker or dealer or associated with a registered broker or dealer, (3) such person is subject to a statutory disqualification,[5] except that a person may become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[6] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member, or (4) such person is not a member of another registered national securities exchange or association.

The Exchange notes that the proposed rule changes below are substantially similar to the rules of the International Securities Exchange (''ISE''),[7] the rules of the Chicago Board Options Exchange (''CBOE''),[8] and a recent amendment made by the BOX Options Exchange LLC (''BOX'').[9]

The Exchange first proposes to amend the language of Rule 2.5 to give itself the discretion to determine if a restriction on a Member becoming or continuing on as a Member is appropriate. The Exchange also proposes to make clear that the limitations of Rule 2.5 are equally applicable to persons associated with Members as they are to Members.

The Exchange then proposes to amend Rule 2.5(a)(3) to delete the language that allows a person to become a Member or continue as a Member where, pursuant to Rules 19d–1, 19d–2, 19d–3 and 19h–1 of the Act,[10] the Commission has issued an order providing relief from such a disqualification and permitting such a person to become a Member. The Exchange does not believe that this language reflects the Commission's current review process, as an order is not necessarily required in every instance.

The Exchange then proposes to add three more situations with regard to whether a person may become a Member or continue as a Member in any capacity on the Exchange. The additional restrictions are when: (1) Such person fails to meet any of the qualification requirements for becoming a Member or associated with a Member after approval thereof; (2) such person fails to meet any condition placed by the Exchange on such Member or association with a Member; and (3) such person violates any agreement with the Exchange. The Exchange proposes these additions in order to allow the Exchange more discretion in its determination as to whether a person may become or continue as a Member or in association with a Member. The Exchange notes that the Exchange must act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[11] Further, any prospective Member that has been denied membership in the Exchange or barred from becoming associated with a Member is entitled to certain due process pursuant to Chapter X of the Exchange's rules, which

[22] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6)(iii).

[5] The Exchange uses the definition of statutory disqualification set forth in the Act. *See* Exchange Rule 1.5(bb); 15 U.S.C. 78c(a)(39).

[6] *See* 17 CFR 240.19d–1, 17 CFR 240.19d–2, 17 CFR 240.19d–3, and 17 CFR 240.19h–1.

[7] *See* ISE Rule 302; Securities Exchange Act Release No. 42455, 65 FR 11401 (March 2, 2000) (Order Granting Registration as a National Securities Exchange).

[8] *See* CBOE Rule 3.18; Securities Exchange Act Release No. 43056 (July 19, 2000), 65 FR 46524 (July 28, 2000) (SR–CBOE–1999–15) (Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval to Amendment No. 3 to the Proposed Rule Change by the Chicago Board Options Exchange, Inc. Relating to Membership Rules).

[9] *See* BOX Rule 2040; Securities Exchange Act Release No. 78449 (August 1, 2016), 81 FR 51947 (August 5, 2016) (SR–BOX–2016–26).

[10] *See* supra, note 6.

[11] *See* 15 U.S.C. 78f(b)(5).

includes, but is not limited to, potential review by the Commission.[12]

The Exchange also proposes to add language with regard to a Member or associated person that becomes subject to a statutory disqualification under the Act. The proposed rule would allow a Member or associated person who becomes subject to a statutory disqualification and who wants to continue as a Member of the Exchange or in association with a Member, to submit a request to the Exchange seeking to continue as a Member or in association with a Member notwithstanding the statutory disqualification.[13]

The Exchange also proposes to add language which allows Members and associated persons whose request to become a Member or associated with a Member is denied or conditioned, or any person whose association with a Member is denied or conditioned pursuant to the restrictions codified in Rule 2.5(a), and any Member or person associated with a Member who is not permitted to continue as a Member or be an associate with a Member or to which association is conditioned to seek review under the provisions of the Exchange Rules relating to adverse actions.[14]

Lastly, the Exchange proposes to add Interpretation and Policy .05, which will allow the Exchange to waive the provisions of Rule 2.5 when a proceeding is pending before another self-regulatory organization (''SRO'') to determine whether to permit a Member or associated person to continue membership or association notwithstanding a statutory disqualification. The Exchange notes that this proposed rule change is substantially similar to the comparable rules of the CBOE,[15] and the rules of BOX, as amended.[16] Further, in the event the Exchange determines to waive the provisions of this Rule with respect to a Member or associated person, the Exchange shall determine whether the Exchange will concur in any Exchange Act Rule 19h-1 filing made by another SRO with respect to the Member or associated person.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of Section 6(b) of the Act.[17] In particular, the Exchange believes the proposed change furthers the objectives of Section 6(b)(5) of the Act,[18] 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 changes are consistent with the requirements above. Specifically, the Exchange believes the proposed changes will better enable the Exchange to use its discretion in determining whether a person may become or continue as a Member or associated person. Because of the discretionary language and additional restrictions, the Exchange may consider additional circumstances when determining whether a person may become or continue as a Member or associated person on the Exchange.

The Exchange believes that Proposed Rule 2.5(c) regarding any person or Member's ability to appeal a denied or conditioned request to become or continue as a Member or to associate with a Member is reasonable because it provides a fair procedure for the Members and persons associated with Members pursuant to Rule 7.6 (Summary Suspension of Exchange Services).

The Exchange also believes the proposed rule change regarding the waiver of the provisions of Rule 2.5 will better enable the Exchange to focus Exchange resources on other matters while another SRO is determining whether to permit a Member or associated person to become or continue being a Member or associated person on the exchange.

Lastly, the Exchange believes is it reasonable to remove language in Rule 2.5(a)(3) because the Exchange is eliminating any potential for confusion by simplifying the Exchange Rules, ensuring that Members, regulators, and the public can more easily navigate the Exchange's Rulebook.

*(B) Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. As noted above, although the proposal will provide the Exchange with additional discretionary authority with respect to potential Members of the Exchange, the Exchange is bound by the Act to act consistent with the protection of investors and in the public interest and is prohibited from unfairly discriminating against Members or prospective Members.[19] Further, the proposal is not a competitive proposal designed to either attract or prevent prospective Members from joining the Exchange, but rather, is primarily focused on modifying the Exchange's rules to ensure clarity and consistency with other SROs.

*(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**

Because the foregoing proposed rule change does not: (A) Significantly affect the protection of investors or the public interest; (B) impose any significant burden on competition; and (C) by its terms, become operative for 30 days from the date on which it was filed or such shorter time as the Commission may designate it has become effective pursuant to Section 19(b)(3)(A) of the Act[20] and paragraph (f)(6) of Rule 19b–4 thereunder,[21] the Exchange has designated this rule filing as non-controversial. The Exchange has given the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission.

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if

[12] *See* Chapter X of the Exchange's Rules.

[13] The Member or person associated with a Member must submit the request within thirty (30) days of becoming subject to a statutory disqualification.

[14] *See* Chapter X of the Exchange's Rules.

[15] *See* Interpretation and Policy .01 to CBOE Rule 3.18.

[16] *See* IM–2040–8 to BOX Rule 2040.

[17] 15 U.S.C. 78f(b).

[18] 15 U.S.C. 78f(b)(5).

[19] 15 U.S.C. 78f(b)(5).

[20] 15 U.S.C. 78s(b)(3)(A).

[21] 17 CFR 240.19b–4.

it appears to the Commission that such action is: (1) Necessary or appropriate in the public interest; (2) for the protection of investors; or (3) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

**IV. Solicitation of Comments**

Interested persons are invited to submit written data, views and arguments concerning the foregoing, including whether the proposal is consistent with the Act. Comments may be submitted by any of the following methods:

*Electronic Comments*

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File No. SR–BatsEDGX–2016–59 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–BatsEDGX–2016–59. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–BatsEDGX–2016–59 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[22]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27028 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

[22] 17 CFR 200.30–3(a)(12).

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## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79231; File No. SR–NYSEMKT–2016–90]**

## Self-Regulatory Organizations; NYSE MKT LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Amending Its Rules Concerning Payment of Compensation and Rebates, and Research Analyst Attestation Requirements in Order To Harmonize With Certain FINRA Rules and Make Other Conforming Changes

November 3, 2016.

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 October 19, 2016, NYSE MKT LLC (''NYSE MKT'' or the ''Exchange'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

**I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change**

The Exchange proposes to amend its rules regarding (1) payment of compensation and rebates, and (2) research analyst attestation requirements in order to harmonize with certain Financial Industry Regulatory Authority, Inc. (''FINRA'') rules and make other conforming changes. The proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78a.

[3] 17 CFR 240.19b–4.

**II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change*

1. Purpose

The Exchange proposes amending its rules concerning (1) payment of compensation and rebates, and (2) research analyst attestation requirements in order to harmonize with certain FINRA rules and make other conforming changes. Specifically, the Exchange proposes to:

- Delete Rule 353—Equities (Rebates and Compensation),[4] adopt the text of FINRA Rule 2040 (Payments to Unregistered Persons) (including Supplementary Material .01) and add new Supplementary Material .02 as new Rule 2040—Equities, and amend Rule 8311 (Effect of a Suspension, Revocation, Cancellation, or Bar) (including adding Supplementary Material .01) in order to harmonize its rules with FINRA's rules regarding the payment of transaction-based compensation by members to unregistered persons;
- delete Rule 351—Equities (Reporting Requirements) (including Supplementary Material .11 and .12) and amend Rules 472—Equities (Communications With The Public) and 9217 (Violations Appropriate for Disposition Under Rule 9216(b)) to harmonize with FINRA's rules regarding annual attestation requirements for research analysts; and
- make certain technical and conforming changes.[5]

Background

In 2007, the Exchange's affiliate the New York Stock Exchange LLC

[4] References to rules are to NYSE MKT rules unless otherwise indicated.

[5] As discussed below, the conforming changes the Exchange proposes would substitute the term ''member organization'' for ''member'' and the term ''Exchange'' for ''FINRA.''

(''NYSE'') and FINRA[6] entered into an agreement (the ''Agreement'') pursuant to Rule 17d–2 under the Act to reduce regulatory duplication by allocating to FINRA certain regulatory responsibilities for NYSE rules and rule interpretations (''FINRA Incorporated NYSE Rules'').[7] The Exchange became a party to the Agreement effective December 15, 2008.[8]

In order to reduce regulatory duplication and relieve firms that are members of the Exchange, the NYSE and FINRA of conflicting or unnecessary regulatory burdens, FINRA has been reviewing and amending the NASD and FINRA Incorporated NYSE Rules in order to create a consolidated FINRA rulebook.[9]

Payment of Transaction-Based Compensation

As part of the rule consolidation process, in 2014, FINRA adopted FINRA Rule 2040 regarding payment of transaction-based compensation by members or associated persons to unregistered persons.[10] The requirements of Incorporated NYSE Rule 353, which are the same as Rule 353—Equities,[11] were consolidated into the new FINRA rule, and FINRA deleted Incorporated NYSE Rule 353.[12]

In the same filing, FINRA amended FINRA Rule 8311 to eliminate duplicative provisions in NASD IM–2420–2 (Continuing Commissions Policy)[13] and clarify the scope of the rule on payments by members to persons subject to suspension, revocation, cancellation, bar or other disqualification and added new Supplementary Material .01 (Remuneration Accrued Prior to Effective Date of Sanction or Disqualification) expressly permitting a member to pay to any person subject to a sanction or disqualification any remuneration pursuant to an insurance or medical plan, indemnity agreement relating to legal fees, or as required by an arbitration award or court judgment.[14]

Research Analyst Attestation Requirements

In 2011, the Exchange adopted FINRA Rule 4530 (Reporting Requirements) as Rule 4530—Equities. FINRA Rule 4530 was modeled in part on former NYSE Rule 351(a)–(d) governing trade investigation reporting requirements, which the Exchange adopted as Rule 351—Equities.[15] The Exchange retained Rule 351(f)—Equities, which requires a letter of attestation signed by a principal executive that the member or member organization has established and implemented procedures reasonably designed to comply with the provisions of Rule 472—Equities, that each research analyst's compensation was reviewed and approved in accordance with the requirements of Rule 472(h)(2)—Equities, and that the basis for such approval has been documented. At the time, the Exchange noted that NYSE Rules 351(f)—Equities, 351.11—Equities and 351.12—Equities governing the annual attestation requirement would be addressed as part of the research analyst conflict of interest rules.[16]

In 2015, FINRA adopted FINRA Rule 2241 (Research Analysts and Research Reports), which deleted the requirement to attest annually that the firm has in place written supervisory policies and procedures reasonably designed to achieve compliance with the applicable provisions of the rules, including the compensation committee review provision.[17] As FINRA explained in its filing, firms were already obligated pursuant to NASD Rule 3010 (Supervision) to have a supervisory system reasonably designed to achieve compliance with all applicable securities laws and regulations and FINRA rules. Moreover, the research rules also were subject to the supervisory control rules (NASD Rule 3012) and the annual certification requirement regarding compliance and supervisory processes embodied in FINRA Rule 3130. As such, FINRA did not believe that a separate attestation requirement for the research rules was necessary.[18]

[6] NYSE Regulation, Inc., a former not-for-profit subsidiary of the NYSE, was also a party to the Agreement by virtue of the fact that it performed regulatory functions for the NYSE pursuant to a delegation agreement. *See* Securities Exchange Act Release No. 53382 (February 27, 2006), 71 FR 11251, 11264–65 (March 6, 2006) (SR–NYSE–2005–77) (approving delegation agreement). NYSE Regulation also performed regulatory services for the Exchange pursuant to an intercompany Regulatory Services Agreement (''RSA'') that gave the Exchange the contractual right to review NYSE Regulation's performance. The delegation agreement and related RSA terminated on February 16, 2016, and NYSE Regulation has ceased providing regulatory services to the Exchange, which has re-integrated its regulatory functions.

[7] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (File No. 4–544) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes to the substance of any of the Common Rules.

[8] *See* Securities Exchange Act Release Nos. 56148 (July 26, 2007), 72 FR 42146 (August 1, 2007) (File No. 4–544) (order approving the Agreement); 56147 (July 26, 2007), 72 FR 42166 (August 1, 2007) (SR–NASD–2007–054) (order approving the incorporation of certain NYSE Rules as ''Common Rules''); 60409 (July 30, 2009), 74 FR 39353 (File No. 4–587) (August 6, 2009) (order approving the amended and restated Agreement, adding NYSE MKT as a party). Paragraph 2(b) of the Agreement sets forth procedures regarding proposed changes by FINRA, NYSE or NYSE MKT to the substance of any of the Common Rules.

[9] FINRA's rulebook currently has three sets of rules: (1) NASD Rules, (2) FINRA Incorporated NYSE Rules, and (3) consolidated FINRA Rules. The FINRA Incorporated NYSE Rules apply only to those members of FINRA that are also members of the NYSE (''Dual Members''), while the consolidated FINRA Rules apply to all FINRA members. For more information about the FINRA rulebook consolidation process, *see* FINRA Information Notice, March 12, 2008.

[10] *See* Securities Exchange Act Release Nos. 73210 (September 25, 2014), 79 FR 59322 (October 1, 2014) (SR–FINRA–2014–037) (''FINRA Notice'') and 73954 (December 30, 2014), 80 FR 553 (January 6, 2015) (SR–FINRA–2014–37) (''FINRA Approval Order'').

[11] Rule 353(a)—Equities, like the NYSE Rule, prohibits a member, principal executive, registered representative or officer from, directly or indirectly, rebating to any person any part of the compensation he receives from the solicitation of orders for the purchase or sale of securities or other similar instruments for the accounts of customers of the member, or pay such compensation, or any part thereof, as a bonus, commission, fee or other consideration for business sought or procured for him or for any other member. Rule 353(b)—Equities further provides that a member, principal executive, registered representative or officer cannot be compensated for business done by or through his employer after the termination of his employment except as may be permitted by the Exchange.

[12] FINRA also incorporated the requirements of Incorporated NYSE Rule Interpretation 345(a)(i)/01 (Compensation to Non-Registered Persons), Incorporated NYSE Rule Interpretation 345(a)(i)/02 (Compensation Paid for Advisory Solicitations), and NYSE Rule Interpretation 345(a)(i)/03 (Compensation to Non-Registered Foreign Persons Acting as Finders) into its Rule 2040. The Exchange did not adopt these interpretations when it adopted NYSE Rule 345.

[13] NASD IM–2420–2 allows members to pay continuing commissions to former registered representatives after they cease to be employed by a member, if, among other things, a bona fide contract between the member and the registered representative calling for the payments was entered into in good faith while the person was a registered representative of the employing member. *See* FINRA Notice, 79 FR at 59326. Rule 353(b)—Equities, on the other hand, provides that a member, principal executive, registered representative or officer cannot be compensated for business done by or through his employer after the termination of his employment except as may be permitted by the Exchange.

[14] FINRA Approval Order, 80 FR at 556–57.

[15] *See* Securities Exchange Act Release No. 64784 (June 30, 2011), 76 FR 39947, 39948 (July 7, 2011) (SR–NYSEAmex–2011–42).

[16] *See id.* at 39948, n.8.

[17] *See* Securities Exchange Act Release No. 75471 (July 16, 2015), 80 FR 43482, 43488 (July 22, 2015) (SR–FINRA–2014–047) (''Release No. 75471'').

[18] *See id.* NASD Rules 3010 and 3012 referred to in the approval order were adopted with changes as FINRA Rules 3110 (Supervision) and 3120 (Supervisory Control System). *See id.,* n. 83; Securities Exchange Act Release No. 71179 (December 23, 2013), 78 FR 79542 (December 30, 2013) (SR–FINRA–2013–025).

The attestation requirement in current Rule 351(f)—Equities is inconsistent with FINRA Rule 2241, thereby presenting member organizations that are also FINRA members with inconsistent requirements. Moreover, the Exchange has adopted FINRA Rules 3110, 3120 and 3130 as Rules 3110—Equities, 3120—Equities and 3130—Equities.[19] Exchange member organizations are therefore subject to the same supervisory requirements as FINRA member firms, including the annual certification requirement regarding compliance and supervisory processes in Rule 3130—Equities.

Proposed Rule Changes

Payment of Transaction-Based Compensation

Deletion of Rule 353—Equities and Adoption of FINRA Rule 2040

In light of FINRA's adoption of a comprehensive rule regarding the payment of transaction-based compensation, the Exchange proposes to adopt the text of FINRA Rule 2040 as NYSE MKT Rule 2040—Equities and delete Rule 353—Equities, the Exchange's current rule governing rebates and compensation. As noted above, the requirements of NYSE MKT Rule 353—Equities have been consolidated into the FINRA rule, making them redundant.[20] For consistency with FINRA rules, the Exchange proposes to: (1) Change references to ''member'' in the text of FINRA Rule 2040 (including Supplementary Material .01) to ''member organization''; [21] (2) change references to ''FINRA'' in the text of FINRA Rule 2040 (including Supplementary Material .01) to ''the Exchange''; and (3) change the reference in Rule 2040(c)(1) to ''disqualification as defined in Article III, Section 4 of FINRA's By-Laws'' to ''statutory disqualification as defined in Section 3(a)(39) of the Securities Exchange Act of 1934.'' In addition, in order to ensure that proposed Rule 2040—Equities and FINRA Rule 2040 are fully harmonized, the Exchange also proposes to add Supplementary Material .02 to proposed Rule 2040 to provide that, for purposes of the rule, the term ''associated person'' shall have the same meaning as the terms ''person associated with a member'' or ''associated person of a member'' as defined in Article I (rr) of the FINRA ByLaws. The proposed Rule is otherwise the same as its FINRA counterpart.

Amendment to Rule 8311 To Reflect Recent Amendments to FINRA Rule 8311

To reflect FINRA's recent amendments to FINRA Rule 8311, the Exchange proposes certain amendments to NYSE MKT Rule 8311 to fully harmonize the two rules.[22] First, the Exchange proposes to delete the word ''or'' in the heading and add the phrase ''or Other Disqualification.'' The first paragraph would be become subsection (a) and the text would be harmonized with FINRA Rule 8311(a).

Proposed Rule 8311(a) would clarify the scope of payments by member organizations to persons subject to suspension, revocation, cancellation, bar (each a ''sanction'') or other disqualification and would provide that if a person is subject to a sanction or other disqualification, a member organization may not allow such person to be associated with it in any capacity that is inconsistent with the sanction imposed or disqualified status, including a clerical or ministerial capacity. Proposed Rule 8311(a) would further provide that a member organization may not pay or credit to any person subject to a sanction or disqualification, during the period of the sanction or disqualification or any period thereafter, any salary, commission, profit, or any other remuneration that the person might accrue, not just earn, during the period of the sanction or disqualification. The Exchange also proposes to add a new sentence to proposed Rule 8311(a) providing that a member organization may make payments or credits to a person subject to a sanction that are consistent with the scope of activities permitted under the sanction where the sanction solely limits an associated person from conducting specified activities (such as a suspension from acting in a principal capacity) or to a disqualified person that has been approved (or is otherwise permitted pursuant to Exchange rules and the federal securities laws) to associate with a member organization.

Further, the Exchange proposes to add a new subsection (b) and new proposed Supplementary Material .01 that, with the exception of conforming references to ''members'' in the text of FINRA Rule 8311 to ''member organizations'' and references to ''FINRA'' to ''the Exchange,'' would be identical to the recent amendments to FINRA Rule 8311.

The Exchange believes that the proposed Rule complements proposed Rule 2040 and would harmonize the Exchange's rules on payments by member organizations to persons subject to suspension, revocation, cancellation, bar or other disqualification.

Research Analyst Attestation Requirements

Deletion of Rule 351(f)—Equities and Supplementary Material .11 and .12

In light of FINRA's elimination of an annual attestation requirement when it adopted FINRA Rule 2241,[23] the Exchange proposes to delete Rule 351(f)—Equities and Supplementary Material .11 and .12, thereby eliminating inconsistent requirements for member organizations that are also FINRA members.[24] As noted above, Exchange member organizations are also subject to the same supervisory requirements as FINRA member firms, including the annual certification requirement regarding compliance and supervisory processes in Rule 3130—Equities.

The Exchange proposes to mark the entire Rule as ''Reserved'' and delete headings (a) through (e), which have no content and are marked ''Reserved''.

Conforming Changes

The Exchange proposes the following conforming changes. First, the Exchange would substitute the term ''member organization'' for ''member'' [25] and the

[19] *See* Securities Exchange Act Release No. 73640 (November 19, 2014), 79 FR 70237 (November 25, 2014) (SR–NYSEMKT–2014–93) (adopting FINRA Rules 3110 and 3120); Securities Exchange Act Release No. 59656 (March 30, 2009), 74 FR 15540 (April 6, 2009) (SR–NYSEALTR–2009–26) (adopting FINRA Rule 3130).

[20] *See* FINRA Approval Order, 80 FR at 555 & 557. *See also* notes 10–12 and accompanying text, *supra.*

[21] Under Exchange rules, ''member organization'' is the equivalent term to FINRA's ''member.'' *See* note 25, *infra.*

[22] Rule 8311 provides that if the Commission or the Exchange imposed a suspension, revocation, cancellation or bar on a covered person, a member organization or ATP Holder may not permit such person to remain associated, and, in the case of a suspension, may not pay any remuneration that results from any securities transaction. Rule 8311 applies to both the Exchange's equities and options markets.

[23] *See* Release No. 75471, 80 FR at 43488.

[24] The Exchange has not adopted FINRA Rule 2241. Under Rule 2(b)(i), member organizations that transact business with public customers must at all times be members of FINRA and, as such, would be subject to FINRA's rules, including the requirements of Rule 2241.

[25] The term ''member'' has different meanings under FINRA and Exchange rules. Under FINRA Rule 0160(b)(10), a ''member'' means an individual, partnership, corporation or other legal entity admitted to membership in FINRA under Articles III and IV of the FINRA By-Laws. Article III, Sec. 1(a) of the FINRA By-Laws generally limits membership to registered brokers, dealers, municipal securities brokers or dealers, or government securities brokers or dealers. The Exchange's equivalent term is ''member organization.'' *See* Rule 2(b)(i)—Equities (defining ''member organization'' as a registered broker or

term ''Exchange'' for ''FINRA'' in proposed Rule 2040—Equities and in the changes proposed for Rule 8311. Second, the Exchange would delete references to Rule 351—Equities in Rules 472(c) and (h)—Equities, governing communications with the public, and 9217, which sets forth the rules included in NYSE MKT's minor rule violation plan.

2. Statutory Basis

The Exchange believes that the proposed rule changes are consistent with Section 6(b) of the Act,[26] in general, and Section 6(b)(5) of the Act,[27] in particular, because the proposed rule changes would be consistent with and facilitate a governance and regulatory structure that is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to, and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The Exchange believes that the proposed rule changes support the objectives of the Act by providing greater harmonization between Exchange rules and FINRA rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance. In particular, adopting proposed Rule 2040—Equities and amending Rule 8311 based on FINRA Rules 2040 and 8311 would promote just and equitable principles of trade by providing greater harmonization between NYSE MKT Rules and FINRA Rules of similar purpose, resulting in less burdensome and more efficient regulatory compliance.

Similarly, deleting Rule 351(f)—Equities and Supplementary Material .11 and .12 as inconsistent with FINRA Rule 2241 would eliminate inconsistent annual attestation requirements, resulting in less burdensome and more efficient regulatory compliance and promoting just and equitable principles of trade. The Exchange further believes that eliminating the annual attestation requirement would not be inconsistent with the Exchange's obligations under the Exchange Act to prevent fraudulent or manipulative acts and practices because Exchange member organizations are subject to the same supervisory requirements as FINRA member firms, including an annual certification requirement regarding compliance and supervisory processes set forth in Rule 3130—Equities. To the extent the Exchange has proposed changes that differ from the FINRA version of the Exchange rules, such changes are generally technical in nature and do not change the substance of the proposed rules. The Exchange also believes that the proposed conforming changes will update and add specificity to the Exchange's rules, which will promote just and equitable principles of trade and help to protect investors.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

In accordance with Section 6(b)(8) of the Act,[28] the Exchange does not believe that the proposed rule changes will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act. The proposed rule changes are not intended to address competitive issues but rather to achieve greater transparency and consistency between the Exchange's rules and FINRA's requirements concerning payments to unregistered persons, the effect of suspensions, revocations, cancellations, bars or other disqualifications, and research analyst annual attestation requirements.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were solicited or received with respect to the proposed rule change.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Exchange has filed the proposed rule change pursuant to Section 19(b)(3)(A)(iii) of the Act[29] and Rule 19b–4(f)(6) thereunder.[30] Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative prior to 30 days from the date on which it was filed, or such shorter time as the Commission may designate, if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(f)(6)(iii) thereunder.

A proposed rule change filed under Rule 19b–4(f)(6)[31] normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b4(f)(6)(iii),[32] the Commission may designate a shorter time if such action is consistent with the protection of investors and the public interest.

At any time within 60 days of the filing of such proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings under Section 19(b)(2)(B)[33] 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–NYSEMKT–2016–90 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEMKT–2016–90. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent

dealer (unless exempt pursuant to the Act) that is a member of FINRA or another registered securities exchange). Under NYSE Rule 2(a)—Equities, the term ''member'' means a natural person associated with a member organization who has been approved by the Exchange and designated by such member organization to effect transactions on the floor of the Exchange or any facility thereof.

[26] 15 U.S.C. 78f(b).

[27] 15 U.S.C. 78f(b)(1).

[28] 15 U.S.C. 78f(b)(8).

[29] 15 U.S.C. 78s(b)(3)(A)(iii).

[30] 17 CFR 240.19b–4(f)(6).

[31] 17 CFR 240.19b–4(f)(6).

[32] 17 CFR 240.19b–4(f)(6)(iii).

[33] 15 U.S.C. 78s(b)(2)(B).

amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEMKT–2016–90 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[34]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27024 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

[34] 17 CFR 200.30–3(a)(12).

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79224; File No. SR–DTC–2016–802]**

## Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing of and Extension of Review Period of Advance Notice Relating to Processing of Transactions in Money Market Instruments

November 3, 2016.

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 (''Act''),[2] notice is hereby given that on September 23, 2016, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the advance notice SR–DTC–2016–802 (''Advance Notice'') as described in Items I and II below, which Items have been prepared primarily by DTC.[3] The Commission is publishing this notice to solicit comments on the Advance Notice from interested persons and to extend the review period of the Advance Notice, for an additional 60 days under Section 806(e)(1)(H) of the Clearing Supervision Act.[4]

[1] 12 U.S.C. 5465(e)(1).

[2] 17 CFR 240.19b–4(n)(1)(i).

### I. Clearing Agency's Statement of the Terms of Substance of the Advance Notice

This Advance Notice consists of modifications to (i) the DTC Rules, By-laws and Organization Certificate (''Rules''),[5] (ii) the DTC Settlement Service Guide (''Settlement Guide''),[6] and (iii) the DTC Distributions Service Guide (''Distributions Guide''),[7] annexed hereto as Exhibit 5 (''Proposal''). The Proposal would modify the Rules, Settlement Guide, and Distributions Guide to establish a change in the processing of transactions in money market instruments (''MMI'') that are processed in DTC's MMI Program (''MMI Securities'').[8] The Proposal would affect DTC's processing of issuances of MMI Securities (''Issuances'') by issuers of MMI Securities (''Issuers'') as well as Maturity Presentments, Income Presentments, Principal Presentments, and Reorganization Presentments (collectively, ''Presentments'') (Issuances and Presentments, collectively ''MMI Obligations''). The Proposal would amend the Rules and Settlement Guide to (i) eliminate intra-day reversals of processed but not yet settled MMI Obligations resulting from an Issuing and Paying Agent (''IPA'') notifying DTC of its refusal to pay (''RTP'') for Presentments of an Issuer's maturing MMI Securities for a designated Acronym;[9] (ii) eliminate the Largest Provisional Net Credit (''LPNC'') risk management control; (iii) provide that the IPA must acknowledge its funding obligations for Presentments and that Receivers of Issuances must approve their receipt of those Issuances in DTC's Receiver Authorized Delivery (''RAD'') system before DTC would process MMI Presentments; (iv) implement an enhanced process to test risk management controls under certain conditions with respect to an Acronym (to be referred to as MMI Optimization, as defined below); (v) make updates and revisions to the Settlement Processing Schedule in the Settlement Guide (''Processing Schedule''), as described below, (vi) eliminate the ''receive versus payment NA'' control (''RVPNA''), as described below, and (vii) make other technical and clarifying changes to the text, as more fully described below. In addition, the Proposal would amend the Distributions Guide to make changes to text relating to the processing of Income Presentments so that it is consistent with the changes proposed in the Settlement Guide in that regard, as more fully described below.[10]

[3] On September 23, 2016, DTC filed this Advance Notice as a proposed rule change (SR–DTC–2016–008) with the Commission pursuant to Section 19(b)(1) of the Act, 15 U.S.C. 78s(b)(1), and Rule 19b–4, 17 CFR 240.19b–4. Securities Exchange Act Release No. 34–79046 (October 5, 2016), 81 FR 70200 (October 11, 2016) (SR–DTC–2016–008).

[4] *See* 12 U.S.C. 5465(e)(1)(H).

[5] *Available at http://www.dtcc.com/legal/rules-and-procedures.aspx.*

[6] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Settlement.pdf.*

[7] *Available at http://www.dtcc.com/~/media/Files/Downloads/legal/service-guides/Distributions%20Service%20Guide%20FINAL%20November%202014.pdf.*

[8] Eligibility for inclusion in the MMI Program covers MMI, which are short-term debt Securities that generally mature 1 to 270 days from their original issuance date. MMI include, but are not limited to, commercial paper, banker's acceptances and short-term bank notes and are issued by financial institutions, large corporations, or state and local governments. Most MMI trade in large denominations (typically, $250,000 to $50 million) and are purchased by institutional investors. Eligibility for inclusion in the MMI Program also covers medium term notes that mature over a longer term.

[9] Rule 1, *supra* note 5. MMI of an Issuer are designated by DTC using unique four-character identifiers employed by DTC referred to as Acronyms. An MMI Issuer can have multiple Acronyms representing its Securities. MMI Transactions and other functions relating to MMI (*e.g.,* confirmations and RTP) instructed and/or performed by IPAs, Participants and/or DTC as described herein are performed on an ''Acronym-by-Acronym'' basis.

[10] Capitalized terms not otherwise defined herein have the respective meanings set forth in the Rules, the Settlement Guide, and the Distributions Guide.

### 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*

DTC has not solicited and does not intend to solicit comments regarding the Proposal. DTC has not received any unsolicited written comments from

interested parties. To the extent DTC receives written comments on the Proposal, DTC will forward such comments to the Commission. DTC has conducted industry outreach with respect to the proposal including discussion with industry associations and IPAs.

*(B) Advance Notice Filed Pursuant to Section 806(e) of the Clearing and Supervision Act*

Nature of the Proposed Change

DTC is proposing to (i) mitigate risk to DTC and Participants relating to intra-day reversals of processed MMI Obligations in the event of an IPA's RTP with respect to maturing obligations (''Maturing Obligations'') [11] for an Acronym and/or income payments [12] relating to Presentments for an Acronym, and (ii) reduce blockage for the completion of MMI Obligations by eliminating the LPNC control, as more fully described below.

Background

When an Issuer issues MMI Securities at DTC, the IPA for that Issuer sends issuance instructions to DTC electronically, which results in crediting the applicable MMI Securities to the DTC Account of the IPA. These MMI Securities are then Delivered to the Accounts of applicable Participants that are purchasing the Issuance in accordance with their purchase amounts. These purchasing Participants typically include broker/dealers or banks, acting as custodians for institutional investors. The IPA Delivery instructions may be free of payment or, most often, Delivery Versus Payment. Deliveries of MMI are processed pursuant to the same Rules and the applicable Procedures [13] set forth in the Settlement Guide, as are Deliveries generally, whether free or versus payment. Delivery Versus Payment transactions are subject to risk management controls of the IPA and Receiving Participants for Net Debit Cap and Collateral Monitor sufficiency,[14] and payment for Delivery Versus Payment transactions is due from the receiving Participants through DTC's net settlement process. To the extent, if any, that the Participant has a Net Debit Balance in its Settlement Account at end-of-day, payment of that amount is due to DTC.

When MMI Securities mature, the Maturity Presentment process is initiated automatically by DTC on maturity date, starting at approximately 6:00 a.m. Eastern Time (''ET''), for Delivery of matured MMI Securities from the applicable DTC Participants' Accounts to the applicable IPA Accounts. This automated process electronically sweeps all maturing positions of MMI Securities from Participant Accounts and debits the Settlement Account of the applicable IPA for the amount of the Maturing Obligations for Presentments for the Acronym and credits the Settlement Accounts of the Deliverers. In accordance with the Rules, payment is due from the IPA for settlement to the extent, if any, that the IPA has a Net Debit Balance in its Settlement Account at end-of-day.

With regard to DTC net settlement, MMI Issuers and IPAs commonly consider the primary source of payments for Maturing Obligations of MMI Securities to be funded by the proceeds of Issuances of the same Acronym by that Issuer on the same Business Day. Because Presentments are currently processed automatically at DTC, IPAs have the option to refuse to pay for Maturing Obligations to protect against the possibility that an IPA may not be able to fund settlement because it has not received funds from the relevant Issuer. An IPA that refuses payment for a Presentment (*i.e.,* refuses to make payment for the Delivery of matured MMI Securities for which it is the designated IPA and/or pay interest or dividend income on an MMI Security for which it is the designated IPA) must notify DTC of its RTP in the DTC Settlement User Interface. An IPA may enter an RTP until 3:00 p.m. ET on the date of the affected Presentment.

Under the current Rules, the effect of an RTP is to instruct DTC to reverse all processed Deliveries of that Acronym, including Issuances, related funds credits and debits, and Presentments. This late day reversal of processed (but not yet settled) transactions may override DTC's risk management controls (*i.e.,* Collateral Monitor and Net Debit Cap) and force a presenting Participant into a Net Debit Balance; this situation poses systemic risk with respect to the Participant's ability to fund its settlement and, hence, DTC's ability to complete end-of-day net funds settlement. Also, the possibility of intra-day reversals of processed MMI Obligations creates uncertainty for Participants.

Currently, to mitigate the risks associated with an RTP, DTC Rules and the Settlement Guide provide for the LPNC risk management control. DTC withholds credit intra-day from each Participant that has a Presentment in the amount of the aggregate of the two largest credits with respect to an Acronym. The LPNC is not included in the calculation of the Participant's Collateral Monitor or its Net Debit Balance. This provides protection in the event that MMI Obligations are reversed by DTC as a result of an RTP.[15]

DTC's Rules and Procedures relating to settlement processing for the MMI Program [16] were designed to limit credit, liquidity, and operational risk for DTC and Participants. In connection with ongoing efforts by DTC to evaluate the risk associated with the processing of MMI Obligations, DTC has determined that the risks presented by intra-day reversals of processed MMI Obligations should be eliminated to prevent the possibility that a reversal could override risk controls and heighten liquidity and settlement risk. Eliminating intra-day reversals of processed MMI Obligations would also enhance intra-day finality and allow for the elimination of the LPNC which creates intra-day blockage and affects liquidity through the withholding of settlement credits.

[11] A Maturing Obligation is a payment owed in settlement by the IPA to the Participant on whose behalf DTC presents the matured MMI Securities.

[12] Principal and income for an Acronym are distributed by an IPA according to a cycle determined by the terms of the issue (*e.g.,* monthly, quarterly, and semi-annually). Such distributions may be for interest only, principal only, or interest and principal.

[13] Pursuant to the Rules, the term ''Procedures'' means the Procedures, service guides, and regulations of the Corporation adopted pursuant to Rule 27, as amended from time to time. *See* Rule 1, Section 1, *supra* note 5, at 15. The Procedures applicable to MMI settlement processing are set forth in the Settlement Guide. *Supra* note 6.

[14] Delivery Versus Payment transfers at DTC are structured so that the completion of Delivery of Securities to a Participant in end-of-day settlement is contingent on the receiving Participant satisfying its end-of-day net settlement obligation, if any. The risk of Participant failure to settle is managed through risk management controls, structured so that DTC may complete settlement despite the failure to settle of the Participant, or Affiliated Family of Participants, with the largest net settlement obligation. The two principal controls are the Net Debit Cap and Collateral Monitor. The largest net settlement obligation of a Participant or Affiliated Family of Participants cannot exceed DTC liquidity resources, based on the Net Debit Cap, and must be fully collateralized, based on the Collateral Monitor. This structure is designed so that DTC may pledge or liquidate Collateral of the defaulting Participant in order to fund settlement among non-defaulting Participants. Liquidity resources, including the Participants Fund and a committed line of credit with a consortium of lenders, are available to complete settlement among non-defaulting Participants.

[15] *See* Securities Exchange Act Release No. 71888 (April 7, 2014), 79 FR 20285 (April 11, 2014) (SR–DTC–2014–02) (clarifying the LPNC Procedures in the Settlement Guide) and Securities Exchange Act Release No. 68983 (February 25, 2013), 78 FR 13924 (March 1, 2013) (SR–DTC–2012–10) (updating the Rules related to LPNC).

[16] The Procedures applicable to MMI settlement processing are set forth in the Settlement Guide. *Supra* note 6.

Proposal

The Proposal would amend the Rules and the Settlement Guide to eliminate provisions for intra-day reversals of processed MMI Obligations based on an IPA's RTP or Issuer insolvency. In addition, the Proposal would amend the Distributions Guide to make changes to text relating to the processing of Income Presentments so that it is consistent with the changes proposed in the Settlement Guide in that regard, as more fully described below.

Pursuant to the Proposal, DTC would no longer automatically process Presentments (and Issuances and related deliveries). Rather, except as noted below, DTC would only process these transactions after an acknowledgment (''MMI Funding Acknowledgment'') is made by the IPA to DTC whereby either: (i) The value of receiver-approved [17] Issuances alone,[18] or a combination of receiver-approved Issuances plus an amount the IPA(s) has acknowledged has been funded by the Issuer, exceeds the Acronym's Presentments; or (ii) the IPA acknowledges it has been funded for the entire amount of the gross value of an Acronym, regardless of Issuances.[19]

DTC anticipates that the Proposal would generally maintain the volume of transactions processed today in terms of the total number and value of transactions that have passed position and risk controls throughout the processing day. However, because of the requirement for the IPA to provide an MMI Funding Acknowledgement prior to processing of an Acronym, the reason why transactions do not complete during the processing day would shift. It is expected that the value and volume of MMI transactions recycling for risk management controls during the late morning and afternoon time periods would be reduced as a result of MMI transactions being held outside of the processing system awaiting an MMI Funding Acknowledgement decision. The non-MMI transactions and fully funded MMI transactions would also likely have a reduction in blockage from risk management controls as a result of the elimination of the LPNC control. The elimination of the LPNC control would no longer withhold billions of dollars of settlement credits until 3:05 p.m. ET as it does today, which would in turn permit these transactions to complete earlier in the day.

An IPA would make an MMI Funding Acknowledgment using a new Decision Making Application (''DMA''). When an MMI Funding Acknowledgement has occurred, it would constitute the IPA's instruction to DTC to attempt to process transactions in the Acronym. At this point, if the IPA has acknowledged that it would fully fund the Acronym, then the transactions would be sent to the processing system and attempted against position and risk management controls. If the IPA provides an MMI Funding Acknowledgement for only partial funding of the entire amount of Presentments for an Acronym, DTC would test risk management controls of Deliverers and Receivers with respect to that Acronym to determine whether risk management controls would be satisfied by all Deliverers and Receivers of the Acronym and determine whether all parties maintain adequate position to complete the applicable transactions, *i.e.,* ''MMI Optimization''. In the case that the aggregate amount of RAD approved Issuances of an Acronym exceeds the aggregate amount of Presentments, and thus an affirmative acknowledgment by the IPA would not be required, risk management controls for all Deliverers and Receivers would be tested using MMI Optimization as well.

As indicated above, if partial funding from the IPA is necessary, then transactions would be routed to MMI Optimization. Generally, in MMI Optimization, all Deliverers and Receivers of the Acronym must satisfy risk management controls and delivering Participants must hold sufficient position, in order for the transactions in that Acronym to be processed. However, as long as the Issuances that can satisfy Deliverer and Receiver risk controls for that Acronym are equal to or greater than the Maturing Presentments of that Acronym, the applicable transactions (*i.e.,* those that pass risk controls) would be processed. If there are multiple IPAs for an Acronym, DTC would determine funding based on the satisfaction of conditions for all Receivers and Deliverers with respect to all Presentments, Issuances and applicable Delivery Orders in the Acronym and MMI Funding Acknowledgements for all IPAs with Issuances and Presentments in the Acronym. No instruction of an IPA to DTC to process the subject MMI transactions shall be effective until MMI Optimization is satisfied with respect to all transactions in the Acronym.

If there is no MMI Funding Acknowledgment for the IPA for an Acronym for which Maturing Obligations are due by 3:00 p.m. ET on that day and/or DTC is aware that the Issuer of an Acronym is insolvent (''Acronym Payment Failure''), then DTC would not process transactions in the Acronym.[20]

In the event of an Acronym Payment Failure, DTC would (i) prevent further issuance and maturity activity for the Acronym in DTC's system, (ii) prevent Deliveries of MMI Securities of the Acronym on failure date and halt all activity in that Acronym, (iii) set the Collateral Value of the MMI Securities in the Acronym to zero for purposes of calculating the Collateral Monitor of any affected Participant, and (iv) notify Participants of the Acronym Payment Failure. Notification would be made through a DTC broadcast through the current process.

Notwithstanding the occurrence of an Acronym Payment Failure, the IPA would remain liable for funding pursuant to any MMI Funding Acknowledgment previously provided for that Business Day.

A ''Temporary Acronym Payment Failure'' with respect to Income Presentments would occur when an IPA notifies DTC that it temporarily refuses to pay Income Presentments for the Acronym (typically due to an Issuer's inability to fund Income Presentments on that day). A Temporary Acronym Payment Failure would only be initiated if there are no Maturity Presentments, Principal Presentments and/or Reorganization Presentments on that Business Day. DTC expects the Issuer and/or IPA to resolve such a situation by the next Business Day. In the event of a Temporary Acronym Payment Failure, DTC would (i) temporarily devalue to zero all of the Issuer's MMI Securities for purposes of calculating

[17] DTC subjects certain transactions to receiver approval in its RAD system.

[18] An affirmative MMI Funding Acknowledgement by the IPA would not be required in the case that the aggregate amount of RAD approved Issuances of an Acronym exceeds the aggregate amount of Presentments since these Issuances would provide the funding of the maturing obligations versus an Issuer having to fund the IPA. The Proposal would provide that in this instance, the IPA is deemed to provide a standing instruction to process transactions in the Acronym, subject to risk management controls. Any such instruction or deemed instruction by the IPA would be irrevocable once given.

[19] In the case where an affirmative MMI Funding Acknowledgment by the IPA would be required for Presentments to be processed, the MMI Funding Acknowledgement would be a notification provided by an IPA to DTC with respect to an Acronym that the IPA acknowledges and affirms its funding obligation for a maturing Acronym either (i) in the entire amount of the Acronym or (ii) for an amount at least equal to the difference between the value of Issuances and the value of the Presentments. In the case of (ii) above, the IPA may (later that day) increase the funding amount it acknowledges, but in no event may the IPA reduce the amount of its obligation previously acknowledged that day.

[20] DTC would automatically consider an Acronym Payment Failure occurring due to an IPA's failure to provide timely MMI Funding Acknowledgement (*i.e.,* provide the acknowledgment by 3:00 p.m. ET) as an RTP.

the Collateral Monitor, unless and until the IPA acknowledges funding with respect to the Income Payments on the following Business Day, (ii) notify Participants of the delayed payment through a DTC broadcast as is the current process today, and (iii) block from DTC's systems all further Issuances and maturities by that Issuer for the remainder of the Business Day on which notification of the Temporary Payment Failure was received by DTC.

An IPA would not be able to avail itself of a Temporary Acronym Payment Failure for the same Acronym on consecutive Business Days.

Also, in light of the proposed elimination of intra-day reversals of processed MMI Obligations, DTC would also eliminate the RVPNA control. The RVPNA control is provided for in the Settlement Guide and implements current Section 1(c) of Rule 9(B). RVPNA is used to prevent a Participant from Delivering free of value or undervalued any MMI Securities received versus payment on the same Business Day.[21] This protects DTC against being unable to reverse transactions for Deliveries Versus Payment of MMI Securities in the event of an RTP by the IPA.[22] The elimination of reversals of processed MMI Obligations would eliminate the need for the RVPNA control.

Proposed Changes to the Rules, Settlement Guide, and Distributions Guide

DTC would amend the text of Rule 1 (Definitions), Rule 9(A) (Transactions in Securities and Money Payments), Rule 9(B) (Transactions in Eligible Securities), Rule 9(C) (Transactions in MMI Securities), the Settlement Guide and the Distributions Guide to reflect the proposed changes described above. Specifically:

(i) Rule 1 would be amended to:

a. Delete the definition of LPNC; and

b. Add a cross-reference to indicate that the terms MMI Funding Acknowledgment and MMI Optimization would be defined in Section 1 of Rule 9(C).

(ii) Rule 9(A) would be amended to add text providing that an instruction to DTC from a Participant for Delivery Versus Payment of MMI Securities pursuant to Rule 9(C) shall not be effective unless and until applicable conditions specified in Rule 9(C) as set forth below have been satisfied.

(iii) Rule 9(B) would be amended to:

a. Eliminate text referencing the LPNC;

b. Eliminate the provision precluding DTC from acting on an instruction for Delivery of MMI Securities subject of an Incomplete Transaction if the instruction involves a Free Delivery, Pledge or Release of Securities or a Delivery, Pledge or Release of Securities substantially undervalued; and

c. Add text providing that an instruction to DTC from a Participant for Delivery Versus Payment of MMI Securities pursuant to Rule 9(C) shall not be effective unless and until the applicable conditions specified in Rule 9(C) described below have been satisfied.

(iv) Rule 9(C) would be amended to:

a. Add the definitions of MMI Funding Acknowledgment and MMI Optimization to reflect the meaning of these terms as described above;

b. Add text that Delivery Versus Payment of MMI Securities would be affected in accordance with Rules 9(A), 9(B) and the Settlement Guide in addition to Rule 9(C);

c. Add text indicating that instructions by a Presenting Participant for a Presentment or Delivery of MMI Securities would be deemed to be given only when any applicable MMI Funding Acknowledgment has been received by DTC;

d. Remove conditions and references relating to reversals of processed MMI Obligations;

e. Set forth conditions for the processing of Presentments, including:

i. The requirement for the IPA to provide an MMI Funding Acknowledgment, except in the case where the aggregate amount of Issuances exceeds Presentments;

ii. Satisfaction of risk management controls and RAD;

iii. That an instruction to DTC with respect to an Issuance or Presentment shall become effective upon satisfaction of the provisions described in i. and ii. immediately above;

iv. That DTC shall comply with an effective instruction;

v. That the IPA acknowledges and agrees that DTC would process instructions with respect to Issuances and Presentments as described above and that the IPA's obligations in this regard are irrevocable; and

vi. That if the IPA notifies DTC in writing of its insolvency, or if DTC otherwise has notice, or if the IPA issues a Payment Refusal for the Acronym, then the IPA would not be required to acknowledge its obligations and DTC would not be required to process any further instructions with respect to the applicable Acronym;

f. Eliminate references to MMI Securities being devalued in the event of an RTP because in the event of any payment failure by the IPA, DTC would then revert to the Acronym Payment Failure Process described below; and

g. Delete a reference indicating that DTC's Failure to Settle Procedure includes special provisions for MMI Securities.

(v) The Settlement Guide would be amended to:

a. Delete the description of, and all references and provisions related to, LPNC;

b. Delete: (A) The definition of RVPNA, (B) a provision that transactions for MMI Securities that are deemed RVPNA would recycle pending release of the LPNC control at 3:05 p.m. ET, and (C) a note that MMI Securities received versus payment are not allowed to be freely moved until the LPNC control is released;

c. Add a description of ''Unknown Rate'' to provide for a placeholder in the Settlement Guide for references to an interest rate where payment of interest by an IPA to Receivers is scheduled but the interest rate to be paid is not known at the time;

d. Change the heading of the section currently named ''Establishing Your Net Debit Cap'' to ''Limitation of Participant Net Debit Caps by Settling Banks'' to reflect the context of that section more specifically;

e. Revise the Settlement Processing Schedule to:

i. Add a cutoff time of 2:30 p.m. ET for an IPA to replace the Unknown Rate with a final interest rate and state that the IPA must successfully transmit the final rate to DTC before 2:30 p.m. ET;

ii. Add a cutoff time of 2:55 p.m. ET after which Issuances and Presentments cannot be processed on the given Business Day because the conditions described above for processing of MMI Obligations have not been met;

iii. Remove a reference for a cutoff relating to reversals of MMI Obligations since reversals would no longer occur as described above;

iv. Define 3 p.m. ET as the cutoff time for any required MMI Funding Acknowledgements to be received in order for DTC to be able to process for a given Acronym that day;

v. Add at cutoff time of 3 p.m. ET for an IPA to notify DTC of a Temporary Acronym Payment Failure;

[21] For purposes of RVPNA, MMI Securities are considered undervalued if they are Delivered Versus Payment for less than 10 percent below market value.

[22] For example, if A Delivers MMI Securities to B versus payment and B Delivers the same MMI Securities to C free of payment (subject to risk management controls), under Rule 9(B), Section 1, the Delivery to C is final when the securities are credited to C. DTC would therefore be unable to reverse the Delivery to C and thus it cannot reverse the Delivery from B to A.

vi. Delete a reference to the release of LPNC controls as LPNC would no longer exist; and

vii. Clarify that a 3:10 p.m. ET cutoff after which CNS transactions that cannot be completed would be dropped from the system, also applies to valued transactions in non-MMI Securities and fully paid for and secondary MMI Deliveries or Maturity Presentments;

f. Add a section describing MMI Processing to include a description of MMI Funding Acknowledgments and the MMI Optimization process as described above;

g. Revise the section referencing provisions for ''Issuer Failure Processing'' to instead describe Acronym Payment Failure Processing and Temporary Acronym Payment Failure Process, as these processes are described above, since the contingencies for processing a payment failure hinge on the failure of payment on an Acronym by an IPA regardless of whether it is ultimately caused by an Issuer insolvency or otherwise;

h. Remove a duplicate reference to the DTC contact number for Participants/IPAs to call in the event of an Acronym Payment Failure;

i. Remove the description of the ''MMI IPA MP Pend'' process which was designed to allow IPAs to minimize the impact of potential reversals of processed MMI Obligations; as such reversals would no longer occur; and

j. Change the name of the section named ''Calculating Your Net Debit Cap'' to ''Calculation of Participant Net Debit Caps''.

(vi) The Distributions Guide would be amended to (i) delete language reflecting that Income Presentments are processed at the start-of-day, and (ii) add a brief description of the processing of Presentments as proposed above and provide a cross-reference to the Settlement Guide relating to MMI settlement processing.

(vii) The Proposal would also make technical and clarifying changes to the texts of the Rules and Settlement Guide for consistency throughout the texts in describing the concepts and terms set forth above, make corrections to grammar and spacing and edit text to provide for enhanced readability.

Implementation

The Proposal would be implemented in phases whereby Acronyms would be migrated to be processed in accordance with the Proposal over a period of five months beginning in November 2016 and with all Acronyms expected to be implemented by the end of March 2017, except for the implementation of the elimination of the Rule and Settlement Guide provisions relating to RVPNA which elimination would not occur until all other aspects of the Proposal are implemented with respect to all Acronyms. DTC would announce phased implementation dates for the Proposal via Important Notice upon all applicable regulatory approval by the Commission.

Expected Effect on Risks to DTC, Its Participants, or the Market

As described above, the Proposal would amend the Rules and the Settlement Guide to: (i) Eliminate provisions for intra-day reversals of processed MMI Obligations based on an IPA's RTP or Issuer insolvency, (ii) impose a new requirement on IPAs to provide DTC an MMI Funding Acknowledgment, (iii) remove the LPNC risk management control; and (iv) implement MMI Optimization.

Elimination of Intra-day Reversals

As noted above, under the current DTC Rules, intraday reversals of MMI Obligations may override DTC's risk management controls (*i.e.,* Collateral Monitor and Net Debit Cap) and force a presenting Participant into an otherwise unanticipated Net Debit Balance at the end-of-day; this situation poses systemic risk with respect to the Participant's ability to fund its settlement and, hence, DTC's ability to complete end-of-day net funds settlement. The proposed elimination of intra-day reversals of processed MMI Obligations would decrease risk to DTC, its Participants and the marketplace by eliminating the settlement risk associated with such reversals, improving settlement finality.

IPAs' Obligation To Provide an MMI Funding Acknowledgment

Pursuant to the Proposal, DTC would no longer automatically process Presentments (and Issuances and related deliveries). Rather, as applicable, DTC would only process these transactions after receiving an MMI Funding Acknowledgment from the IPA. In this regard, once an IPA provides an MMI Funding Acknowledgment, its ability to notify DTC of an RTP would be limited as it would not be allowed to reduce the amount of its obligation previously acknowledged that day.[23] This provision of the Proposal would facilitate the elimination of intra-day reversals, as described above, and, therefore, decrease settlement risk for DTC and its Participants.

Removal of the LPNC Control

Currently, the LPNC control exists to mitigate the risks associated with an RTP by withholding credit intra-day from each Participant in the amount of the aggregate of the two largest credits with respect to Presentment of an Acronym. DTC expects that the proposed elimination of the LPNC control and the attendant intraday withholding of credits would reduce the risk of intraday liquidity blockages within DTC's system for Participant activity, for both MMI and non-MMI transactions, because at any point intraday, Participants would have a true view of their Net Debit Balances or Net Credit Balances and be able to respond accordingly.

MMI Optimization

As described above, as applicable, DTC would test risk management controls of Deliverers and Receivers using the proposed MMI Optimization process with respect to the Acronym to determine whether risk management controls would be satisfied by all Deliverers and Receivers of the Acronym and determine whether all Deliverers maintain adequate position to complete the applicable transactions. As described above, the application of MMI Optimization to MMI transactions, as applicable, would facilitate timely processing of transactions under the proposal and reduce the risk to Participants that transactions may not settle due to failure to satisfy risk controls.

Management of Identified Risks

The proposed requirement for an IPA to provide DTC an MMI Funding Acknowledgment prior to DTC's processing of affected MMI transactions, as applicable, would replace DTC's current automatic processing of MMI Transactions. The fact that such transactions would not be processed until an MMI Funding Acknowledgment is provided by the IPA may create a risk of blockage of MMI transactions by Participants. However, DTC anticipates that the various aspects of the Proposal taken together would offset any such risk and reduce the risk of blockage overall for both MMI and non-MMI transactions because of the effect of (i) the removal of the LPNC control would

[23] As noted above, an affirmative MMI Funding Acknowledgement by the IPA would not be required in the case that the aggregate amount of RAD approved Issuances of an Acronym exceeds the aggregate amount of Presentments since these Issuances would provide the funding of the maturing obligations versus an Issuer having to fund the IPA. The Proposal would provide that in this instance, the IPA is deemed to provide a standing instruction to process transactions in the Acronym, subject to risk management controls. Any such instruction or deemed instruction by the IPA would be irrevocable once given.

eliminate the attendant withholding of settlement credits from Participants intraday net settlement balances, and (ii) increased efficiency in the testing of risk controls through the MMI Optimization process, as described above, would reduce the volume of MMI transactions that might otherwise recycle pending passing of risk management controls.

Consistency With the Clearing Supervision Act

DTC believes that the Proposal is consistent with Section 805(b) of the Clearing Supervision Act.[24] The objectives and principles of Section 805(b) of the Clearing Supervision Act are the promotion of robust risk management, promotion of safety and soundness, reduction of systemic risks, and support of the stability of the broader financial system.[25]

DTC believes that the Proposal is consistent with the provisions of the Clearing Supervision Act because the elimination of reversals of MMI transactions would promote intraday settlement finality and protect end-of day settlement from the risk of the failure to settle by IPAs or affected Participants by removing the risk exposure due to the override of DTC's risk management controls (*i.e.,* Collateral Monitor and Net Debit Cap) to process reversals under current rules. As such the Proposal would promote the robustness of DTC's risk management controls.

DTC also believes that the Proposal is consistent with the provisions of the Clearing Supervision Act because the elimination of the risk that a Participant could incur a Net Debit Balance that exceeds DTC's risk controls caused by an intra-day reversal of processed (but not yet settled) MMI Obligations would promote both the safety and soundness of DTC's system and reduce systemic risks by (i) reducing the risk of a shortfall in a defaulting Participant's collateral available for DTC to use to satisfy the defaulting Participant's settlement obligations, and (ii) reducing the risk that a Participant default could impose a strain on DTC's liquidity resources and affect DTC's ability to complete system-wide settlement that day.

In addition, DTC believes that the Proposal would be consistent with Rule 17Ad–22(d)(12) promulgated under the Act.[26] Rule 17Ad–22(d)(12) requires that each registered clearing agency shall establish, implement, maintain and enforce written policies and procedures reasonably designed to, as applicable, ensure that final settlement occurs no later than the end of the settlement day; and requires that intraday or real-time finality be provided where necessary to reduce risks.[27] The Proposal would eliminate the intra-day reversals of processed MMI transactions that are pending for end of day system wide net settlement, thus promoting settlement finality and eliminating the possibility that an intraday reversal could heighten liquidity and settlement risk, as discussed above. As such, DTC believes the Proposal is consistent with Rule 17Ad–22(d)(12).

Taking each of the above points collectively (*i.e.,* the Proposal's promotion of robust risk management, safety and soundness, reduced systemic risk, and consistency with Rule 17Ad–22(d)(12)). [sic] DTC believes the Proposal supports the overall stability of the broader financial system consistent with the Clearing Supervision Act.

## 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,[28] unless extended as described below. The clearing agency shall not implement the proposed change if the Commission has any objection to the proposed change.

Pursuant to Section 806(e)(1)(H) of the Clearing Supervision Act,[29] the Commission may extend the review period of an advance notice for an additional 60 days, if the changes proposed in the advance notice raise novel or complex issues, subject to the Commission providing the clearing agency with prompt written notice of the extension.

Here, as the Commission has not requested any additional information, the date that is 60 days after DTC filed the Advance Notice with the Commission is November 22, 2016. However, the Commission finds it appropriate to extend the review period of the Advance Notice, for an additional 60 days under Section 806(e)(1)(H) of the Clearing Supervision Act.[30] The Commission finds the Advance Notice is both novel and complex because the material aspects of the proposed changes to DTC's processing of MMI are detailed, substantial, a first for DTC, and are interrelated with other risk management practices at DTC.

Accordingly, the Commission, pursuant to 806(e)(1)(H) of the Clearing Supervision Act,[31] extends the review period for an additional 60 days so that the Commission shall have until January 21, 2017 to issue an objection or non-objection to the Advance Notice (File No. SR–DTC–2016–802).

The clearing agency shall post notice on its Web site of proposed changes that are implemented.

The proposal shall not take effect until all regulatory actions required with respect to the proposal are completed.[32]

## 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–DTC–2016–802 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549.

All submissions should refer to File Number SR–DTC–2016–802. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the 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

[24] 12 U.S.C. 5464(b).

[25] *Id.*

[26] 17 CFR 240.17Ad–22(d)(12).

[27] *Id.*

[28] *See* 12 U.S.C. 5465(e)(1)(G).

[29] 12 U.S.C. 5465(e)(1)(H).

[30] *Id.*

[31] *Id.*

[32] *See supra* note 3 (regarding filing of related proposed rule change).

available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549 on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of DTC and on DTCC's Web site (*http://dtcc.com/legal/sec-rule-filings.aspx*). All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–DTC–2016–802 and should be submitted on or before November 25, 2016.

By the Commission.

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27030 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

## SECURITIES AND EXCHANGE COMMISSION

**[Release No. 34–79228; File No. SR–NASDAQ–2016–144]**

## Self-Regulatory Organizations; The NASDAQ Stock Market LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Institute a New Fee for the Distribution of Data

November 3, 2016.

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 October 20, 2016, The NASDAQ Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III, below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

### I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend Rule 7047 of the Exchange's transaction fees to institute a new fee for the distribution of data derived from Nasdaq Basic on third-party Web sites or other electronic platforms, as described further below.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

The changes are being filed for immediate effectiveness and will become operative on October 20, 2016.

The text of the proposed rule change is available on the Exchange's Web site at *http://nasdaq.cchwallstreet.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

### II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

*A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change*

1. Purpose

The purpose of the proposed rule change is to introduce a new pricing model to keep pace with an evolving practice. Distributors have increasingly used Nasdaq Basic to make ''Derived Data'' available on a Web site or other electronic platform that is branded by a third party, or co-branded by a Distributor and a third party, and available to external subscribers.

''Derived Data'' is pricing data or other information that is created in whole or in part from Nasdaq information, but which cannot be reverse engineered to recreate Nasdaq information or be used to create other data that is recognizable as a reasonable substitute for Nasdaq information. The type of Derived Data subject to the proposed fee is taken from Nasdaq Basic, a proprietary data product that provides best bid and offer and last sale information for all U.S. exchange-listed stocks using data from the Nasdaq Market Center and the FINRA/Nasdaq Trade Reporting Facility.

The Derived Data subject to the proposed fee is made available to subscribers on a ''Hosted Display Solution'': A product, solution or capability provided by a Distributor in which the Distributor makes the Derived Data available on a platform that reflects either a brand of a third party, or is co-branded with a third party and a Distributor, and available for use by external subscribers of the third party or the Distributor. The Distributor maintains control of the application's data, entitlements and display.

The Hosted Display Solution may take a number of forms. For example, the Distributor may host a ''Widget,'' such as an iframe or applet, in which the Hosted Display Solution is a part or a subset of a Web site or platform. The Hosted Display Solution may also take the form of a ''White Label,'' in which the Distributor hosts or maintains the Web site or platform on behalf of a third-party entity. Although the specific forms may vary, Hosted Display Solutions allow Distributors to make Derived Data available on a platform that is branded with a third-party brand, or co-branded with a third party and a Distributor, for the use of external subscribers.

Derived Data on a Hosted Display Solution may be used for a number of different purposes, to be determined by the Distributor. Possible uses include the display of information or data, or the creation of derivative instruments, such as swaps,[3] swaptions,[4] binary options,[5] or contracts for difference.[6] The specific use of the data will be determined by the Distributor, as the proposed fee will not depend on the purpose for placing the Derived Data on a Hosted Display Solution.

The Exchange proposes a flat fee of $400 per month per Hosted Display Solution for each Distributor that makes Derived Data available on a Hosted Display Solution. The monthly fee will apply whenever such a Hosted Display Solution is employed at any time during the month. This fee will be in addition to the distributor fee owed for the distribution of Nasdaq Basic under Rule 7047(c)(1), as well as any fee that may be owed under Rule 7047(c)(2). Any Distributor that distributes Nasdaq data that is not Derived Data—*i.e.,* Nasdaq Basic for Nasdaq, Nasdaq Basic for NYSE, or Nasdaq Basic for NYSE Market—on a Hosted Display Solution would be liable for any applicable per-subscriber or per-query fees set forth in

[3] A swap is a derivative contract in which two parties agree to exchange financial instruments.

[4] A swaption, or swap option, is an option to enter into a swap at a specified time.

[5] A binary option is a type of contract in which the return depends on the outcome of a true/false proposition. If the proposition is true, the option purchaser would be entitled to predetermined compensation; otherwise, the purchaser would receive no compensation.

[6] A contract for difference is an agreement to exchange the difference between the current value of an asset and its future value. If the price increases, the seller pays the buyer the amount of the increase. If the price decreases, the buyer pays the seller the amount of the decrease.

Rules 7047(b)(1)–(3), as well as the distribution fee under 7047(c)(1).

The fee is entirely optional, in that it applies only to Distributors that opt to use Derived Data from Nasdaq Basic to create a Hosted Display Solution, as described herein. It does not impact or raise the cost of any other Nasdaq product, nor does it increase the cost of Nasdaq Basic, except in instances where Derived Data is made available on a Hosted Display Solution.

Because ''Derived Data'' will be a defined term under the proposal, the Exchange also proposes replacing the phrase ''data derived'' in Rule 7047(c)(2) with the term ''Derived Data.''

2. Statutory Basis

The Exchange believes that its proposal is consistent with Section 6(b) of the Act,[7] in general, and furthers the objectives of Sections 6(b)(4) and 6(b)(5) of the Act,[8] in particular, in that it provides for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using its facility, and is not designed to permit unfair discrimination between customers, issuers, brokers, or dealers.

The Commission and the courts have repeatedly expressed their preference for competition over regulatory intervention in determining prices, products, and services in the securities markets. In Regulation NMS, while adopting a series of steps to improve the current market model, the Commission highlighted the importance of market forces in determining prices and SRO revenues and, also, recognized that current regulation of the market system ''has been remarkably successful in promoting market competition in its broader forms that are most important to investors and listed companies.'' [9]

Likewise, in *NetCoalition* v. *Securities and Exchange Commission* [10] (''NetCoalition'') the D.C. Circuit upheld the Commission's use of a market-based approach in evaluating the fairness of market data fees against a challenge claiming that Congress mandated a cost-based approach.[11] As the court emphasized, the Commission ''intended in Regulation NMS that 'market forces, rather than regulatory requirements' play a role in determining the market data . . . to be made available to investors and at what cost.'' [12]

Further, ''[n]o one disputes that competition for order flow is 'fierce.' . . . As the SEC explained, '[i]n the U.S. national market system, buyers and sellers of securities, and the broker-dealers that act as their order-routing agents, have a wide range of choices of where to route orders for execution'; [and] 'no exchange can afford to take its market share percentages for granted' because 'no exchange possesses a monopoly, regulatory or otherwise, in the execution of order flow from broker dealers'. . . .'' [13]

The Exchange believes that the introduction of a fee for the use of Derived Data on Hosted Display Solutions is reasonable because: (i) All proprietary data fees are constrained by the Exchange's need to compete for order flow; (ii) proprietary data fees are subject to market competition from substitute products; and (iii) the proposed fee will be constrained by downstream competition among Distributors and third-party firms. The Exchange does not currently have a specific fee for making Derived Data available on Hosted Display Solutions for external subscribers; the proposed fee will be $400 per month for any use of a Hosted Display Solution to display Derived Data at any time during that month. A Distributor who makes Derived Data available on a Hosted Display Solution would not be subject to the per-Subscriber or per-query user fees set forth in Rules 7047(b)(1)–(3) because Derived Data, by definition, cannot be reverse engineered to recreate the data that is fee-liable under those rules. This is in contrast to any firm that distributes Nasdaq data that is not Derived Data on a Hosted Display Solution, which would be subject to such user fees. The Exchange believes that this fee is an equitable allocation and is not unfairly discriminatory because the Exchange will apply the same fee to all similarly situated distributors.

*B. Self-Regulatory Organization's Statement on Burden on Competition*

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act. In terms of inter-market competition, the Exchange notes that it operates in a highly competitive market in which market participants can readily favor competing venues if they deem fee levels at a particular venue to be excessive, or rebate opportunities available at other venues to be more favorable. In such an environment, the Exchange must continually adjust its fees to remain competitive with other exchanges and with alternative trading systems that have been exempted from compliance with the statutory standards applicable to exchanges. Because competitors are free to modify their own fees in response, and because market participants may readily adjust their order routing practices, the Exchange believes that the degree to which fee changes in this market may impose any burden on competition is extremely limited.

The proposed fee in this case applies to data derived from Nasdaq Basic, which is subject to competition from the NYSE, BATS, and other exchanges that offer similar products. In sum, if the changes proposed herein are unattractive to market participants, it is likely that the Exchange will lose market share as a result. Accordingly, the Exchange does not believe that the proposed changes will impair the ability of members or competing order execution venues to maintain their competitive standing in the financial markets.

Market forces constrain the proposed fee in three specific respects. First, all fees related to Nasdaq Basic are constrained by competition among exchanges and other entities in attracting order flow. Firms make decisions regarding Nasdaq Basic and other proprietary data based on the total cost of interacting with the Exchange, and order flow would be harmed by the supracompetitive pricing of any proprietary data product. Second, the price of Nasdaq Basic is constrained by the existence of multiple substitutes that are offered, or may be offered, by entities that offer proprietary or non-proprietary data. Third, the proposed fee will be constrained by competition among Distributors and third parties for subscribers.

Competition for Order Flow

Fees related to Nasdaq Basic are constrained by competition among exchanges and other entities seeking to attract order flow. Order flow is the ''life blood'' of the exchanges. Broker-dealers currently have numerous alternative venues for their order flow, including thirteen self-regulatory organization (''SRO'') markets, as well as internalizing broker-dealers (''BDs'') and various forms of alternative trading

[7] 15 U.S.C. 78f(b).

[8] 15 U.S.C. 78f(b)(4) and (5).

[9] Securities Exchange Act Release No. 51808 (June 9, 2005), 70 FR 37496, 37499 (June 29, 2005) (''Regulation NMS Adopting Release'').

[10] *NetCoalition* v. *SEC,* 615 F.3d 525 (D.C. Cir. 2010).

[11] *See NetCoalition* at 534–535; *see also* Sec. Indus. Fin. Mkts. Ass'n (SIFMA), Initial Decision Release No. 1015, 2016 SEC LEXIS 2278 (ALJ June 1, 2016) (applying a market-based approach to the Regulation NMS analysis).

[12] *NetCoalition* at 537.

[13] *Id.* at 539 (quoting Securities Exchange Act Release No. 59039 (December 2, 2008), 73 FR 74770, 74782–83 (December 9, 2008) (SR–NYSEArca–2006–21)).

systems (''ATSs''), including dark pools and electronic communication networks (''ECNs''). Each SRO market competes to produce transaction reports via trade executions, and two FINRA-regulated Trade Reporting Facilities (''TRFs'') compete to attract internalized transaction reports. The existence of fierce competition for order flow implies a high degree of price sensitivity on the part of BDs, which may readily reduce costs by directing orders toward the lowest-cost trading venues.

The level of competition and contestability in the market for order flow is demonstrated by the numerous examples of entrants that swiftly grew into some of the largest electronic trading platforms and proprietary data producers: Archipelago, Bloomberg Tradebook, Island, RediBook, Attain, TracECN, BATS Trading and BATS/Direct Edge. A proliferation of dark pools and other ATSs operate profitably with fragmentary shares of consolidated market volume. For a variety of reasons, competition from new entrants, especially for order execution, has increased dramatically over the last decade.

Each SRO, TRF, ATS, and BD that competes for order flow is permitted to produce proprietary data products. Many currently do or have announced plans to do so, including NYSE, NYSE Amex, NYSE Arca, and BATS. This is because Regulation NMS deregulated the market for proprietary data. While BDs had previously published their proprietary data individually, Regulation NMS encourages market data vendors and BDs to produce proprietary products cooperatively in a manner never before possible. Order routers and market data vendors can facilitate production of proprietary data products for single or multiple BDs. The potential sources of proprietary products are virtually limitless.

The markets for order flow and proprietary data are inextricably linked: A trading platform cannot generate market information unless it receives trade orders. As a result, the competition for order flow constrains the prices that platforms can charge for proprietary data products. Firms make decisions on how much and what types of data to consume based on the total cost of interacting with Nasdaq and other exchanges. Data fees are but one factor in a total platform analysis. If the cost of the product exceeds its expected value, the broker-dealer will choose not to buy it. A supracompetitive increase in the fees charged for either transactions or proprietary data has the potential to impair revenues from both products. In this manner, the competition for order flow will constrain prices for proprietary data products, including charges relating to Nasdaq Basic.

Substitute Products

The price of data derived from Nasdaq Basic is constrained by the existence of multiple substitutes offered by numerous entities, including both proprietary data offered by other SROs or other entities, and non-proprietary data disseminated by Nasdaq in its capacity as a Securities Information Processor (''SIP'') for the national market system plan governing securities listed on Nasdaq as a national securities exchange (''Nasdaq UTP Plan'').

The information provided through Nasdaq Basic is a subset of the best bid and offer and last sale data provided by the SIP. The ''core'' data disseminated by the SIP consists of best-price quotations and last sale information from all markets in U.S.-listed equities; Nasdaq Basic provides best bid and offer and last sale information for all U.S. exchange-listed stocks based on trade reports from the Nasdaq Market Center and the FINRA/Nasdaq Trade Reporting Facility. Many customers that purchase SIP data do not also purchase Nasdaq Basic because they are substitutes; moreover, in cases where customers buy both products, they may shift the extent to which they purchase one or the other based on price changes. The SIP constrains the price of Nasdaq Basic because no purchaser would pay an excessive price for Nasdaq Basic when substitute data is also available from the SIP.

Proprietary data sold by other exchanges also constrain the price of Nasdaq Basic. NYSE and BATS, like Nasdaq, sell proprietary non-core data that include best bid and offer and last sale data. Customers do not typically purchase proprietary best bid and offer and last sale data from multiple exchanges. Other proprietary data products constrain the price of Nasdaq Basic because no customer would pay an excessive price for Nasdaq Basic when substitute data is available from other proprietary sources. The effectiveness of competition in constraining prices for Nasdaq Basic is demonstrated by the fact that the fee to distribute data derived from Nasdaq Basic to non-professional subscribers has remained unchanged since July 29, 2011.[14]

Competitive Market Structure

The fee for making Derived Data available on a Hosted Display Solution is also constrained by competition among Distributors and third-party firms placing their brand names on Hosted Display Solutions. Distributors must compete for customers. Firms placing their brand on Hosted Display Solutions must compete for subscribers. If the price of Hosted Display Solutions were to exceed competitive levels, thereby placing Distributors and third party firms at a competitive disadvantage relative to firms that did not purchase Nasdaq products, Distributors and the third party firms would take their business elsewhere. There are no legal, regulatory, or other requirements restricting their ability to do so.

In summary, market forces constrain the proposed fee through competition for order flow, competition from substitute data products, and in the competition among Distributors and third party for subscribers. For these reasons, the Exchange has provided a substantial basis demonstrating that the fee is equitable, fair, reasonable, and not unreasonably discriminatory, and therefore consistent with and in furtherance of the purposes of the Exchange Act.

*C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others*

No written comments were either solicited or received.

## III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[15]

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is: (i) Necessary or appropriate in the public interest; (ii) for the protection of investors; or (iii) otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

## IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule

[14] *See* Securities Exchange Act Release No. 64994 (July 29, 2011), 76 FR 47621 (August 5, 2011) (SR–NASDAQ–2011–091).

[15] 15 U.S.C. 78s(b)(3)(A)(ii).

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–2016–144 on the subject line.

*Paper Comments*

- Send paper comments in triplicate to Brent J. Fields, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NASDAQ–2016–144. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml).* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NASDAQ–2016–144 and should be submitted on or before November 30, 2016.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[16]

**Brent J. Fields,**

*Secretary.*

[FR Doc. 2016–27022 Filed 11–8–16; 8:45 am]

**BILLING CODE 8011–01–P**

[16] 17 CFR 200.30–3(a)(12).

## SURFACE TRANSPORTATION BOARD

**[Docket No. FD 36077; Docket No. NOR 42148]**

## North Coast Railroad Authority and Northwestern Pacific Railroad Company—Petition for Declaratory Order; North Coast Railroad Authority and Northwestern Pacific Railroad Company v. Sonoma-Marin Area Rail Transit District

On October 4, 2016,[1] North Coast Railroad Authority (NCRA) and Northwest Pacific Railroad Company (NWPCo) (together Petitioners)[2] filed a petition requesting an emergency declaratory order and preliminary injunctive relief to prevent Sonoma-Marin Area Rail Transit District (SMART) from interfering with freight rail operations over portions of the Northwestern Pacific Railroad Line.[3] (Pet. 2, 4–5, 10–11.) Board staff held two conference calls with representatives of both parties on October 6 and October 11, 2016, to clarify the facts of the dispute over Petitioners' request for preliminary injunctive relief. On October 21, 2016, the Board issued an order denying the preliminary injunction. *See N. Coast R.R. Auth.* v. *Sonoma-Marin Area Rail Transit Dist.* (*October 21 Decision*), NOR 42148 (STB served Oct. 21, 2016) (with Commissioner Begeman partially concurring).

### Background

The Line consists of three segments: The Willits Segment, the Healdsburg Segment, and the Lombard Segment. (Pet. 2–3.) NCRA, the public agency created to preserve freight operations on the Line, holds the exclusive right to conduct freight operations over the Line. (Pet. 3.)[4] NWPCo is the freight operator. (Pet. 2.)[5] SMART, the public agency created in 2003 and authorized to provide commuter passenger service over portions of the Line, holds the exclusive right to operate passenger service, including the right to dispatch over portions of the Line. (Pet. 2–3.) In 2004, SMART obtained Board authority to acquire the real estate and rail facilities and trackage to the Healdsburg and Lombard segments of the Line. *Sonoma-Marin Area Rail Transit Dist.,* FD 34400, slip op. at 1–2.[6] NCRA owns the Willits Segment. (Pet. 2–3.) NWPCo operates on the Healdsburg and Lombard segments; SMART currently has plans to operate on the Healdsburg Segment. (Pet. 3.)

In 2011, NCRA and SMART entered into an Operating and Coordination Agreement (Agreement) for the Line. (Pet., Williams Decl. para. 1.) The Agreement gives SMART dispatching authority over the Lombard and Healdsburg segments and a portion of the Willits Segment. (Pet., Williams Decl., Ex. A at 4.) It defines dispatching as having the same meaning as in 49 CFR 241.5(1)(i). (Pet., Williams Decl., Ex. A at Ex. 1 at i.) The Agreement also contains a provision addressing hazardous materials, which states in part:

> Neither Party shall use, generate, transport, handle or store Hardous Materials on the Subject Segments other than as may be used by the Party in its operations in the normal course of business or, in the case of NCRA, as may be transported by NCRA in its capacity as a common carrier by rail and in all events in accordance with Applicable Laws.

(Pet., Williams Decl., Ex. A at 11.) The Agreement defines ''Industrial Track'' as ''all existing or later built track on the Healdsburg and Lombard Segments used solely for NCRA Freight Service'' and provides that ''NCRA, at its own expense, shall have the exclusive right to manage'' such track. (*Id.* at 3.) Finally, the Agreement contains a provision subjecting disputes to arbitration. (*Id.* at 19.)

On July 28, 2016, NWPCo began transporting loaded liquid petroleum gas (LPG) tank cars to, and storing them at, the Schellville rail yard on the

[1] These proceedings are not consolidated. A single decision is being issued for administrative purposes.

[2] The initial pleading in this proceeding was styled as ''Finance Docket No. NOR 42148'' but appears to request a declaratory order. (Pet. 2; Addendum to Pet. 2.) Therefore, the Board is changing the docket number from NOR 42148 to FD 36077, without prejudice to Petitioners' requesting to restyle their petition to seek another remedy, if any, that may be appropriate. All filings and decisions in Docket No. NOR 42148 will be considered part of the record in Docket No. FD 36077.

[3] The parties also refer to the Northwestern Pacific Railroad Line as the Northwestern Pacific Line. For purposes of this decision, we will refer to it as the Line.

[4] In 1996, NCRA acquired Board authority to lease and operate the Line. *N. Coast R.R. Auth.—Lease & Operation Exemption—Cal. N. R.R.,* FD 33115 (STB served Sept. 27, 1996). *See also Sonoma-Marin Area Rail Transit Dist.—Acquis. Exemption—N.W. Pac. R.R. Auth.,* FD 34400, slip op. at 1 (STB served March 10, 2004) (indicating that SMART subsequently acquired portions of the Line subject to NCRA's freight easement).

[5] *See N.W. Pac. R.R.—Change in Operators Exemption—N. Coast R.R. Auth.,* FD 35073 (STB served Aug. 24, 2007).

[6] SMART retains the residual common carrier obligation over portions of the Line, including the Lombard Segment, which is at issue here. *See Sonoma-Marin Area Rail Transit Dist.,* FD 34400, slip op. at 2; *see also Sonoma-Marin Area Rail Transit Dist.—Acquis. Exemption—in Marin Cty., Cal.,* FD 35732, slip op. at 2 n.2, 3 (STB served July 15, 2013).

Lombard Segment. (Pet. 2, 5.) For about two months, SMART dispatchers issued track warrants [7] for these movements. By late September, 80 loaded LPG tank cars were stored at the Schellville yard. However, according to Petitioners, SMART recently began using its dispatching function as preclearance authority to prohibit the movement of certain freight on the Line. (Pet. 4, 6, 8.) On October 2, 2016, SMART denied a track warrant for 12 LPG tank cars destined for Schellville and six grain cars destined for Petaluma, thus prohibiting those cars from proceeding. (*Id.* at 6.) As clarified on the two conference calls, the six grain cars were allowed to proceed, but the 12 loaded LPG cars remained sitting on the track at an interchange with the California Northern Railroad. NWPCo also has a voluntary hold on an additional 30 loaded LPG tank cars bound for the Schellville yard. On October 21, 2016, the Board rejected Petitioners' request for preliminary injunctive relief. *See October 21 Decision,* slip op. at 5.

In addition to a preliminary injunction, Petitioners request an order that SMART has no regulatory authority to precondition freight shipments. (Pet. at 7.) They state that due to SMART's actions, they are uncertain when, and if, they will be able to discharge their common carrier obligations. (*Id.* at 9.) Petitioners also assert that the preclearance authority asserted and exercised by SMART through its dispatching function is preempted by federal law. (*Id.* at 8–9.)

SMART contends [8] that there is no reason for the Board to issue a declaratory order because it is not impermissibly interfering with Petitioners' movements. SMART acknowledges that it has refused to allow onto the Lombard Segment tank cars loaded with LPG that are not being moved directly to a customer or shipper destination but are instead intended for temporary storage, on the ground that NCRA does not have a contractual right to store such cars at the Schellville yard. (Reply 2.) SMART asserts that the provision of the Agreement dealing with hazardous materials prohibits Petitioners from storing the LPG tank cars on SMART's property, including the Schellville yard. (*Id.* at 3.) SMART also contends that Petitioners' storage activities at its yard violate federal safety regulations. (*Id.* at 5–6.)

SMART claims that this is a contractual dispute, that the Board typically does not get involved in contractual disputes, and there is no reason for it to do so in this instance. (Reply 2.) Specifically, the issue of whether the Petitioners ''can store the LPG-loaded tank cars on SMART's property is a question of contractual interpretation,'' (*id.* at 4), and SMART ''does not purport to require preclearance of the movement of grain cars over the SMART property,'' (*id.* at 3). Relying on *Town of Woodbridge* v. *Consolidated Rail Corp.,* FD 42053 (STB served Dec. 1, 2000), SMART argues that the Petitioners ''agreed to the contractual restriction in [the hazardous materials section] of the Agreement and cannot invoke ICCTA preemption to avoid its voluntary contractual agreements.'' (Reply 4.) SMART also asserts that Petitioners failed to show that enforcement of the contractual agreement not to store hazardous materials at Schellville [9] would unreasonably interfere with their common carrier obligations. (Reply 4–5.) On October 31, 2016, the City of American Canyon and American Canyon Fire Protection District filed a notice of intent to participate.

**Discussion and Conclusions**

As the Board has stated, this case appears to raise a number of novel issues that require further briefing by the parties. *N. Coast R.R. Auth.* v. *Sonoma-Marin Area Rail Transit Dist.,* NOR 42148, slip op. at 2 (STB served Oct. 7, 2016); *October 21 Decision,* slip op. at 2, 5. In this case, there are controversies regarding the railroads' common carrier obligation and whether SMART's actions are preempted by federal law. *See* 49 U.S.C. 10501(b). Petitioners are directed to brief the following issues and provide the following information, and SMART is directed to reply, as part of their further submissions to the Board in this proceeding:

1. General requests:

a. A detailed map of the entire Northwestern Pacific Railroad Line and operations including, but not limited to, information about interchange locations and responsibilities, which carrier has what rights and where, and alternative locations for storage. Also include a description of the volume and type of traffic that moves over the Line.

b. As necessary, include comments on or corrections to the Board's written summaries of the October 6 and October 11 conference calls. The summaries are available on the Board's Web site as miscellaneous filings in the docket.

c. As necessary, the parties should include any factual updates that have occurred since the date of their last filings.

2. Regarding the common carrier obligation:

a. Assuming for the sake of argument that the contract reflects that NCRA agreed not to store hazardous materials at the Schellville yard, would such an agreement be consistent with NCRA's common carrier obligation under 49 U.S.C. 11101? Why or why not?

b. Does the storage of loaded LPG cars at the Schellville yard for an indeterminate period of time constitute ''transportation by rail carrier'' within the meaning of 49 U.S.C. 10501? In answering this question, parties should discuss:

i. Whether the storage at Schellville is a service that NWPCo provides at the request of and/or for another railroad or a shipper, and how that service is marketed.

ii. The typical route, from origin to ultimate destination, for loaded LPG tank cars stored at the Schellville yard. Include a description of NWPCo's role in that movement.

iii. How long loaded LPG cars are typically scheduled to be stored at the Schellville yard. If there is no typical time period, provide a range of time the cars will be stored and a final date by which they would depart the yard for final destination.

iv. Evidence, such as bills of lading, demonstrating that NWPCo uses the Schellville yard to transport goods in interstate commerce as part of a rail movement.

c. What are the implications of SMART's residual common carrier obligation over portions of the Line, including the Lombard Segment?

3. Regarding federal preemption:

a. Does SMART's denial of track warrants for loaded LPG cars destined for the Schellville yard constitute ''regulation'' of rail transportation within the meaning of 49 U.S.C. 10501(b)?

b. Assuming for the sake of argument that the contract reflects that NCRA agreed not to store loaded LPG cars at the Schellville yard, would such an agreement ''unreasonably interfere'' with interstate commerce? In answering this question, parties should:

[7] A track warrant control system is a verbal authorization system using radio, phone, or other electronic transmission from a dispatcher. *See CSX Transp., Inc.—Joint Use—Louisville & Ind. R.R.,* FD 35523, slip op. at 3 n.8 (STB served Apr. 10, 2015).

[8] On October 5, 2016, the Board issued an order requiring replies to the petition on an expedited schedule and scheduling a conference call with parties, counsel, and Board staff. On October 6, 2016, SMART filed a reply to the petition noting that it was not ''waiving its right to file a more detailed response to the [October 4] Petition.'' (Reply 2 n.1.)

[9] The parties apparently disagree whether the Schellville yard tracks are ''Industrial Tracks'' as defined by the Agreement. (Reply 4, n.5.)

i. Address *Town of Woodbridge* v. *Consolidated Rail Corp.,* NOR 42053 (STB served Dec. 1, 2000), and *PCS Phosphate Co.* v. *Norfolk Southern Railway,* 559 F.3d 212 (4th Cir. 2009); and

ii. Discuss the feasibility of NCRA/NWPCo storing loaded LPG tank cars elsewhere, either on tracks they currently own or lease or on tracks they could lease from other parties, or moving loaded LPG tank cars directly from their origin to their ultimate destination, thus avoiding entirely temporary storage at Schellville or elsewhere.

c. What effect, if any, does SMART's status as a governmental agency have on the preemption analysis?

As discussed above, the Petitioners and SMART have filed their initial pleadings.[10] However, the Board is establishing a procedural schedule for receiving additional evidence. In addition, either party may move for an appropriate protective order to protect against the public disclosure of any commercially sensitive, confidential information.

*It is ordered:*

1. The procedural schedule is as follows:

November 23, 2016 NCRA's and NWPCo's opening is due.

December 5, 2016 SMART's and any other party's replies are due.

2. All filings and decisions in Docket No. NOR 42148 will be considered part of the record in Docket No. FD 36077.

3. Notice of this decision will be published in the **Federal Register**.

4. This decision is effective on its service date.

Decided: November 3, 2016.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

**Jeffrey Herzig,**

*Clearance Clerk.*

[FR Doc. 2016–27062 Filed 11–8–16; 8:45 am]

**BILLING CODE 4915–01–P**

[10] As noted above, SMART stated that it filed its October 6 reply in accordance with the Board's order and was not ''waiving its right to file a more detailed response to the [October 4] Petition.'' (Reply 2 n.1.)

## SUSQUEHANNA RIVER BASIN COMMISSION

### Commission Meeting

**AGENCY:** Susquehanna River Basin Commission.

**ACTION:** Notice.

**SUMMARY:** The Susquehanna River Basin Commission will hold its regular business meeting on December 8, 2016, in Annapolis, Maryland. Details concerning the matters to be addressed at the business meeting are contained in the Supplementary Information section of this notice.

**DATES:** The meeting will be held on Thursday, December 8, 2016, at 9 a.m.

**ADDRESSES:** The meeting will be held at Loews Annapolis Hotel, Powerhouse—Point Lookout Room (Third Floor), 126 West Street, Annapolis, MD 21401.

**FOR FURTHER INFORMATION CONTACT:** Jason E. Oyler, General Counsel, telephone: (717) 238–0423, ext. 1312; fax: (717) 238–2436.

**SUPPLEMENTARY INFORMATION:** The business meeting will include actions or presentations on the following items: (1) Informational presentation of interest to the Lower Susquehanna Subbasin area; (2) resolution concerning FY2018 federal funding of the Groundwater and Streamflow Information Program; (3) ratification/approval of contracts/grants; (4) notice for Montage Mountain Resorts, LP project sponsor to appear and show cause before the Commission; (5) regulatory compliance matters for Panda Hummel Station LLC, Panda Liberty LLC, and Panda Patriot LLC; and (6) Regulatory Program projects.

Projects listed for Commission action are those that were the subject of a public hearing conducted by the Commission on November 3, 2016, and identified in the notice for such hearing, which was published in 81 FR 69182, October 5, 2016.

The public is invited to attend the Commission's business meeting. Comments on the Regulatory Program projects were subject to a deadline of November 14, 2016. Written comments pertaining to other items on the agenda at the business meeting may be mailed to the Susquehanna River Basin Commission, 4423 North Front Street, Harrisburg, Pennsylvania 17110–1788, or submitted electronically through *http://www.srbc.net/pubinfo/publicparticipation.htm.* Such comments are due to the Commission on or before December 2, 2016. Comments will not be accepted at the business meeting noticed herein.

**Authority:** Pub. L. 91–575, 84 Stat. 1509 *et seq.,* 18 CFR parts 806, 807, and 808.

Dated: November 3, 2016.

**Stephanie L. Richardson,**

*Secretary to the Commission.*

[FR Doc. 2016–27006 Filed 11–8–16; 8:45 am]

**BILLING CODE 7040–01–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Notice of Opportunity for Public Comment on Surplus Property Release at Madras Municipal Airport, Madras, Oregon

**AGENCY:** Federal Aviation Administration (FAA), DOT.

**ACTION:** Request for public comments.

**SUMMARY:** Under the provisions of Title 49, U.S.C. Section 47153(d), notice is being given that the FAA is considering a request from Madras Municipal Airport, in Madras, OR to waive the surplus property requirements for approximately 5.22 acres of airport property located at Madras Municipal Airport, in Madras, OR.

The subject property is currently under lease with Wilbur-Ellis Company. This property serves Wilbur Ellis Company and their Agribusiness Division well because of its close proximity to both the rail system (City rail spur and Burlington Northern Santa Fe main track) and Highway 97/26. From this location, they import, export and distribute various agricultural commodities throughout Central Oregon. This release will enable the City of Madras to complete a promise made in 1995 whereby the City agreed to diligently and aggressively pursue the approval of the United States of America to sell the 5.22 acres to Wilbur Ellis Company, if Wilbur Ellis were willing to relocate their company to the Madras community thereby providing much needed jobs. The estimated net proceeds from the subject property will be applied toward the City's current five-year airport capital improvement plan or to relocating a hangar at the airport that is called out to be moved in the airport master plan. It has been determined through study and master planning that the subject parcels will not be needed for aeronautical purposes.

**DATES:** *Effective Date:* Comments must be received on or before December 9, 2016.

**ADDRESSES:** Send comments on this document to Ms. Cayla Morgan, at the Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington 98057, Telephone 425–227–2653.

**FOR FURTHER INFORMATION CONTACT:** Documents are available for review by appointment by contacting Ms. Cayla Morgan, Telephone 425–227–2653 or by contacting Mr. Jason Ritchie, Federal Aviation Administration, 1601 Lind Avenue SW., Renton, Washington, 425–227–2658.

Issued in Renton, Washington, on October 28, 2016.

**Jason Ritchie,**

*Acting Manager, Airports Division, Northwest Mountain Region.*

[FR Doc. 2016–27095 Filed 11–8–16; 8:45 am]

**BILLING CODE 4910–13–P**

## DEPARTMENT OF TRANSPORTATION

### Federal Aviation Administration

### Office of Commercial Space Transportation; Adoption and Notice of Availability of the Finding of No Significant Impact (FONSI) for Boost-back and Landing of the Falcon 9 Full Thrust First Stage at SLC–4 West at Vandenberg Air Force Base, California and Offshore Landing Contingency Option

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

**ACTION:** Notice of availability of the FONSI.

**SUMMARY:** In accordance with the National Environmental Policy Act of 1969, as amended (NEPA; 42 United States Code 4321 *et seq.*), Council on Environmental Quality (CEQ) NEPA implementing regulations (40 Code of Federal Regulations [CFR] parts 1500 to 1508), and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures,* the FAA is announcing the adoption of, and availability of a FONSI for, the U.S. Air Force's (USAF's) *Environmental Assessment, Boost-Back and Landing of the Falcon 9 Full Thrust First Stage at SLC–4 West, Vandenberg Air Force Base, California and Offshore Landing Contingency Option* (EA).

**FOR FURTHER INFORMATION CONTACT:** Mr. Daniel Czelusniak, Environmental Specialist, Federal Aviation Administration, 800 Independence Ave. SW., Room 325, Washington, DC 20591; email *Daniel.Czelusniak@faa.gov;* or phone (202) 267–5924.

**SUPPLEMENTARY INFORMATION:** The USAF acted as the lead agency, and the FAA was a cooperating agency, in the preparation of the EA. The EA analyzed the potential environmental impacts of Space Exploration Technologies Corp. (SpaceX) constructing a landing pad and improving infrastructure at Space Launch Complex 4 West (SLC–4W) at Vandenberg Air Force Base (VAFB), as well as conducting boost-backs and landings of the Falcon 9 first stage booster at SLC–4W or on a special-purpose barge, no less than 31 miles offshore in the Pacific Ocean. The EA was prepared in accordance with NEPA, CEQ NEPA implementing regulations, the USAF's Environmental Impact Analysis Process (32 CFR 989), and FAA Order 1050.1F, *Environmental Impacts: Policies and Procedures.*

As the activities considered in the EA would require Federal actions (as defined in 40 CFR 1508.18) involving the USAF and FAA, the EA was prepared to satisfy the NEPA obligations of both agencies. The FAA's Federal action in this matter pertains to its role in issuing licenses for the operation of commercial launch and reentry vehicles at launch sites. The USAF issued a FONSI on April 26, 2016, which stated that implementing the Proposed Action would not have a significant effect on the human environment. Based upon its independent review and consideration of the EA, the FAA formally adopts the EA—concurring with the EA's analysis of impacts and findings—and issues a FONSI to support the issuance of launch licenses to SpaceX for Falcon 9 boost-back and landing operations at VAFB or in the Pacific Ocean. If, in their license application to the FAA, SpaceX makes changes to their operations which fall outside the scope of the EA, additional environmental review would be required prior to the FAA issuing a license associated with such an application.

After reviewing and analyzing available data and information on existing conditions and potential impacts, the FAA has determined that issuing launch licenses to SpaceX for Falcon 9 boost-back and landing operations at VAFB or in the Pacific Ocean is a Federal action that would not significantly affect the quality of the human environment within the meaning of NEPA. The FAA made this determination in accordance with all applicable environmental laws and FAA regulations.

The FAA has posted the FONSI on the internet at *http://www.faa.gov/about/office_org/headquarters_offices/ast/environmental/nepa_docs/review/launch/.*

Issued in Washington, DC on: November 2, 2016.

**Daniel Murray,**

*Manager, Space Transportation Development Division.*

[FR Doc. 2016–27092 Filed 11–8–16; 8:45 am]

**BILLING CODE 4310–13–P**

## DEPARTMENT OF TRANSPORTATION

**[Docket No. NHTSA–2016–0114]**

### National Highway Traffic Safety Administration; Meeting Notice

**AGENCY:** National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation (DOT).

Title: National Emergency Medical Services Advisory Council (NEMSAC); Notice of Federal Advisory Committee Meeting.

**ACTION:** Meeting Notice—National Emergency Medical Services Advisory Council.

**SUMMARY:** The NHTSA announces meeting of NEMSAC to be held in the Metropolitan Washington, DC, area. This notice announces the date, time, and location of the meetings, which will be open to the public, as well as opportunities for public input to the NEMSAC. The purpose of NEMSAC, a nationally recognized council of emergency medical services representatives and consumers, is to advise and consult with DOT and the Federal Interagency Committee on Emergency Medical Services (FICEMS) on matters relating to emergency medical services (EMS).

**DATES:** The NEMSAC meeting will be held on December 1, 2016 from 8:30 a.m. to 11:45 a.m. EST, and that afternoon from 4:00 a.m.–5:00 p.m., and on December 2, 2016 from 8:30 a.m. to 12 p.m. EST. A public comment period will take place on December 1, 2016 between 11:15 a.m. and 11:45 a.m. EST and on December 2, 2016 between 10:45 a.m. and 11:15 a.m. EDT. NEMSAC committees will meet in the same location on Thursday, December 1, 2016 from 1:15 p.m. to 4 p.m. EST. Written comments for the NEMSAC from the public must be received no later than November 25, 2016.

**ADDRESSES:** The meetings will be held at the Washington Hilton, 1919 Connecticut Avenue NW., Washington, DC 20009. Attendees should plan to arrive 20 minutes early to check in for the meeting.

**FOR FURTHER INFORMATION CONTACT:** Susan McHenry, U.S. Department of Transportation, Office of Emergency Medical Services, 1200 New Jersey Avenue SE., NTI–140, Washington, DC 20590, *susan.mchenry@dot.gov* or 202–366–6540.

**SUPPLEMENTARY INFORMATION:** Notice of these meetings is given under the Federal Advisory Committee Act, Public Law 92–463, as amended (5 U.S.C. App.). The NEMSAC is authorized under Section 31108 of the Moving

Ahead with Progress in the 21st Century Act of 2012.

**Tentative Agenda of the National EMS Advisory Council Meeting**

The tentative NEMSAC agenda includes the following:

*Thursday, December 1, 2016, (8:30 a.m. to 11:45 a.m. EST)*

(1) Opening Remarks
(2) Disclosure of Conflicts of Interests by Members
(3) Approval of September 7–8, 2016 NEMSAC Meeting Minutes
(4) Federal Liaison Update—Reports and Updates from the Departments of Transportation, Homeland Security, and Health & Human Services
(5) NEMSAC Committee Updates & Discussion
(6) Public Comment (11:15 a.m.—11:45 a.m. EST)
(7) Recess until 4:00pm for Day (11:45 a.m. EST)
(8) NEMSAC Committees Breakout Sessions from 1:15 p.m.—4 p.m.—(on-site and open to the public)
(9) Reconvene NEMSAC from 4:00 p.m.—5:00 p.m. for Committee reports on status of changes in preparation for public comment and vote next day

*Friday, December 2 2016 (8:30 a.m. to 12 p.m. EST)*

(1) Reconvene and Introductions
(2) NEMSAC Committee Reports (see committee list below)
(3) Public Comment (10:45 a.m.—11:15 a.m. EST)
(4) NEMSAC Action on Committee Advisories
(5) Next Steps and Wrap up
(6) Adjourn—12 p.m. EST

*Overview of NEMSAC Committees*

a. Funding and Reimbursement
b. Innovative Practices of EMS Workforce
c. Data Integration and Technology
d. Patient Care, Quality Improvement and General Safety
e. Provider and Community Education
f. Ad Hoc Committee on Recognition of EMS Personnel Licensure Interstate Compact (REPLICA)—completed in September
g. Ad Hoc Committee on EMS Scope of Practice Model & Administration of Narcotic Antagonists—completed in September

Registration Information: This meeting will be open to the public; however, pre-registration is requested. Individuals wishing to attend must register online no later than November 25, 2016. For NEMSAC please register at: *http://www.cvent.com/d/yvqzc2/4W*.

For assistance with registration, please contact Susan McHenry at *Susan.Mchenry@dot.gov* or at 202–366–6540. There will not be a teleconference option for these meetings.

Public Comment: Members of the public are encouraged to comment directly to the NEMSAC during designated public comment periods. In order to allow as many people as possible to speak, speakers are requested to limit their remarks to 5 minutes. Written comments from members of the public will be distributed to NEMSAC members at the meeting and should reach the NHTSA Office of EMS no later than November 25, 2016. Written comments may be submitted by either one of the following methods: (1) You may submit comments by email: *nemsac@dot.gov* or (2) you may submit comments by fax: 202–366–7149.

A final agenda as well as meeting materials will be available to the public online through *www.EMS.gov* on or before November 15, 2016.

Dated: November 4, 2016.

**Jeffrey P. Michael,**

*Associate Administrator for Research and Program Development.*

[FR Doc. 2016–27050 Filed 11–8–16; 8:45 am]

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