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NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC–2016–0155]

RIN 3150–AJ80

List of Approved Spent Fuel Storage Casks: Holtec International HI–STORM UMAX Canister Storage System; Certificate of Compliance No. 1040, Amendment No. 2

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is confirming the effective date of January 9, 2017, for the direct final rule that was published in the **Federal Register** on October 25, 2016. The direct final rule amended the NRC's spent fuel storage regulations by revising the ''List of approved spent fuel storage casks'' to include Amendment No. 2 to Certificate of Compliance (CoC) No. 1040 for the Holtec International HI–STORM UMAX Canister Storage System.

DATES: *Effective Date:* The effective date of January 9, 2017, for the direct final rule published October 25, 2016 (81 FR 73335), is confirmed.

ADDRESSES: Please refer to Docket ID NRC–2016–0155 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–2016–0155. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

• *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''Begin Web-based ADAMS Search.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in the **SUPPLEMENTARY INFORMATION** section.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Gregory Trussell, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–6445; email: *Gregory.Trussell@nrc.gov.*

SUPPLEMENTARY INFORMATION: On October 25, 2016 (81 FR 73335), the NRC published a direct final rule amending its regulations in § 72.214 of title 10 of the *Code of Federal Regulations* by revising the ''List of approved spent fuel storage casks'' to include Amendment No. 2 to CoC No. 1040 for the Holtec International HI–STORM UMAX Canister Storage System. Amendment No. 2 adds new fuel types to the HI–STORM UMAX Canister Storage System and updates an existing fuel type description. Additionally, Amendment No. 2 updates Table 3–4 of Appendix B of the CoC to reflect correct terminology and makes editorial changes to Appendix B of the CoC to clarify the description of the top surface pad.

In the direct final rule, the NRC stated that if no significant adverse comments were received, the direct final rule would become effective on January 9, 2017. As described more fully in the direct final rule, a significant adverse comment is a comment where the commenter explains why the rule would be inappropriate, including challenges to the rule's underlying premise or approach, or would be ineffective or unacceptable without a change.

The NRC received one comment on the direct final rule (ADAMS Accession No. ML16305A134). The NRC determined that this comment is not within the scope of the direct final rule, which is limited to the specific changes contained in Amendment No. 2 to CoC No. 1040. The NRC also determined that this was not a significant adverse comment and did not make any changes to the direct final rule as a result of the public comment.

Therefore, because no significant adverse comments were received, the direct final rule will become effective as scheduled. The final CoC, Technical Specifications, and Safety Evaluation Report can be viewed in ADAMS under Accession No. ML16341B061.

Dated at Rockville, Maryland, this 12th day of January 2017.

For the Nuclear Regulatory Commission.

Cindy Bladey,

Chief, Rules, Announcements, and Directives Branch, Division of Administrative Services, Office of Administration.

[FR Doc. 2017–01178 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF ENERGY

10 CFR Parts 429 and 431

[Docket No. EERE–2016–BT–TP–0030]

RIN 1904–AD72

Energy Conservation Program: Test Procedure for Walk-in Coolers and Walk-in Freezers

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

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of a recently published final rule amending the test procedure for certain walk-in cooler and freezer components.

DATES: Effective January 26, 2017 the effective date of the rule amending 10 CFR parts 429 and 431 published in the **Federal Register** at 81 FR 95758 on December 28, 2016, is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Ms. Ashley Armstrong, 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) 586–6590. Email: *Ashey.Armstrong@ee.doe.gov.*

Michael Kido, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585–0121. Phone: (202) 586–8145. Email: *Michael.Kido@hq.doe.gov.*

SUPPLEMENTARY INFORMATION:

On January 20, 2017, the Assistant to the President and Chief of Staff (''Chief of Staff'') issued a memorandum, published in the **Federal Register** on January 24, 2017 (82 FR 8346), outlining the President's plan for managing the Federal regulatory process at the outset of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy (''DOE'') hereby temporarily postpones the effective date of its final rule amending the test procedure for walk-in coolers and walk-in freezers (collectively, ''walk-ins'') published in the **Federal Register** on December 28, 2016. See 81 FR 95758. The December 28 rule clarifies certain specific aspects related to the testing of walk-in refrigeration systems, updates certain related certification and enforcement provisions, and establishes labeling requirements to assist in determining compliance with relevant walk-in standards. Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. It is also impracticable given that the memorandum was issued on January 20, 2017, and the previous effective date of the rule at issue was January 27, 2017. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 24, 2017.

John T. Lucas,

Acting General Counsel.

[FR Doc. 2017–01956 Filed 1–26–17; 4:15 pm]

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DEPARTMENT OF ENERGY

10 CFR Part 430

[Docket No. EERE–2012–BT–STD–0045]

RIN 1904–AD28

Energy Conservation Program: Energy Conservation Standards for Ceiling Fans

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

ACTION: Final rule; delay of effective date.

SUMMARY: This document delays the effective date of a recently published final rule amending the energy conservation standards for ceiling fans.

DATES: The effective date of the rule amending 10 CFR part 430 published in the **Federal Register** at 82 FR 6826 on January 19, 2017, is delayed to March 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Ms. Ashley Armstrong, 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) 586–6590. Email: *Ashey.Armstrong@ee.doe.gov.*

Elizabeth Kohl, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585–0121. Phone: (202) 586–7796. Email: *Elizabeth.Kohl@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 20, 2017, the Assistant to the President and Chief of Staff (''Chief of Staff'') issued a memorandum, published in the **Federal Register** on January 24, 2017 (82 FR 8346), outlining the President's plan for managing the Federal regulatory process at the outset of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy (''DOE'') hereby temporarily postpones the effective date of its final rule amending the energy conservation standards for ceiling fans published in the **Federal Register** on January 19, 2017. See 82 FR 6826. The January 19 rule establishes amended standards for ceiling fans that are expressed for each product class as the minimum allowable efficiency in terms of cubic feet per minute per watt (''CFM/W''), as a function of ceiling fan diameter. (The previous energy conservation standards applicable to ceiling fans were design standards prescribed in the Energy Policy and Conservation Act of 1975, as amended.) Consistent with the memorandum, DOE is temporarily postponing the effective date of the final rule by 60 days, starting from January 20, 2017. The temporary 60-day delay in effective date is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily postponing for 60 days the effective date of this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum. As a result, seeking public comment on this delay is unnecessary and contrary to the public interest. For these same reasons DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 24, 2017.

John T. Lucas,

Acting General Counsel.

[FR Doc. 2017–01958 Filed 1–30–17; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

10 CFR Part 820

[Docket No. EA–RM–16–PRDNA]

RIN 1992–AA52

Procedural Rules for DOE Nuclear Activities

AGENCY: Office of Enterprise Assessments, Office of Enforcement, Office of Nuclear Safety Enforcement, Department of Energy.

ACTION: Final rule; stay of regulations.

SUMMARY: This document stays DOE regulations for the assessment of civil penalties against certain contractors and subcontractors for violations of the prohibition against an employee who reports violations of law, mismanagement, waste, abuse or dangerous/unsafe workplace conditions, among other protected activities, concerning nuclear safety.

DATES: Effective January 31, 2017, 10 CFR 820.2 (the definition for ''DOE Nuclear Safety Requirements''), 820.14, 820.20(a) and (b), and appendix A to part 820, section XIII, are stayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT:

Steven Simonson, U.S. Department of Energy, Office of Enterprise Assessments/Germantown Building, 1000 Independence Ave. SW., Washington, DC 20585–1290. Phone: (301) 903–2816. Email: *Steven.Simonson@hq.doe.gov.*

K.C. Michaels, U.S. Department of Energy, Office of the General Counsel, 1000 Independence Ave. SW., Washington, DC 20585–0121. Phone: (202) 586–3430. Email: *Kenneth.Michaels@hq.doe.gov.*

SUPPLEMENTARY INFORMATION: On January 20, 2017, the Assistant to the President and Chief of Staff (''Chief of Staff'') issued a memorandum, published in the **Federal Register** on January 24, 2017 (82 FR 8346), outlining the President's plan for managing the Federal regulatory process at the outset of the new Administration. In implementation of one of the measures directed by that memorandum, the United States Department of Energy (''DOE'') hereby temporarily stays regulations in its final rule amending its procedural rules for DOE nuclear activities published in the **Federal Register** on December 27, 2016. See 81 FR 94910. In the December 27 rule, DOE clarified that the Department may assess civil penalties against certain contractors and subcontractors for violations of the prohibition against retaliating against an employee who reports violations of law, mismanagement, waste, abuse, or dangerous/unsafe workplace conditions, among other protected activities, concerning nuclear safety (referred to as ''whistleblowers''). Specifically, DOE clarified the definition of ''DOE Nuclear Safety Requirements'' and clarified that the prohibition against whistleblower retaliation is a DOE Nuclear Safety Requirement to the extent that it concerns nuclear safety. Consistent with the memorandum, DOE is temporarily staying regulations in the final rule by an additional 60 days starting from January 20, 2017. The temporary 60-day stay is necessary to give DOE officials the opportunity for further review and consideration of new regulations, consistent with the Chief of Staff's memorandum of January 20, 2017.

To the extent that 5 U.S.C. 553 applies to this action, it is exempt from notice and comment because it constitutes a rule of procedure under 5 U.S.C. 553(b)(A). Alternatively, DOE's implementation of this action without opportunity for public comment, effective immediately upon publication in the **Federal Register**, is based on the good cause exceptions in 5 U.S.C. 553(b)(B) and 553(d)(3). Pursuant to 5 U.S.C. 553(b)(B), DOE has determined that good cause exists to forego the requirement to provide prior notice and an opportunity for public comment thereon for this rule as such procedures would be impracticable, unnecessary and contrary to the public interest. DOE is temporarily staying this regulation pursuant to the previously-noted memorandum of the Chief of Staff and is exercising no discretion in implementing this specific provision of the memorandum.

As a result, seeking public comment on this stay is unnecessary and contrary to the public interest. It is also impracticable given that the memorandum was issued on January 20, 2017 and the previous effective date of the rule at issue was January 26, 2017. For these same reasons, DOE finds good cause to waive the 30-day delay in effective date provided for in 5 U.S.C. 553(d).

Issued in Washington, DC, on January 24, 2017.

John T. Lucas,

Acting General Counsel.

[FR Doc. 2017–01959 Filed 1–30–17; 8:45 am]

BILLING CODE 6450–01–P

FARM CREDIT ADMINISTRATION

12 CFR Part 622

RIN 3052–AD21

Rules of Practice and Procedure; Adjusting Civil Money Penalties for Inflation

AGENCY: Farm Credit Administration.

ACTION: Final rule.

SUMMARY: This regulation implements inflation adjustments to civil money penalties (CMPs) that the Farm Credit Administration (FCA) may impose or enforce pursuant to the Farm Credit Act of 1971, as amended (Farm Credit Act), and pursuant to the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994 (Reform Act), and further amended by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act).

DATES: This regulation is effective on January 31, 2017.

FOR FURTHER INFORMATION CONTACT: Michael T. Wilson, Policy Analyst, Office of Regulatory Policy, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4124, TTY (703) 883–4056, or Autumn Agans, Attorney-Advisor, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4082, TTY (703) 883–4056.

SUPPLEMENTARY INFORMATION:

I. Objective

The objective of this regulation is to adjust the maximum CMPs for inflation through a final rulemaking to retain the deterrent effect of such penalties.

II. Background

A. Introduction

Section 3(2) of the 1990 Act, as amended, defines a civil monetary penalty [1] as any penalty, fine, or other sanction that: (1) Either is for a specific monetary amount as provided by

[1] *Note:* While the 1990 Act, as amended by 1996 and 2015 Acts, uses the term ''civil monetary penalties'' for these penalties or other sanctions, the Farm Credit Act and the FCA Regulations use the term ''civil money penalties.'' Both terms have the same meaning. Accordingly, this rule uses the term civil money penalty, and both terms may be used interchangeably.

Federal law or has a maximum amount provided for by Federal law; (2) is assessed or enforced by an agency pursuant to Federal law; and (3) is assessed or enforced pursuant to an administrative proceeding or a civil action in the Federal courts.[2]

The FCA imposes and enforces CMPs through the Farm Credit Act and the Flood Disaster Protection Act of 1973, as amended. FCA's regulations governing CMPs are found in parts 622 and 623. Part 622 establishes rules of practice and procedure applicable to formal and informal hearings held before the FCA, and to formal investigations conducted under the Farm Credit Act. Part 623 prescribes rules with regard to persons who may practice before the FCA and the circumstances under which such persons may be suspended or debarred from practice before the FCA.

B. CMPs Issued Under the Farm Credit Act

The Farm Credit Act provides that any Farm Credit System (System) institution or any officer, director, employee, agent, or other person participating in the conduct of the affairs of a System institution who violates the terms of a cease-and-desist order that has become final pursuant to section 5.25 or 5.26 of the Farm Credit Act must pay up to a maximum daily amount of $1,000 [3] during which such violation continues. This CMP maximum was set by the Farm Credit Amendments Act of 1985, which amended the Farm Credit Act. Orders issued by the FCA under section 5.25 or 5.26 of the Farm Credit Act include temporary and permanent cease-and-desist orders. In addition, section 5.32(h) of the Farm Credit Act provides that any directive issued under sections 4.3(b)(2), 4.3A(e), or 4.14A(i) of the Farm Credit Act ''shall be treated'' as a final order issued under section 5.25 of the Farm Credit Act for purposes of assessing a CMP.

Section 5.32(a) of the Farm Credit Act also states that ''[a]ny such institution or person who violates any provision of the [Farm Credit] Act or any regulation issued under this Act shall forfeit and pay a civil penalty of not more than $500 [4] per day for each day during which such violation continues.'' This CMP maximum was set by the Agricultural Credit Act of 1987, which was enacted in 1988, and amends the Farm Credit Act. Current, inflation-adjusted CMP maximums are set forth in existing § 622.61 of FCA regulations.[5]

The FCA also enforces the Flood Disaster Protection Act of 1973,[6] as amended by the National Flood Insurance Reform Act of 1994,[7] which requires FCA to assess CMPs for a pattern or practice of committing certain specific actions in violation of the National Flood Insurance Program. The existing maximum CMP for a violation under the Flood Disaster Protection Act of 1973 is $2,000.[8]

C. Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015

1. In General

The Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Debt Collection Improvement Act of 1996 (1996 Act) and the Federal Civil Penalties Inflation Adjustment Act of 2015 (2015 Act) [9] (collectively, 1990 Act, as amended), requires all Federal agencies with the authority to enforce CMPs to evaluate and adjust, if necessary, those CMPs each year to ensure that they continue to maintain their deterrent value and promote compliance with the law. Furthermore, the 2015 Act requires all Federal agencies to adjust the CMPs yearly, starting January 15, 2017.

Under Section 4(b) of the 1990 Act, as amended, annual adjustments are to be made yearly no later than January 15 of each year.[10] Section 6 of the 1990 Act, as amended, states that any increase to a civil monetary penalty under this Act applies only to civil monetary penalties, including those whose associated violation predated such increase, which are assessed after the date the increase takes effect.

Section 5(b) of the 1990 Act, as amended, defines the term ''cost-of-living adjustment'' as the percentage (if any) for each civil monetary penalty by which (1) the Consumer Price Index (CPI) for the month of October of the calendar year preceding the adjustment, exceeds (2) the CPI for the month of October 1 year before the month of October referred to in (1) of the calendar year in which the amount of such civil monetary penalty was last set or adjusted pursuant to law.[11]

As of August 1, 2016, a ''catch-up'' adjustment under the 2015 Act amendments was made by the FCA using the cost-of-living adjustment calculated by determining the percentage change (if any) for each civil monetary penalty by which the CPI for the month of October 2015 exceeded the CPI for the month of October during the calendar year in which the CMP was created or last adjusted for any reason other than pursuant to the 1996 Act.

The increase for each CMP adjusted for inflation must be rounded using a method prescribed by section 5(a) of the 1990 Act, as amended, by the 2015 Act.[12]

2. Other Adjustments

If a civil monetary penalty is subject to a cost-of-living adjustment under the 1990 Act, as amended, but is adjusted to an amount greater than the amount of the adjustment required under the Act within the 12 months preceding a required cost-of-living adjustment, the agency is not required to make the cost-of-living adjustment to that CMP in that calendar year.[13]

III. Yearly Adjustments

A. Mathematical Calculations of 2017 Adjustments

The adjustment requirement affects two provisions of section 5.32(a) of the Farm Credit Act. For the 2017 yearly adjustments to the CMPs set forth by the Farm Credit Act, the calculation required by the 2016 White House Office of Management and Budget (OMB) guidance [14] is based on the percentage by which the CPI for October 2016 exceeds the CPIs for October 2015. The OMB set forth guidance, as required by the 2015 Act,[15] with a grid of multipliers for calculating the new CMP values.[16] The OMB multiplier for the 2017 CMPs is 1.01636.

The adjustment also affects the CMPs set by the Flood Disaster Protection Act

[2] *See* 28 U.S.C. 2461 *note.*

[3] The inflation-adjusted CMP in effect on August 1, 2016, for a violation of a final order is $2,188 per day, as set forth in § 622.61(a)(1) of FCA regulations.

[4] The inflation-adjusted CMP in effect on August 1, 2016, for a violation of the Farm Credit Act or a regulation issued under the Farm Credit Act is $989 per day, as set forth in § 622.61(a)(2) of FCA regulations.

[5] Prior adjustments were made under the 1990 Act.

[6] 42 U.S.C. 4012a.

[7] Public Law 103–325, title V, 108 Stat. 2160, 2255–87 (September 23, 1994).

[8] Public Law 112–141, 126 Stat. 405 (July 6, 2012).

[9] Public Law 114–74, sec. 701.

[10] Public Law 114–74, sec. 701(b)(1).

[11] The CPI is published by the Department of Labor, Bureau of Statistics, and is available at its Web site: *ftp://ftp.bls.gov/pub/special.requests/cpi/cpiai.txt.*

[12] Pursuant to section 5(a)(3) of the 2015 Act, any increase determined under the subsection shall be rounded to the nearest $1.

[13] Pursuant to section 4(d) of the 1990 Act, as amended.

[14] OMB Circular M–17–11, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

[15] 28 U.S.C. 2461 *note,* section 7(a).

[16] OMB Circular M–17–11, Implementation of the 2017 annual adjustment pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.

of 1973, as amended. The adjustment multiplier is the same for all FCA enforced CMPs, set at 1.01636. The maximum CMPs for violations were created in 2012 by the Biggert-Waters Act, which amended the Flood Disaster Protection Act of 1973.

1. New Penalty Amount in § 622.61(a)(1)

The inflation-adjusted CMP currently in effect for violations of a final order occurring on or after November 2, 2015, is a maximum daily amount of $2,188.[17] Multiplying the $2,188 CMP by the 2016 OMB multiplier, 1.01636, yields a total of $2,223.80. When that number is rounded as required by section 5(a) of the 1990 Act, as amended, the inflation-adjusted maximum increases to $2,224. Thus, the new CMP maximum is $2,224.

2. New Penalty Amount in § 622.61(a)(2)

The inflation-adjusted CMP currently in effect for violations of the Farm Credit Act or regulations issued under the Farm Credit Act occurring on or after November 2, 2015, is a maximum daily amount of $989.[18] Multiplying the $989 CMP maximum by the 2016 OMB multiplier, 1.01636, yields a total of $1,005.18. When that number is rounded as required by section 5(a) of the 1990 Act, as amended the inflation-adjusted maximum increases to $1,005. Thus, the new CMP maximum is $1,005.

3. New Penalty Amounts for Flood Insurance Violations Under § 622.61(b)

The existing maximum CMP for a pattern or practice of flood insurance violations pursuant to 42 U.S.C. 4012a(f)(5) is $2,056. Multiplying $2,056 by the 2016 OMB multiplier, 1.01636, yields a total of $2,089.64. When that number is rounded as required by section 5(a) of the 1990 Act, as amended, the new maximum assessment of the CMP for violating 42 U.S.C. 4012a(f)(5) is $2,090. Thus, the new CMP maximum is $2,090.

IV. Notice and Comment Not Required by Administrative Procedure Act

The 1990 Act, as amended, gives Federal agencies no discretion in the adjustment of CMPs for the rate of inflation. Further, these revisions are ministerial, technical, and noncontroversial. For these reasons, the FCA finds good cause to determine that public notice and an opportunity to comment are impracticable, unnecessary, and contrary to the public interest pursuant to the Administrative Procedure Act, 5 U.S.C. 553(b)(B), and adopts this rule in final form.

[17] 12 CFR 622.61(a)(1).

[18] 12 CFR 622.61(a)(2).

V. Regulatory Flexibility Act

Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FCA hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities. Each of the banks in the System, considered together with its affiliated associations, has assets and annual income in excess of the amounts that would qualify them as small entities. Therefore, System institutions are not ''small entities'' as defined in the Regulatory Flexibility Act.

List of Subjects in 12 CFR Part 622

Administrative practice and procedure, Crime, Investigations, Penalties.

For the reasons stated in the preamble, part 622 of chapter VI, title 12 of the Code of Federal Regulations is amended as follows:

PART 622—RULES OF PRACTICE AND PROCEDURE

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

Authority: Secs. 5.9, 5.10, 5.17, 5.25–5.37 of the Farm Credit Act (12 U.S.C. 2243, 2244, 2252, 2261–2273); 28 U.S.C. 2461 note; and 42 U.S.C. 4012a(f).

■ 2. Revise § 622.61 to read as follows:

§ 622.61 Adjustment of civil money penalties by the rate of inflation under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended.

(a) The maximum amount of each civil money penalty within FCA's jurisdiction is adjusted in accordance with the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 *note*), as follows:

(1) Amount of civil money penalty imposed under section 5.32 of the Act for violation of a final order issued under section 5.25 or 5.26 of the Act: The maximum daily amount is $2,224 for violations that occur on or after January 15, 2017.

(2) Amount of civil money penalty for violation of the Act or regulations: the maximum daily amount is $1,005 for each violation that occurs on or after January 15, 2017.

(b) The maximum civil money penalty amount assessed under 42 U.S.C. 4012a(f) is: $385 for each violation that occurs on or after January 16, 2009, but before July 1, 2013, with total penalties under such statute not to exceed $120,000 for any single institution during any calendar year; $2,000 for each violation that occurs on or after July 1, 2013, but before August 1, 2016, with no cap on the total amount of penalties that can be assessed against any single institution during any calendar year; and $2,090 for each violation that occurs on or after January 15, 2017, with no cap on the total amount of penalties that can be assessed against any single institution during any calendar year.

Dated: January 12, 2017.

Dale L. Aultman,

Secretary, Farm Credit Administration Board.

[FR Doc. 2017–01065 Filed 1–30–17; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 312

[Docket No.: 160615526–7122–03]

RIN 0610–AA68

Regional Innovation Program

AGENCY: Economic Development Administration, U.S. Department of Commerce.

ACTION: Final rule; delay of effective date.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (the Memorandum), this action temporarily delays the effective date of the Final Rule entitled ''Regional Innovation Program'' (Final Rule or Rule) published in the **Federal Register** on January 11, 2017. The Final Rule implements the Regional Innovation Program of the Economic Development Administration (EDA or the Agency), U.S. Department of Commerce (DOC) and specifically focuses on outlining the regulatory structure of its centerpiece grant program, the Regional Innovation Strategies (RIS) Program.

DATES: The effective date of the Final Rule published in the **Federal Register** on January 11, 2017 (82 FR 3131), is delayed until March 21, 2017.

FOR FURTHER INFORMATION CONTACT: Mara Quintero Campbell, Regional Counsel, Office of the Chief Counsel, Economic Development Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Suite 72023, Washington, DC 20230; telephone: (202) 482–9055.

SUPPLEMENTARY INFORMATION:

I. Background

On January 11 2017, EDA published a Final Rule in the **Federal Register** (82 FR 3131) implementing the Regional Innovation Program as authorized by section 27 of the Stevenson-Wydler Technology Innovation Act of 1980, as amended. Through the RIS Program, the centerpiece of the Regional Innovation Program, EDA currently awards grants for capacity building programs that provide proof-of concept and commercialization assistance to innovators and entrepreneurs and for operational support for organizations that provide essential early-stage funding to startup companies. The Final Rule lays out the overarching regulatory framework for the RIS Program, including its mission and objectives, applicant eligibility requirements, allowable investment rates, eligible project activities, and required application components. In the Final Rule, the Agency also responds to the one germane comment it received during the 60-day Notice of Proposed Rulemaking (NPRM) comment period that was open between September 21, 2016 and November 21, 2016 (81 FR 64805).

II. Provisions of This Action

This action delays the effective date of the Final Rule from February 10, 2017 to March 21, 2017. This action is issued in accordance with the Memorandum that required temporary postponement of rules, that have been published in the **Federal Register** but have not yet taken effect, for 60 days from the date of the Memorandum for the purpose of reviewing questions of fact, law, and policy.

III. Determination of Exemption From Notice and Comment

To the extent that the requirements of 5 U.S.C. 553 apply to this action, there is good cause to exempt this action from notice and comment pursuant to 5 U.S.C. 553(b)(B). EDA is delaying the effective date for this action to give DOC officials the opportunity to further review and consider new regulations, consistent with the Memorandum. Given the imminence of the new effective date, seeking prior public comment on this temporary delay would be impractical, unnecessary, and also contrary to the public interest in the orderly promulgation and implementation of regulations.

Dated: January 25, 2017.

Thomas Guevara,

Deputy Assistant Secretary for Regional Affairs, Performing the non-exclusive duties of the Assistant Secretary for Economic Development.

[FR Doc. 2017–02010 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–24–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

15 CFR Part 902

50 CFR Parts 300 and 679

[Docket No. 151001910–6999–02]

RIN 0648–BF42

Fisheries of the Exclusive Economic Zone Off Alaska; Allow the Use of Longline Pot Gear in the Gulf of Alaska Sablefish Individual Fishing Quota Fishery; Amendment 101

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

ACTION: Stay of final rule.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (the Memorandum), this action stays the final rule NMFS published on December 28, 2016, in order to delay its effective date.

DATES: Effective January 31, 2017, the final rule amending 15 CFR part 902 and 50 CFR parts 300 and 679 that published on December 28, 2016, at 81 FR 95435, is stayed to March 12, 2017.

FOR FURTHER INFORMATION CONTACT: Rachel Baker, 907–586–7228.

SUPPLEMENTARY INFORMATION: On December 28, 2016, NMFS published this final rule to implement Amendment 101 to the Fishery Management Plan for Groundfish of the Gulf of Alaska (GOA FMP) for the sablefish individual fishing quota (IFQ) fisheries in the Gulf of Alaska (GOA). This final rule authorizes the use of longline pot gear in the GOA sablefish IFQ fishery. In addition, this final rule establishes management measures to minimize potential conflicts between hook-and-line and longline pot gear used in the sablefish IFQ fisheries in the GOA. This final rule also includes regulations developed under the Northern Pacific Halibut Act of 1982 (Halibut Act) to authorize harvest of halibut IFQ caught incidentally in longline pot gear used in the GOA sablefish IFQ fishery. This final rule is necessary to improve efficiency and provide economic benefits for the sablefish IFQ fleet and minimize potential fishery interactions with whales and seabirds. This action is intended to promote the goals and objectives of the Magnuson-Stevens Fishery Conservation and Management Act, the Halibut Act, the GOA FMP, and other applicable laws.

On January 20, 2017, the White House issued a memo instructing Federal agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations or guidance documents that have published in the **Federal Register** but not yet taken effect, for the purpose of ''reviewing questions of fact, law, and policy they raise.'' Because its effective date has already passed, we are enacting this stay of the rule published on December 28, 2016, at 81 FR 95435 (see **DATES** above) until March 12, 2017.

List of Subjects

15 CFR Part 902

Reporting and recordkeeping requirements.

50 CFR Part 300

Administrative practice and procedure, Antarctica, Canada, Exports, Fish, Fisheries, Fishing, Imports, Indians, Labeling, Marine resources, Reporting and recordkeeping requirements, Russian Federation, Transportation, Treaties, Wildlife.

50 CFR Part 679

Alaska, Fisheries, Reporting and recordkeeping requirements.

Dated: January 26, 2017.

Alan D. Risenhoover,

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

For the reasons set out in the preamble, NMFS amends 15 CFR part 902, and 50 CFR parts 300 and 679 as follows:

Title 15—Commerce and Foreign Trade

PART 902—NOAA INFORMATION COLLECTION REQUIREMENTS UNDER THE PAPERWORK REDUCTION ACT: OMB CONTROL NUMBERS

■ 1. The authority citation for part 902 continues to read as follows:

Authority: 44 U.S.C. 3501 *et seq.*

§ 902.1 [Amended]

■ 2. In § 902.1, in the table in paragraph (b), under the entry ''50 CFR'', entries

for ''679.24(a)'', ''679.42(a) through (j)'', and ''679.24'', ''679.42(b), (k)(2), and (l)'' are stayed until March 12, 2017.

Title 50—Wildlife and Fisheries

PART 300—INTERNATIONAL FISHERIES REGULATIONS

Subpart E—Pacific Halibut Fisheries

■ 3. The authority citation for part 300, subpart E, continues to read as follows:

Authority: 16 U.S.C. 773–773k.

§ 300.61 [Amended]

■ 4. In § 300.61, the definitions of ''Fishing'' and ''IFQ halibut'' are stayed until March 12, 2017.

PART 679—FISHERIES OF THE EXCLUSIVE ECONOMIC ZONE OFF ALASKA

■ 5. The authority citation for part 679 continues to read as follows:

Authority: 16 U.S.C. 773 *et seq.;* 1801 *et seq.;* 3631 *et seq.;* Pub. L. 108–447; Pub. L. 111–281.

§ 679.2 [Amended]

■ 6. In § 679.2, the definition of ''Authorized fishing gear,'' paragraphs (4)(i), (iii), and (iv), and the definition of ''IFQ halibut'' are stayed until March 12, 2017.

§ 679.5 [Amended]

■ 7. In § 679.5, paragraph (a)(4)(i), the note to the table at paragraph (c)(1)(vi)(B), paragraphs (c)(2)(iii)(A), (c)(3)(i)(B), (c)(3)(ii)(A)(*1*), (c)(3)(ii)(B)(*1*), (c)(3)(iv)(A)(*2*), (c)(3)(iv)(B)(*2*), (c)(3)(v)(G), (l)(1)(iii)(F) and (G), and (l)(1)(iii)(H) and (I) are stayed until March 12, 2017.

§ 679.7 [Amended]

■ 8. In § 679.7, paragraphs (a)(6) introductory text, (a)(6)(i), (a)(13) introductory text, (a)(13)(ii) introductory text, (a)(13)(iv), and (f)(17) through (25) are stayed until March 12, 2017.

§ 679.20 [Amended]

■ 9. In § 679.20, paragraph (a)(4)(i), the paragraph (a)(4)(ii) heading, and paragraph (a)(4)(ii)(A) are stayed until March 12, 2017.

§ 679.23 [Amended]

■ 10. In § 679.23, paragraph (g)(2) is stayed until March 12, 2017.

§ 679.24 [Amended]

■ 11. In § 679.24, paragraphs (a)(3), (b)(1)(iii), (c)(2)(i)(A) and (B), and (c)(3) are stayed until March 12, 2017.

§ 679.42 [Amended]

■ 12. In § 679.42, paragraphs (b)(1) and (2), (k)(1) and (2), and paragraph (l) are stayed until March 12, 2017.

§ 679.51 [Amended]

■ 13. In § 679.51, paragraphs (a)(1)(i) introductory text and (a)(1)(i)(B) are stayed until March 12, 2017.

Table 15 to Part 679—[Amended]

■ 14. In Table 15 to part 679, entries for ''Pot'', ''Authorized gear for sablefish harvested from any GOA reporting area'', and ''Authorized gear for halibut harvested from any IFQ regulatory area'', and ''Authorized gear for halibut harvested from any IFQ regulatory area in the BSAI'' are stayed until March 12, 2017.

[FR Doc. 2017–02055 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 574

[Docket No. FR 5339–C–04]

RIN 2502–AI94

Housing Counseling: New Certification Requirements; Correction

AGENCY: Office of the General Counsel, HUD.

ACTION: Final rule; correction.

SUMMARY: On December 14, 2016, HUD published a final rule implementing changes to HUD's housing counseling statute to improve the effectiveness of housing counseling in HUD programs by, among other things: Establishing the Office of Housing Counseling and giving this office the authority over the establishment, coordination, and administration of all regulations, requirements, standards, and performance measures under programs and laws administered by HUD that relate to housing counseling; requiring that organizations providing housing counseling required under or in connection with HUD programs be approved to participate in the Housing Counseling Program (Housing Counseling Agencies, or HCAs) and have all individuals providing such housing counseling certified by HUD as competent to provide such services; prohibiting the distribution of housing counseling grant funds awarded to agencies participating in HUD's Housing Counseling Program that are found in violation of Federal election laws or that have employees found in violation of Federal election laws; and requiring the reimbursement to HUD of housing counseling grant funds that HUD finds were misused. After publication, HUD discovered an incorrect amendatory instruction. This document makes the necessary correction. The effective date for HUD's final rule of January 13, 2017 is unchanged.

DATES: *Effective* January 31, 2017.

FOR FURTHER INFORMATION CONTACT: With respect to this supplementary document, contact Ariel Periera, Associate General Counsel for Legislation and Regulations, Department of Housing and Urban Development, 451 7th Street SW., Room 10238, Washington, DC 20410; telephone number 202–708–1793 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at 800–877–8339.

SUPPLEMENTARY INFORMATION: In the final rule FR Doc. 2016–29822, published in the **Federal Register** on December 14, 2016 (81 FR 90632), the following correction is made:

On page 90659, in the third column, revise amendatory instruction 17 to read ''Add § 574.660 to read as follows:''.

Dated: January 4, 2017.

Aaron Santa Anna,

Assistant General Counsel for Regulations.

[FR Doc. 2017–00255 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 9805]

RIN 1545–BN18

Guidance Under Section 355(e) Regarding Predecessors, Successors, and Limitation on Gain Recognition; Guidance Under Section 355(f); Correction

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Temporary regulations; correction.

SUMMARY: This document contains corrections to temporary regulations (TD 9805) that published in the **Federal Register** on Monday, December 19, 2016 (81 FR 91738). The temporary regulations provide guidance regarding the distribution by a distributing corporation of stock or securities of a

controlled corporation without the recognition of income, gain, or loss.

DATES: This correction is effective January 31, 2017 and applicable December 19, 2016.

FOR FURTHER INFORMATION CONTACT: Richard K. Passales at (202) 317–5024 or Marie C. Milnes-Vasquez, (202) 317–7700 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

The final regulation (TD 9805) that is the subject of this correction is under section 355 of the Internal Revenue Code.

Need for Correction

As published, the final regulation (TD 9805) contains errors that may prove to be misleading and are in need of clarification.

Correction of Publication

Accordingly, the final regulation (TD 9805), that are the subject of FR Doc. 2016–30160, are corrected as follows:

1. On page 91745, in the preamble, third column, the last line from the bottom of the last full paragraph, the language ''Controlled stock its distributes.'' is corrected to read ''Controlled stock it distributes''.

Martin V. Franks,

Chief, Publications and Regulations Branch, Legal Processing Division, Associate Chief Counsel, (Procedure and Administration).

[FR Doc. 2017–01055 Filed 1–30–17; 8:45 am]

BILLING CODE 4830–01–P

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

29 CFR Part 1601

RIN 3046–AB06

The 2017 Adjustment of the Penalty for Violation of Notice Posting Requirements

AGENCY: Equal Employment Opportunity Commission.

ACTION: Final rule.

SUMMARY: In accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, which further amended the Federal Civil Penalties Inflation Adjustment Act of 1990, this final rule adjusts for inflation the civil monetary penalty for violation of the notice-posting requirements in Title VII of the Civil Rights Act of 1964, the Americans with Disabilities Act, and the Genetic Information Non-Discrimination Act.

DATES: This final rule is effective March 2, 2017.

FOR FURTHER INFORMATION CONTACT: Thomas J. Schlageter, Assistant Legal Counsel, (202) 663–4668, or Ashley M. Martin, General Attorney, (202) 663–4695, Office of Legal Counsel, 131 M St. NE., Washington, DC 20507. Requests for this notice in an alternative format should be made to the Office of Communications and Legislative Affairs at (202) 663–4191 (voice) or (202) 663–4494 (TTY), or to the Publications Information Center at 1–800–669–3362 (toll free).

SUPPLEMENTARY INFORMATION:

I. Background

Under section 711 of the Civil Rights Act of 1964 (Title VII), which is incorporated by reference in section 105 of the Americans with Disabilities Act (ADA) and section 207 of the Genetic Information Non-Discrimination Act (GINA), and 29 CFR 1601.30(a), every employer, employment agency, labor organization, and joint labor-management committee controlling an apprenticeship or other training program covered by Title VII, ADA, or GINA must post notices describing the pertinent provisions of Title VII, ADA, or GINA. Such notices must be posted in prominent and accessible places where notices to employees, applicants, and members are customarily maintained.

The EEOC first adjusted the civil monetary penalty for violations of the notice posting requirements in 1997 pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990 (FCPIA Act), 28 U.S.C. 2461 note, as amended by the Debt Collection Improvement Act of 1996 (DCIA), Public Law 104–134, Sec. 31001(s)(1), 110 Stat. 1373. A final rule was published in the **Federal Register** on May 16, 1997, at 62 FR 26934, which raised the maximum penalty per violation from $100 to $110. The EEOC's second adjustment, made pursuant to the FCPIA Act, as amended by the DCIA, was published in the **Federal Register** on March 19, 2014, at 79 FR 15220 and raised the maximum penalty per violation from $110 to $210.

The Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Act), Public Law 114–74, Sec. 701(b), 129 Stat. 599, further amended the FCPIA Act, to require each federal agency, not later than July 1, 2016, and not later than January 15 of every year thereafter, to issue regulations adjusting for inflation the maximum civil penalty that may be imposed pursuant to each agency's statutes. The EEOC's initial adjustment made pursuant to the 2015 Act was published in the **Federal Register** on June 2, 2016, at 81 FR 35269 and raised the maximum penalty per violation from $210 to $525. The purpose of the annual adjustment for inflation is to maintain the remedial impact of civil monetary penalties and promote compliance with the law. These periodic adjustments to the penalty are to be calculated pursuant to the inflation adjustment formula provided in section 5(b) of the 2015 Act and, in accordance with section 6 of the 2015 Act, the adjusted penalty will apply only to penalties assessed after the effective date of the adjustment. Generally, the periodic inflation adjustment to a civil monetary penalty under the 2015 Act will be based on the percentage change between the Consumer Price Index for all Urban Consumers (CPI–U) for the month of October preceding the date of adjustment and the prior year's October CPI–U.

II. Mathematical Calculation

The adjustment set forth in this final rule was calculated by comparing the CPI–U for October 2016 with the CPI–U for October 2015, resulting in an inflation adjustment factor of 1.01636. The first step of the calculation is to multiply the inflation adjustment factor (1.01636) by the most recent civil penalty amount ($525) to calculate the inflation-adjusted penalty level ($533.589). The second step is to round this inflation-adjusted penalty to the nearest dollar ($534). Accordingly, we are adjusting the maximum penalty per violation specified in 29 CFR 1601.30(a) from $525 to $534.

III. Regulatory Procedures

Administrative Procedure Act

The Administrative Procedure Act (APA) provides an exception to the notice and comment procedures where an agency finds good cause for dispensing with such procedures, on the basis that they are impracticable, unnecessary, or contrary to the public interest. EEOC finds that under 5 U.S.C. 553(b)(3)(B) good cause exists for dispensing with the notice of proposed rulemaking and public comment procedures for this rule because this adjustment of the civil monetary penalty is required by the 2015 Act, the formula for calculating the adjustment to the penalty is prescribed by statute, and the Commission has no discretion in determining the amount of the published adjustment. Accordingly, we are issuing this revised regulation as a final rule without notice and comment.

Executive Order 13563 and 12866

In promulgating this final rule, EEOC has adhered to the regulatory philosophy and applicable principles set forth in Executive Order 13563. Pursuant to Executive Order 12866, the EEOC has coordinated with the Office of Management and Budget (OMB). Under section 3(f) of Executive Order 12866, the EEOC and OMB have determined that this final rule will not have an annual effect on the economy of $100 million or more, or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. The great majority of employers and entities covered by these regulations comply with the posting requirement, and, as a result, the aggregate economic impact of these revised regulations will be minimal, affecting only those limited few who fail to post required notices in violation of the regulation and statute. The rule only increases the penalty by $9 for each separate offense, nowhere near the $100 million figure that would amount to a significant regulatory action.[1]

Paperwork Reduction Act

The Paperwork Reduction Act (44 U.S.C. chapter 35) (PRA) applies to rulemakings in which an agency creates a new paperwork burden on regulated entities or modifies an existing burden. This final rule contains no new information collection requirements, and therefore, will create no new paperwork burdens or modifications to existing burdens that are subject to review by the Office of Management and Budget under the PRA.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) only requires a regulatory flexibility analysis when notice and comment is required by the Administrative Procedure Act or some other statute. As stated above, notice and comment is not required for this rule. For that reason, the requirements of the Regulatory Flexibility Act do not apply.

Unfunded Mandates Reform Act of 1995

This final rule will not result in the expenditure by State, local, or tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Congressional Review Act

The Congressional Review Act (CRA) requires 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. EEOC will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to the effective date of the rule. Under the CRA, a major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by the CRA at 5 U.S.C. 804(2).

List of Subjects in 29 CFR Part 1601

Administrative practice and procedure.

For the Commission.

Dated: January 13, 2017.

Jenny R. Yang,

Chair.

Accordingly, the Equal Employment Opportunity Commission amends 29 CFR part 1601 as follows:

PART 1601—PROCEDURAL REGULATIONS

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

Authority: 42 U.S.C. 2000e to 2000e–17; 42 U.S.C. 12111 to 12117; 42 U.S.C. 2000ff to 2000ff–11.

■ 2. Section 1601.30 is amended by revising paragraph (b) to read as follows:

§ 1601.30 Notices to be posted.

* * * * *

(b) Section 711(b) of Title VII and the Federal Civil Penalties Inflation Adjustment Act, as amended, make failure to comply with this section punishable by a fine of not more than $534 for each separate offense.

[FR Doc. 2017–01277 Filed 1–30–17; 8:45 am]

BILLING CODE 6570–01–P

[1] In the last ten years, the highest number of charges alleging notice posting violations occurred in 2010. In that year, only 114 charges of the 90,837 Title VII, ADA, and GINA charges (.13%) contained a notice posting violation.

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 4071 and 4302

RIN 1212–AB33

Adjustment of Civil Penalties

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: The Pension Benefit Guaranty Corporation is required to amend its regulations annually to adjust the penalties provided for in sections 4071 and 4302 of the Employee Retirement Income Security Act of 1974. This action is being taken in accordance with the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and Office of Management and Budget memorandum M–17–11. The regulations being amended are those on Penalties for Failure to Provide Certain Notices or Other Material Information and Penalties for Failure to Provide Certain Multiemployer Plan Notices.

DATES: *Effective date:* This rule is effective on January 31, 2017.

Applicability date: The increases in the civil monetary penalties under sections 4071 and 4302 provided for in this rule apply to such penalties assessed after January 31, 2017.

FOR FURTHER INFORMATION CONTACT: Stephanie Cibinic, Deputy Assistant General Counsel for Regulatory Affairs (*cibinic.stephanie@pbgc.gov*), Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026; 202–326–4400 extension 6352. (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 extension 6352.)

SUPPLEMENTARY INFORMATION:

Executive Summary

Purpose of the Regulatory Action

This rule is needed to carry out the requirements of the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The rule finalizes the 2016 interim final regulations required under the 2015 act and further adjusts, as required for 2017, the maximum civil penalties that PBGC may assess for failure to provide certain notices or other material information.

PBGC's legal authority for this action comes from the Federal Civil Penalties Inflation Adjustment Act of 1990 as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 and from sections 4002(b)(3), 4071, and 4302 of the

Employee Retirement Income Security Act of 1974.

Major Provisions of the Regulatory Action

This rule adjusts as required by law the maximum civil penalties that PBGC may assess under sections 4071 and 4302 of ERISA. The new maximum amounts are $2,097 for section 4071 penalties and $279 for section 4302 penalties.

Background

The Pension Benefit Guaranty Corporation (PBGC) administers title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Title IV has two provisions that authorize PBGC to assess civil monetary penalties.[1] Section 4302, added to ERISA by the Multiemployer Pension Plan Amendments Act of 1980, authorizes PBGC to assess a civil penalty of up to $100 a day for failure to provide a notice under subtitle E of title IV of ERISA (dealing with multiemployer plans). Section 4071, added to ERISA by the Omnibus Budget Reconciliation Act of 1987, authorizes PBGC to assess a civil penalty of up to $1,000 a day for failure to provide a notice or other material information under subtitles A, B, and C of title IV and sections 303(k)(4) and 306(g)(4) of title I of ERISA.

Adjustment of Civil Penalties

On November 2, 2015, the President signed into law the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015,[2] which requires agencies to adjust civil monetary penalties for inflation and to publish the adjustments in the **Federal Register**. An initial adjustment was required to be made by interim final rule published by July 1, 2016, and effective by August 1, 2016. Subsequent adjustments must be promulgated in January each year after 2016. In an interim final rule published on May 13, 2016 (at 81 FR 29765), PBGC adjusted the maximum penalty under section 4071 to $2,063 and adjusted the maximum penalty under section 4302 to $275.[3]

[1] Under the Federal Civil Penalties Inflation Adjustment Act of 1990, a penalty is a civil monetary penalty if (among other things) it is for a specific monetary amount or has a maximum amount specified by Federal law. Title IV also provides (in section 4007) for penalties for late payment of premiums, but those penalties are neither in a specified amount nor subject to a specified maximum amount.

[2] Sec. 701, Public Law 114–74, 129 Stat. 599–601 (Bipartisan Budget Act of 2015).

[3] The Office of Management and Budget issued memorandum M–16–06 on implementation of the 2015 act, including multipliers to use in the initial adjustment.

On December 16, 2016, the Office of Management and Budget issued memorandum M–17–11 on implementation of the 2017 annual adjustment pursuant to the 2015 act.[4] The memorandum provides agencies with the cost-of-living adjustment multiplier for 2017, which is based on the Consumer Price Index (CPI–U) for the month of October 2016, not seasonally adjusted. The multiplier for 2017 is 1.01636. The memorandum also provides guidance to agencies on finalizing their 2016 interim final rules. Accordingly, PBGC is adopting the 2016 interim final rule with a change to the maximum penalty amount for 2017 as required by the 2015 act and Office of Management and Budget memorandum M–17–11. The adjusted maximum amounts are $2,097 for section 4071 penalties and $279 for section 4302 penalties.

Compliance With Regulatory Requirements

The Office of Management and Budget has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866 and therefore not subject to their review.

The Office of Management and Budget also has determined that notice and public comment on this final rule are unnecessary because the adjustment of civil penalties implemented in the rule is required by law. See 5 U.S.C. 553(b).

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

List of Subjects

29 CFR Part 4071

Penalties.

29 CFR Part 4302

Penalties.

In consideration of the foregoing, the interim final rule, which was published at 81 FR 29765 on May 13, 2016, is adopted as a final rule with the following changes:

PART 4071—PENALTIES FOR FAILURE TO PROVIDE CERTAIN NOTICES OR OTHER MATERIAL INFORMATION

■ 1. The authority citation for part 4071 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1371.

[4] *https://www.whitehouse.gov/sites/default/files/omb/memoranda/2017/m-17-11_0.pdf.*

§ 4071.3 [Amended]

■ 2. In § 4071.3, the figures ''; $2,063'' are removed and the figures ''$2,097'' are added in their place.

PART 4302—PENALTIES FOR FAILURE TO PROVIDE CERTAIN MULTIEMPLOYER PLAN NOTICES

■ 3. The authority citation for part 4302 continues to read as follows:

Authority: 28 U.S.C. 2461 note, as amended by sec. 701, Pub. L. 114–74, 129 Stat. 599–601; 29 U.S.C. 1302(b)(3), 1452.

§ 4302.3 [Amended]

■ 4. In § 4302.3, the figures ''$275'' are removed and the figures ''$279'' are added in their place.

Issued in Washington, DC.

W. Thomas Reeder,

Director, Pension Benefit Guaranty Corporation.

[FR Doc. 2017–01074 Filed 1–30–17; 8:45 am]

BILLING CODE 7709–02–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 25

[IB Docket No. 13–213; FCC 16–181]

Terrestrial Use of the 2473–2495 MHz Band for Low-Power Mobile Broadband Networks; Amendments to Rules for the Ancillary Terrestrial Component of Mobile Satellite Service Systems

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Federal Communications Commission (Commission or FCC) modifies its rules on the operation of an Ancillary Terrestrial Component (ATC) for Mobile-Satellite Service (MSS) systems operating in the 2483.5–2495 MHz band. This action modifies, *inter alia,* existing rules related to ''gating criteria'' for ATC in the 2483.5–2495 MHz band to enable licensees to seek authorization to deploy a terrestrial low-power system using licensed MSS spectrum. This document will serve the public interest by expanding terrestrial use of the 2483.5–2495 MHz frequency band and establishing a framework that will enable Globalstar, Inc. (Globalstar), the sole MSS licensee in the band, to utilize its 11.5 megahertz of spectrum to deploy a terrestrial low-power network.

DATES: Effective March 2, 2017, except for the amendments to § 25.149, which contain information collection

requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing such OMB approval and the effective date of these rule amendments.

FOR FURTHER INFORMATION CONTACT: Stephen Duall, Satellite Division, International Bureau, at 202–418–1103 or via email at *Stephen.Duall@fcc.gov.* For information regarding the information collection requirements contained in this document, contact Cathy Williams, Office of Managing Director, at 202–418–2918 or via email at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order, FCC 16–181, adopted December 22, 2016. The full text of the Report and Order is available at *https://apps.fcc.gov/edocs_public/attachmatch/FCC–16–181A1.pdf.* It is also available for inspection and copying during business hours in the FCC Reference Information Center, Portals II, 445 12th Street SW., Room CY–A257, Washington, DC 20554. To request materials in accessible formats for people with disabilities, send an email to *FCC504@fcc.gov* or call the Consumer & Governmental Affairs Bureau at 202–418–0530 (voice), 202–418–0432 (TTY).

Synopsis

Introduction. By this Report and Order (Order), the Commission adopts changes to its rules on the operation of an Ancillary Terrestrial Component (ATC) by licensees in certain Mobile-Satellite Service (MSS) spectrum. The Order modifies the gating criteria and other ATC rules to permit expanded terrestrial use of the 2483.5–2495 MHz frequency band and establishes a framework that will enable Globalstar, the sole MSS licensee at 2483.5–2495 MHz, to apply for a license to deploy a low-power terrestrial network in the band. This Order does not address Globalstar's additional request concerning the deployment of a high power terrestrial service in both the S-band (2483.5–2495 MHz) and L-band (1610–1617.775 MHz), nor does it address operations of low-power terrestrial networks in the 2473–2483.5 MHz band.

Background. In 2003, the Commission adopted rules for licensing and operating ''ancillary terrestrial components'' or ATCs in conjunction with MSS, including in the 2483.5–2495 MHz band, which enabled an MSS operator to request to modify its existing MSS license or grant of market access to obtain blanket authority for operation of ATC stations in the United States. The rules also established certain prerequisites, or ''gating criteria,'' that MSS operators are required to meet in order to ensure that the provision of ATC would be ancillary to the provision of MSS.

In 2012, Globalstar petitioned for rulemaking seeking, among other things, change in the rules governing the use of the 2483.5–2495 MHz band in which its MSS system is licensed as well as use of the adjacent unlicensed spectrum from 2473–2483.5 MHz to allow operation of a terrestrial low-power broadband network. The petition also sought revisions to the ATC gating criteria for greater flexibility in the band.

In November 2013, a Notice of Proposed Rulemaking was adopted that addressed Globalstar's proposal for a terrestrial low-power network at 2483.5–2495 MHz and 2473–2483.5 MHz Globalstar revised its proposal in November 2016, to specify operations of its low-power terrestrial system in just its licensed MSS spectrum at 2483.5–2495 MHz. Consistent with Globalstar's revised proposal, the Order does not address a number of issues discussed in the Notice that are specific to low-power terrestrial operations in the 2473–2483.5 MHz frequency band.

Part 25 Revisions

Permitting Use of the 2483.5–2495 MHz Band for Low-Power Terrestrial Networks. The Order concludes that low-power terrestrial networks in the 2483.5–2495 MHz frequency band, such as that proposed by Globalstar, are appropriately considered ancillary to licensed MSS operations and are subject to licensing as ATC under Part 25 rules. It also concludes that single-licensee control of both MSS and low-power terrestrial operations in the 2483.5–2495 MHz band is essential to effect coordination between the space and terrestrial operations and to ensure the continuation of MSS operations in the 2483.5–2495 MHz band.

Modified ATC Gating Requirements in the 2483.5–2495 MHz Band. Gating criteria are set forth in section 25.149 of the Commission's rules and must be met by MSS operators in order to offer ATC. Operators wishing to provide ATC must demonstrate the provision of ''substantial satellite service'' in the MSS (that is, the capability of providing continuous satellite service over the entire geographic area of satellite coverage required in the Commission's rules, maintenance of spare satellites to expeditiously replace satellites no longer in service, and commercial availability throughout the mandatory coverage area) and must also provide ATC service and MSS on an integrated basis.

The Order modifies the gating criteria rules in section 25.149 so that an MSS licensee wishing to provide ATC in the 2483.5–2495 MHz band must demonstrate that it is offering MSS service in the United States to the general public for a fee, but need not demonstrate that the satellite system meets the coverage and replacement satellite requirements that apply to ATC in other frequency bands. The Order also relaxes the integrated services rule for ATC in the 2483.5–2495 MHz band. These modifications apply only to low-power ATC in the 2483.5–2495 MHz band and do not set a precedent for deployment of high power ATC systems.

Mode of Operations in the 2483.5–2495 MHz Band. The Order amends section 25.149(a)(1) of the Commission's rules to permit authorization of ATC in a non-forward-band mode of operations where the equipment deployed will meet the requirements for low-power ATC systems in the 2483.5–2495 MHz band.

Licensing of ATC in the 2483.5–2495 MHz Band. Before an MSS operator can provide low-power ATC in the 2483.5–2495 MHz band, it must apply for modification of its Part 25 license to include such authority. Modification applications must be filed using FCC Form 312, accompanied by the appropriate fee, and the applications must include specific information and certifications describing the ATC facilities, including that the terrestrial facilities will comply with the technical restrictions applicable to ATC licensees. Any equipment that will operate in the low-power terrestrial network will be subject to equipment certification by the Commission.

Technical Limits for Terrestrial Low-Power Equipment. The Order adopts the following restrictions in this band.

Total Transmit Power for terrestrial low-power equipment. The total transmit power for low-power ATC equipment operating in the 2483.5–2495 MHz band is codified under a new section 25.149(c)(4) of the Commission's rules. Total transmit power is not to exceed 1 watt with a peak equivalent isotropically radiated power of no more than 6 dBW (4 watts) with a minimum 6 dB bandwidth of 500 kilohertz and a maximum conducted power spectral density limit of 8 dBm/3 kHz.

Unwanted emissions limits above 2495 MHz. The Order requires unwanted emissions above 2495 MHz to be attenuated below the transmitter power (P) measured in watts by a factor

of no less than 43 + 10 log (P) dB at the 2495 MHz channel edge, and 55 + 10 log (P) dB at X megahertz from this channel edge where X is the greater of 6 megahertz or the actual emissions bandwidth. ATC operators must also continue to protect the operations of BRS Channel 1 against harmful interference. If a BRS station finds that it is receiving harmful interference from an ATC station, section 25.255 of Commission's rules requires that ATC station to resolve that interference. The Order also confirms the applicability of the technical limits and other requirements specified in sections 25.149(c)(4) and (g)(2)–(3) to the continuing operations of the low-power network. The Order concludes that, for determining compliance with the section 15.247(d) unwanted emissions limit outside the band of operation above 2495 MHz, the measurement bandwidth from section 25.254(d) applies (1 percent of the 26 dB emission), and the section 15.247(d) requirement (a measurement bandwidth of 100 kilohertz) does not apply.

Unwanted emission limit at the lower edge of Globalstar's planned frequency band. The Order adopts section 25.149(c)(4)(v), which establishes a revised unwanted emissions limit at the lower band edge at 2483.5 MHz. Emissions below 2483.5 MHz must be attenuated below the transmitter power (P) measured in watts by a factor of at least 40 + 10 log (P) dB at the channel edge at 2483.5 MHz, 43 + 10 log (P) dB at 5 MHz from the channel edge, and 55 + 10 log (P) dB at X MHz from the channel edge, where X is the greater of 6 MHz or the actual emission bandwidth. The Order also concludes that additional tests to determine the interference susceptibility of low-power unlicensed use transmissions in bands adjacent to 2483.5 MHz were unwarranted.

Part 15 Considerations

Continued Applicability of Part 15 Rules to Unlicensed Devices. The Order confirms the continued applicability of Part 15 of the Commission's rules to operations of unlicensed devices in the 2400–2483.5 MHz band, including sections 15.205, 15.209, 15.247, and 15.249. It also confirms that a licensee or operator of a terrestrial low-power system in the 2483.5–2495 MHz band may not consent to receive transmissions above 2483.5 MHz from equipment in unlicensed spectrum at 2400–2483.5 MHz in excess of the emissions otherwise permitted under sections 15.205, 15.209, and 15.249 of the Commission's rules.

Restricted Band Requirements for Non-Globalstar Devices to Use Wi-Fi Channels 12 and 13. The Order declines to relax the restricted band requirements to allow non-Globalstar Wi-Fi and unlicensed devices to more fully utilize Wi-Fi Channels 12 and 13 because unlicensed operators using channels 12 and 13 would not be able to coordinate with Globalstar to prevent interference with MSS operations above 2483.5 MHz.

Proposed access for Part 15 devices to the 2483.5–2495 MHz band. The Order declines to permit operation of Part 15 unlicensed devices in the 2483.5–2495 MHz spectrum as requested by some commenters.

Operational Requirements for Terrestrial Low-Power Systems in the 2483.5–2495 MHz band. The Order adopts a new section 25.149(g)(2) that sets forth operational requirements for terrestrial low-power networks in the 2483.5–2495 MHz band. Such networks must utilize a Network Operating System (NOS) consisting of a network management system located at an operations center or centers. The NOS must have a point of contact available 24 hours a day, seven days a week with the technical capability to address and resolve interference issues, with contact information available publicly on the licensee's Web site. The NOS must have the capability to control the operation of all low-power transmitters so that it can address any interference concerns by whatever means necessary, including but not limited to reducing power or terminating operations at a particular location or installation.

The Order adopts a new section 25.149(g)(3), which states that licensees, namely Globalstar, are responsible for controlling operations of their low-power network access points through the NOS. Licensees are also responsible for implementing measures to control the availability of their network to user devices, and will be responsible for any other measures necessary to prevent unauthorized use of the 2483.5–2495 MHz band. All access points operating in the 2483.5–2495 MHz band must operate only if authorized by the NOS, and all client devices operating in the 2483.5–2495 MHz band must operate only if authorized by such access points.

Broadcast Auxiliary Service (BAS) Channels A8–A10. The Order concludes that no new rules are necessary to protect BAS systems at this time. It declines to require Globalstar to notify its customers located in markets where grandfathered TV BAS Channel A10 TV Pickup stations are located that the low-power ATC network may be subject to temporary interruption in the event of TV BAS operations. Furthermore, it finds that relocation of BAS stations is not necessary to protect such stations from the operations of Globalstar's low-power terrestrial network.

Equipment Certification. The Order adopts a rule requiring that applications for equipment authorization of terrestrial low-power system equipment demonstrate compliance with 25.149(c)(4). Equipment manufacturers must certify all terrestrial low-power equipment under modified provisions in section 25.149 of the Commission's rules. The rules do not distinguish between low-power network access points and end user terminals or client devices, and require certification for all low-power network equipment. The Order declines to address all other proposals regarding equipment certification, including modifications to existing equipment certifications.

Free Access Points and Public Safety Considerations. The Order declines to incorporate as requirements in the Commission's rules the commitments Globalstar made to deploy up to 20,000 low-power ATC access points ''free-of-charge in the nation's public and non-profit schools, community colleges and hospitals,'' as well as within federally declared disaster areas.

Procedural Matters

Paperwork Reduction Act of 1995. This Order contains new information collection requirements in section 25.149(c)(4) and (g)(2)–(3) of the revised rules subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies will be invited to comment on the new or modified information collection requirements contained in this proceeding in a separate **Federal Register** notice.

Pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), we previously sought specific comment on how the Commission might further reduce the information collection burden for small business concerns with fewer than 25 employees. We received no comments on this issue. We have assessed the effects of the revisions adopted that might impose information collection burdens on small business concerns, and find that there will be no change in information collection for businesses with fewer than 25 employees. The information collection will include no policy changes that might impose information collection

burdens on small businesses with fewer than 25 employees.

Congressional Review Act. The Commission will send copies of this Order to Congress and the General Accountability Office pursuant to the Congressional Review Act, 5 U.S.C. 801(a)(1)(A), and will send a copy including the final regulatory flexibility analysis to the Chief Counsel for Advocacy of the Small Business Administration, in accordance with section 603(a) of the Regulatory Flexibility Act, 5 U.S.C. 601, *et seq.* (1981).

Final Regulatory Flexibility Analysis

As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the Notice of Proposed Rulemaking (NPRM). The Commission sought written public comment on the proposals in the NPRM, including comment on the IRFA. No comments were received on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Proposed Rules. This Order adopts modified rules for the operation of the Ancillary Terrestrial Component (ATC) of the single Mobile-Satellite Service (MSS) system operating in the 2483.5–2500 MHz frequency band. The changes will allow Globalstar, Inc. (Globalstar) to apply for a modification of an existing Commission license to add authority to operate a low-power network. Under the rules adopted in this Order, Globalstar would be able to provide low-power ATC under certain technical restrictions. This Order makes necessary changes to and relieves Globalstar from certain requirements in Part 25 of the Commission's rules to provide for the operation of a low-power network in the 2483.5–2495 MHz band. The rules adopted include technical rules to limit unwanted emissions that could cause interference to other services operating above or below the 2483.5–2495 MHz band. In addition, the Order also specifies rules that will apply to the certification of equipment to operate with Globalstar's proposed low power network.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA. No party filing comments in this proceeding responded to the IRFA, and no party filing comments in this proceeding otherwise argued that the policies and rules proposed in this proceeding would have a significant economic impact on a substantial number of small entities. The Commission has, nonetheless, considered the potential impact of the rules proposed in the IRFA on small entities. On balance, the Commission believes that the economic impact on small entities will be positive rather than negative.

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

Description and Estimate of the Number of Small Entities to Which the Rules May Apply. The RFA directs agencies to provide a description of, and, where feasible, an estimate of, the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA). Below, we describe and estimate the number of small entity licensees that may be affected by the adopted rules.

Satellite Telecommunications and All Other Telecommunications. The rules adopted in this Order will affect some providers of satellite telecommunications services, if adopted. Satellite telecommunications service providers include satellite and earth station operators. Since 2007, the SBA has recognized two census categories for satellite telecommunications firms: ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under the ''Satellite Telecommunications'' category, a business is considered small if it had $15 million or less in average annual receipts. Under the ''Other Telecommunications'' category, a business is considered small if it had $25 million or less in average annual receipts.

The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2007 show that there were a total of 512 satellite communications firms that operated for the entire year. Of this total, 464 firms had annual receipts of under $10 million, and 18 firms had receipts of $10 million to $24,999,999.

The second category of Other Telecommunications is comprised of entities ''primarily engaged in providing specialized telecommunications services, such as satellite tracking, communications telemetry, and radar station operation. This industry also includes establishments primarily engaged in providing satellite terminal stations and associated facilities connected with one or more terrestrial systems and capable of transmitting telecommunications to, and receiving telecommunications from, satellite systems. Establishments providing Internet services or voice over Internet protocol (VoIP) services via client-supplied telecommunications connections are also included in this industry.'' For this category, Census Bureau data for 2007 show that there were a total of 2,383 firms that operated for the entire year. Of this total, 2,346 firms had annual receipts of under $25 million.

Our rule changes will only impact one Satellite Telecommunications Service Provider, Globalstar, Inc. (Globalstar). Globalstar reported $76.3 million in revenue in 2012. Regarding the use of the frequency bands that are the subject of this rulemaking, the applicable definition of small entity is the definition under the Small Business Administration (SBA) rules applicable to Satellite Telecommunications. Because the rule amendments affect only Globalstar, which cannot be described as a small entity, and no other satellite telecommunications service providers, we find that no substantial number of small entities is potentially affected by our actions.

Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. The rules will pertain to manufacturers of communications devices. The appropriate small business size standard is that which the SBA has established for radio and television broadcasting and wireless communications equipment manufacturing. The Census Bureau defines this category as follows:

''This industry comprises establishments primarily engaged in manufacturing radio and television broadcast and wireless communications equipment. Examples of products made by these establishments are: Transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment.'' The SBA has developed a small business size standard for firms in this category, which is: All such firms having 750 or fewer employees. According to Census Bureau data for 2007, there were a total of 939 establishments in this category that operated for part or all of the entire year. Of this total, 784 had fewer than 500 employees and 155 had more than 100 employees. Thus, under this size standard, the majority of firms can be considered small.

We anticipate that the rules will apply to new equipment that will be manufactured.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements for Small Entities. The rule changes adopted in this Order will affect the reporting, recordkeeping, and other compliance requirements for small business equipment manufacturers who would provide the equipment to be used as part of the contemplated new system. All devices that will operate in the low-power terrestrial network will be subject to the certification procedures contained in Subpart J of Part 2 of the Commission's rules, including certifying compliance with the relevant rule parts. Parties responsible for equipment compliance will be required to demonstrate that an authorized access point device can only operate in the 2483.5–2495 MHz band when it is operating under the control of a Globalstar Network Operating Center and that a client device can only operate in the 2483.5–2495 MHz band when it is operating under the control of an authorized access point.

Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered. The RFA requires an agency to describe any significant alternatives that it has considered in developing its approach, which may include the following four alternatives (among others): ''(1) the establishment of differing compliance or reporting requirements or timetables that take into account the resources available to small entities; (2) the clarification, consolidation, or simplification of compliance and reporting requirements under the rules for such small entities; (3) the use of performance rather than design standards; and (4) an exemption from coverage of the rule, or any part thereof, for such small entities.''

The Commission is aware that some of the revisions may impact small entities. The NPRM sought comment from all interested parties, and small entities were encouraged to bring to the Commission's attention any specific concerns they may have with the proposals outlined in the NPRM. No commenters raised any specific concerns about the impact of the revisions on small entities.

This Order specifies the equipment certification approach for equipment that will be able to operate with the proposed low-power terrestrial network. We conclude that parties responsible for equipment compliance must demonstrate that an authorized access point device can only operate in the 2483.5–2495 MHz band when it is operating under the control of a Globalstar Network Operating System and that a client device can only operate in the 2483.5–2495 MHz band when it is operating under the control of an authorized access point. While this may have an impact on small entities seeking to certify equipment to operate with the Globalstar low-power terrestrial network, we believe this demonstration will have less of an impact on small entities than an alternative proposal in the NPRM that the responsible parties provide evidence of Globalstar's consent at the time of application.

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

Legal Basis. The action is authorized under sections 4(i), 7(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), and 303(r).

Ordering Clauses

Accordingly, *it is ordered* that, pursuant to sections 4(i), 7(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 157(a), 302(a), 303(c), 303(e), 303(f), 303(g), 303(j), and 303(r), that this Report and Order in IB Docket No. 13–213 is hereby adopted.

It is further ordered that the amendments of Part 25 of the Commission's rules set forth in Appendix A shall become effective March 2, 2017, except that those rules and requirements which contain new or modified information collection requirements that require approval by the Office of Management and Budget under the Paperwork Reduction Act shall become effective after the Commission publishes a notice in the **Federal Register** announcing such approval and the relevant effective date.

It is further ordered that the International Bureau will issue a Public Notice announcing the effective date for all of the changes adopted in this Report and Order.

List of Subjects in 47 CFR Part 25

Ancillary terrestrial component, Communications equipment, Radio, Satellites.

Federal Communications Commission.

Katura Howard,

Federal Register Liaison. Office of the Secretary.

For the reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 25 as follows:

PART 25—SATELLITE COMMUNICATIONS

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

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

■ 2. Section 25.149 is amended by revising paragraph (a)(1), the note to paragraph (a)(1), paragraph (c)(3); adding paragraph (c)(4); revising paragraph (e); redesignating paragraph (g) as paragraph (h); and adding new paragraph (g) to read as follows:

§ 25.149 Application requirements for ancillary terrestrial components in the Mobile-Satellite Service networks operating in the 1.5/1.6 GHz and 1.6/2.4 GHz Mobile-Satellite Service.

(a) * * *

(1) ATC shall be deployed in the forward-band mode of operation whereby the ATC mobile terminals transmit in the MSS uplink bands and the ATC base stations transmit in the MSS downlink bands in portions of the 1626.5–1660.5 MHz/1525–1559 MHz bands (L-band) and the 1610–1626.5 MHz/2483.5–2500 MHz bands.

Note to paragraph (a)(1): An L-band MSS licensee is permitted to apply for ATC authorization based on a non-forward-band mode of operation provided it is able to demonstrate that the use of a non-forward-

band mode of operation would produce no greater potential interference than that produced as a result of implementing the rules of this section. A 1.6/2.4 GHz band licensee is permitted to apply for ATC authorization on a non-forward-band mode of operation where the equipment deployed will meet the requirements of paragraph (c)(4) of this section.

* * * * *

(c) * * *

(3) Licensees and manufacturers are subject to the radiofrequency radiation exposure requirements specified in §§ 1.1307(b), 2.1091, and 2.1093 of this chapter, as appropriate. ATC base stations must comply with the requirements specified in § 1.1307(b) of this chapter for PCS base stations. ATC mobile stations must comply with the requirements specified for mobile and portable PCS transmitting devices in § 1.1307(b) of this chapter. ATC mobile terminals must also comply with the requirements in §§ 2.1091 and 2.1093 of this chapter for Satellite Communications Services devices. Applications for equipment authorization of ATC mobile or portable devices operating under this section must contain a statement confirming compliance with these requirements for both fundamental emissions and unwanted emissions. Technical information showing the basis for this statement must be submitted to the Commission upon request.

(4) Applications for equipment authorization of terrestrial low-power system equipment that will operate in the 2483.5–2495 MHz band shall demonstrate the following:

(i) The transmitted signal is digitally modulated;

(ii) The 6 dB bandwidth is at least 500 kHz;

(iii) The maximum transmit power is no more than 1 W with a peak EIRP of no more than 6 dBW;

(iv) The maximum power spectral density conducted to the antenna is not greater than 8 dBm in any 3 kHz band during any time interval of continuous transmission;

(v) Emissions below 2483.5 MHz are attenuated below the transmitter power (P) measured in watts by a factor of at least 40 + 10 log (P) dB at the channel edge at 2483.5 MHz, 43 + 10 log (P) dB at 5 MHz from the channel edge, and 55 + 10 log (P) dB at X MHz from the channel edge where X is the greater of 6 MHz or the actual emission bandwidth.

(vi) Emissions above 2495 MHz are attenuated below the transmitter power (P) measured in watts by a factor of at least 43 + 10 log (P) dB on all frequencies between the channel edge at 2495 MHz and X MHz from this channel edge and 55 + 10 log (P) dB on all frequencies more than X MHz from this channel edge, where X is the greater of 6 MHz or the actual emission bandwidth;

(vii) Compliance with these rules is based on the use of measurement instrumentation employing a resolution bandwidth of 1 MHz or greater. However, in the 1 MHz bands immediately above and adjacent to the 2495 MHz a resolution bandwidth of at least 1 percent of the emission bandwidth of the fundamental emission of the transmitter may be employed. If 1 percent of the emission bandwidth of the fundamental emission is less than 1 MHz, the power measured must be integrated over the required measurement bandwidth of 1 MHz. A resolution bandwidth narrower than 1 MHz is permitted to improve measurement accuracy, provided the measured power is integrated over the full required measurement bandwidth (*i.e.,* 1 MHz). The emission bandwidth of the fundamental emission of a transmitter is defined as the width of the signal between two points, one below the carrier center frequency and one above the carrier center frequency, outside of which all emissions are attenuated at least 26 dB below the transmitter power. When an emission outside of the authorized bandwidth causes harmful interference, the Commission may, at its discretion, require greater attenuation than specified in this section; and

Note to paragraph (c)(4): Systems meeting the requirements set forth in this section are deemed to have also met the requirements of § 25.254(a) through (d). No further demonstration is needed for these systems with respect to § 25.254(a)–(d).

* * * * *

(e) Except as provided for in paragraphs (f) and (g) of this section, no application for an ancillary terrestrial component shall be granted until the applicant has demonstrated actual compliance with the provisions of paragraph (b) of this section. Upon receipt of ATC authority, all ATC licensees shall ensure continued compliance with this section and §§ 25.253 or 25.254, as appropriate.

* * * * *

(g) *Special provisions for terrestrial low-power systems in the 2483.5–2495 MHz band.* (1) An operational MSS system that applies for authority to deploy ATC in the 2483.5–2495 MHz band for terrestrial low-power operations satisfying the equipment certification requirements of paragraph (c)(4) of this section is not required to demonstrate compliance with paragraph (b) of this section, except to demonstrate the commercial availability of MSS, without regard to coverage requirements.

(2) An ATC licensee seeking to modify its license to add authority to operate a terrestrial low-power network shall certify in its modification application that its operations will utilize a Network Operating System (NOS), consisting of a network management system located at an operations center or centers. The NOS shall have the technical capability to address and resolve interference issues related to the licensee's network operations by reducing operational power; adjusting operational frequencies; shutting off operations; or any other appropriate means. The NOS shall also have the ability to resolve interference from the terrestrial low-power network to the licensee's MSS operations and to authorize access points to the network, which in turn may authorize access to the network by end-user devices. The NOS operations center shall have a point of contact in the United States available 24 hours a day, seven days a week, with a phone number and address made publicly-available by the licensee.

(3) All access points operating in the 2483.5–2495 MHz band shall only operate when authorized by the ATC licensee's NOS, and all client devices operating in the 2483.5–2495 MHz band shall only operate when under the control of such access points.

* * * * *

■ 3. Section 25.254 is amended by adding paragraph (e) to read as follows:

§ 25.254 Special requirements for ancillary terrestrial components operating in the 1610–1626.5 MHz/2483.5–2500 MHz bands.

* * * * *

(e) Licensees of terrestrial low-power systems operating in the 2483.5–2495 MHz band shall operate consistent with the technical limits and other requirements specified in § 25.149(c)(4) and (g)(2)–(3).

[FR Doc. 2017–02027 Filed 1–30–17; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 160302174–6999–02]

RIN 0648–BF81

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Dolphin and Wahoo Fishery Off the Atlantic States; Regulatory Amendment 1

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

ACTION: Stay of final rule.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (the Memorandum), this action stays the final rule NMFS published on December 30, 2016 in order to delay its effective date.

DATES: Effective January 31, 2017, the final rule amending 50 CFR part 622, that published on December 30, 2016, at 81 FR 96388, is stayed until March 21, 2017.

SUPPLEMENTARY INFORMATION: On December 30, 2016, NMFS published this final rule to implement Regulatory Amendment 1 for the Fishery Management Plan for the Dolphin and Wahoo Fishery off the Atlantic States, as prepared and submitted by the South Atlantic Fishery Management Council. This final rule establishes a commercial trip limit for Atlantic dolphin for vessels with a Federal commercial permit for Atlantic dolphin and wahoo. The purpose of this final rule is to reduce the chance of an in-season closure of the dolphin commercial sector as a result of the annual catch limit being reached during the fishing year, and to reduce the severity of economic or social impacts caused by these closures.

On January 20, 2017, the White House issued a memo instructing Federal agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations or guidance documents that have published in the **Federal Register** but not yet taken effect, for the purpose of ''reviewing questions of fact, law, and policy they raise.'' Because its effective date has already passed, we are enacting this stay of the rule published on December 30, 2016, at 81 FR 96388 (see **DATES** above) until March 21, 2017.

List of Subjects in 50 CFR Part 622

Commercial, Dolphin, Fisheries, Fishing, Trip limits.

Dated: January 26, 2017.

Alan D. Risenhoover,

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

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

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

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

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

§ 622.278 [Amended]

■ 2. In § 622.278, paragraph (a) is stayed until March 21, 2017.

[FR Doc. 2017–02057 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 131113952–6999–02]

RIN 0648–BD78

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery Off the Southern Atlantic States; Regulatory Amendment 16

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

ACTION: Stay of final rule.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (the Memorandum), this action stays the final rule NMFS published on December 29, 2016, in order to delay its effective date.

DATES: Effective January 31, 2017, the final rule amending 50 CFR 622.189(g) that published on December 29, 2016, at 81 FR 95893, is stayed until March 21, 2017.

SUPPLEMENTARY INFORMATION: NMFS issues regulations to implement Regulatory Amendment 16 to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP), as prepared and submitted by the South Atlantic Fishery Management Council (Council). This final rule revises the current seasonal prohibition on the use of black sea bass pot gear in the South Atlantic and adds an additional gear marking requirement for black sea bass pot gear. The purpose of this final rule is to reduce the adverse socioeconomic impacts from the current seasonal black sea bass pot gear prohibition while continuing to protect Endangered Species Act (ESA) listed North Atlantic right whales (NARW) in the South Atlantic. This final rule also helps to better identify black sea bass pot gear in the South Atlantic.

On January 20, 2017, the White House issued a memo instructing Federal agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations or guidance documents that have published in the **Federal Register** but not yet taken effect, for the purpose of ''reviewing questions of fact, law, and policy they raise.'' Because its effective date has already passed, we are enacting this stay of the rule published on December 29, 2016, at 81 FR 95893 (see **DATES** above) until March 2017, except for the amendment to § 622.183(b)(6) that became effective on December 29, 2016.

List of Subjects in 50 CFR Part 622

Annual catch limits, Black Sea Bass, Fisheries, Fishing, South Atlantic.

Dated: January 26, 2017.

Alan D. Risenhoover,

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

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

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

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

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

§ 622.189 [Amended]

■ 2. In § 622.189, paragraph (g) is stayed until March 21, 2017.

[FR Doc. 2017–02042 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 160527473–6999–02]

RIN 0648–BG09

Atlantic Highly Migratory Species; Individual Bluefin Quota Program; Inseason Transfers

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

ACTION: Stay of final rule.

SUMMARY: In accordance with the memorandum of January 20, 2017, from the Assistant to the President and Chief of Staff, entitled ''Regulatory Freeze Pending Review,'' published in the **Federal Register** on January 24, 2017 (the Memorandum), this action stays the final rule NMFS published on December 29, 2016, in order to delay its effective date.

DATES: Effective January 31, 2017, the final rule amending 50 CFR part 635, that published on December 29, 2016, at 81 FR 95903, is stayed until March 21, 2017.

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

SUPPLEMENTARY INFORMATION: On December 29, 2016, NMFS published this final rule modifying the Atlantic highly migratory species (HMS) regulations regarding the distribution of inseason Atlantic bluefin tuna quota transfers to the Longline category. This final rule provides NMFS the ability to distribute quota inseason either to all qualified Individual Bluefin Quota (IBQ) share recipients (*i.e.,* share recipients who have associated their permit with a vessel) or only to permitted Atlantic Tunas Longline vessels with recent fishing activity, whether or not they are associated with IBQ shares. This action is necessary to optimize fishing opportunity in the directed pelagic longline fishery for target species such as tuna and swordfish and to improve the functioning of the IBQ Program and its leasing provisions consistent with the objectives of Amendment 7 to the 2006 Consolidated HMS Fishery Management Plan.

On January 20, 2017, the White House issued a memo instructing Federal agencies to temporarily postpone the effective date for 60 days after January 20, 2017, of any regulations or guidance documents that have published in the **Federal Register** but not yet taken effect, for the purpose of ''reviewing questions of fact, law, and policy they raise.'' Because its effective date has already passed, we are enacting this stay of the rule published on December 29, 2016, at 81 FR 95903 (see DATES above) until March 21, 2017.

List of Subjects in 50 CFR Part 635

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

Dated: January 26, 2017.

Alan D. Risenhoover,

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

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

PART 635—ATLANTIC HIGHLY MIGRATORY SPECIES

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

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

§ 635.15 [Amended]

■ 2. In § 635.15, paragraphs (b) introductory text and (b)(9) are stayed until March 21, 2017.

[FR Doc. 2017–02043 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 150818742–6210–02]

RIN 0648–XF170

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 610 in the Gulf of Alaska

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 610 in the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allowance of the 2017 total allowable catch of pollock for Statistical Area 610 in the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 27, 2017, through 1200 hrs, A.l.t., March 10, 2017.

FOR FURTHER INFORMATION CONTACT: Josh Keaton, 907–586–7228.

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the GOA exclusive economic zone according to the Fishery Management Plan for Groundfish of the Gulf of Alaska (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-Stevens Fishery Conservation and Management Act. Regulations governing fishing by U.S. vessels in accordance with the FMP appear at subpart H of 50 CFR part 600 and 50 CFR part 679.

The A season allowance of the 2017 total allowable catch (TAC) of pollock in Statistical Area 610 of the GOA is 2,232 metric tons (mt) as established by the final 2016 and 2017 harvest specifications for groundfish in the GOA (81 FR 14740, March 18, 2016) and inseason adjustment (81 FR 95063, December 27, 2016).

In accordance with § 679.20(d)(1)(i), the Regional Administrator has determined that the A season allowance of the 2017 TAC of pollock in Statistical Area 610 of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 2,132 mt and is setting aside the remaining 100 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is prohibiting directed fishing for pollock in Statistical Area 610 of the GOA.

After the effective date of this closure the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a trip.

Classification

This action responds to the best available information recently obtained from the fishery. The Acting Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of directed fishing for pollock in Statistical Area 610 of the GOA. NMFS was unable to publish a

notice providing time for public comment because the most recent, relevant data only became available as of January 13, 2017.

The AA also finds good cause to waive the 30-day delay in the effective date of this action under 5 U.S.C. 553(d)(3). This finding is based upon the reasons provided above for waiver of prior notice and opportunity for public comment.

This action is required by § 679.20 and is exempt from review under Executive Order 12866.

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

Dated: January 18, 2017.

Emily H. Menashes,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2017–01515 Filed 1–27–17; 4:15 pm]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 82, No. 19
Tuesday, January 31, 2017

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF COMMERCE

Census Bureau

Proposed Information Collection; Comment Request; Monthly Wholesale Trade Survey

AGENCY: U.S. Census Bureau, Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: To ensure consideration, written comments must be submitted on or before April 3, 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 *PRAcomments@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to William Abriatis, U.S. Census Bureau, Room 6K081, Washington, DC 20233–6500, (301) 763–3686 (or via the Internet at *william.m.abriatis@census.gov*).

SUPPLEMENTARY INFORMATION:

I. Abstract

The Monthly Wholesale Trade Survey (MWTS) provides a continuous measure of monthly sales, end-of-month inventories, and inventories/sales ratios in the United States by selected kinds of business for merchant wholesalers, excluding manufacturers' sales branches and offices. Estimates from the MWTS are released in three different reports each month. High level aggregate estimates for end-of-month inventories are first released as part of the Advance Economic Indicators Report approximately 27 days after the close of the reference month. The Advance Economic Indicators Report is a new report first released on July 28, 2016, and will be released monthly on an ongoing basis. The full Monthly Wholesale Trade Report containing both sales and inventories estimates is released approximately 40 days after the close of the reference month. Sales and inventories estimates from the MWTS are also released as part of the Manufacturing and Trade Inventories and Sales (MTIS) report issued approximately 43 days after the close of the reference month. The Bureau of Economic Analysis uses this information to improve the inventory valuation adjustments applied to estimates of the Gross Domestic Product. The Bureau of Labor Statistics uses the data as input to develop Producer Price Indexes and productivity measurements.

Estimates produced from the MWTS are based on a probability sample and are published on the North American Industry Classification System (NAICS) basis. The sample design consists of small, medium, and large cases requested to report sales and inventories each month. The sample, consisting of about 4,200 wholesale businesses, is drawn from the Business Register, which contains all Employer Identification Numbers (EINs) and listed establishment locations. The sample is updated quarterly to reflect employer business ''births'' and ''deaths''. New employer businesses identified in the Business and Professional Classification Survey are added and employer businesses determined to be no longer active are removed.

II. Method of Collection

Respondents are initially contacted by mailing them the MWTS form. Respondents have an option of reporting their data online, returning the paper form by fax or mail, or giving data by telephone. After initial contact, respondents have a choice to receive future correspondence by mailed form, faxed notice, or both. The faxed notice informs the respondent that the online system is open for reporting for the specified reference month.

III. Data

OMB Control Number: 0607–0190.

Form Number(s): SM4212–A and SM4212–E.

Type of Review: Regular submission.

Affected Public: U.S. merchant wholesale firms, excluding manufacturers' sales branches and offices.

Estimated Number of Respondents: 4,200.

Estimated Time per Response: 7 minutes.

Estimated Total Annual Burden Hours: 5,880 hours.

Estimated Total Annual Cost to Public: $0.

Respondent's Obligation: Voluntary.

Legal Authority: Title 13, United States Code, Sections 131 and 182.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Sheleen Dumas,

PRA Departmental Lead, Office of the Chief Information Officer.

[FR Doc. 2017–02004 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–016]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Rescission of 2015–2016 Antidumping Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) is conducting a new shipper review (NSR) of the antidumping duty (AD) order on passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (the PRC). The NSR covers one exporter/producer of subject merchandise, Shandong Xinghongyuan Tire Co., Ltd. (SXT). The period of review (POR) is August 1, 2015, through January 31, 2016. The Department preliminarily determines that SXT did not satisfy the regulatory requirements to request an NSR, and, therefore, we are preliminarily rescinding this NSR. Interested parties are invited to comment on the preliminary results of this review.

DATES: Effective January 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3857.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2016, the Department published notice of initiation of an NSR of passenger tires from the PRC for the period August 1, 2015, through January 31, 2016.[1] On October 27, 2016, the Department extended the deadline for the preliminary results to January 23, 2017.[2]

Scope of the Order

The product covered by this order is passenger tires from the PRC. For a complete description of the scope, see the Appendix to this notice.

On June 3, 2016, American Omni Trading Company, LLC (American Omni) and Unicorn Tire Corporation (Unicorn Tire) requested clarification of a prior ruling regarding the scope of the order.[3] The Department issued a preliminary clarification on October 20, 2016,[4] and subsequently received comments in support of the clarification from American Omni and Unicorn Tire.[5] Accordingly, the Department finalized the clarification, with no modifications, on November 29, 2016.[6]

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214. For a full description of the methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice.[7] The Preliminary Decision Memorandum is a public document that is available 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 in the Central Records Unit, Room B8024, of the Department's main building. A complete version of the Preliminary Decision Memorandum can also be accessed 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 Rescission of the Antidumping Duty New Shipper Review

The Department preliminarily finds that, based on substantial evidence on the record, SXT has not satisfied the statutory and regulatory requirements to request an NSR. Specifically, the Department finds that SXT's request for an NSR was based on the inaccurately certified statement that SXT is not affiliated with any PRC exporter or producer that exported subject merchandise to the United States during the period of time examined in the original AD investigation (*i.e.,* October 1, 2013, through March 31, 2014).[8] Further analysis of SXT's corporate affiliations and the factual information underlying this preliminary rescission is provided in the Preliminary Decision Memorandum.

Public Comment

Interested parties may submit case briefs or other written comments no later than 30 days after the publication of these preliminary results in the **Federal Register**.[9] Rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.[10]

Interested parties who wish to request a hearing must submit a written request within 30 days of the publication of these preliminary results in the **Federal Register**.[11] Such requests should contain the party's name, address, and telephone number, as well as the number of participants and a list of the issues to be discussed. Oral arguments will be limited to issues raised in the 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, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case briefs and rebuttal briefs, as well as any requests for a hearing, electronically, using ACCESS. Electronically filed documents must be successfully received in their entirety via ACCESS no later than 5:00

[1] *See Passenger Vehicle and Light Truck Tires from the People's Republic of China: Initiation of Antidumping Duty New Shipper Review; 2015–2016,* 81 FR 36265 (June 6, 2016).

[2] *See* Department Memorandum, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Preliminary Results in Antidumping Duty New Shipper Review,'' October 27, 2016.

[3] *See* Department Memorandum, ''Antidumping Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Placing Scope Ruling Request on the Record,'' August 2, 2016, at Attachment.

[4] *See* Department Memorandum, ''Antidumping Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Clarification of Scope Ruling,'' October 20, 2016.

[5] *See* Letter from American Omni and Unicorn Tire, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Comments on Preliminary Clarification of Scope Ruling,'' October 27, 2016.

[6] *See* Department Memorandum, ''Antidumping Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Clarification of Scope Ruling,'' November 29, 2016.

[7] *See* Department Memorandum, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Rescission of Antidumping Duty New Shipper Review,'' January 23, 2017 (Preliminary Decision Memorandum).

[8] *See Antidumping Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Determination of Sales at Less Than Fair Value and Final Affirmative Determination of Critical Circumstances, in Part,* 80 FR 34893, 34894 (June 18, 2015); *see also* Letter from SXT, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: New Shipper Review Request,'' February 25, 2016, at Exhibit 2 (certifying that ''since the investigation was initiated, {SXT} has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation including those not individually examined during the investigation'').

[9] *See* 19 CFR 351.309(c)(1)(i).

[10] *See* 19 CFR 351.309(d)(1).

[11] *See* 19 CFR 351.310(c).

p.m. Eastern Time on the abovementioned deadlines.[12]

The Department intends to issue the final results of this NSR, which will include an analysis of any issues raised in briefs, no more than 90 days after the release of these preliminary results, pursuant to section 751(a)(2)(B) of the Act.

Assessment Rates

If the Department proceeds to a final rescission of SXT's NSR, the assessment rate to which SXT's shipments will be subject will not be affected by this review. The Department, however, initiated an administrative review of the AD order on passenger tires from the PRC covering numerous exporters for the period of January 27, 2015, through July 31, 2016, which encompasses the period covered by this NSR.[13] Therefore, if the Department proceeds to a final rescission, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend subject merchandise exported by SXT and entered into the United States during the period August 1, 2015, through January 31, 2016, until CBP receives instructions relating to the abovementioned administrative review of this order.

If the Department does not proceed to a final rescission of this NSR, pursuant to 19 CFR 351.212(b)(1), we will calculate an importer-specific assessment rate based on the final results of this review. In accordance with the Department's assessment practice in non-market economy proceedings, however, the Department will instruct CBP to liquidate entries that were not reported in SXT's U.S. sales database at the PRC-wide rate.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, the Department will instruct CBP to discontinue the option of posting bond or security in lieu of a cash deposit for entries of SXT's subject merchandise. If the Department proceeds to a final rescission of this NSR, the cash deposit rate for SXT will continue to be the PRC-wide rate because the Department will not have determined an individual dumping margin for SXT. If the Department issues final results for this NSR, the Department will instruct CBP to collect cash deposits, effective upon publication of the final results, at the rates established therein.

Notification to Importers

This notice 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 POR. 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.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(2)(B) and 771(i)(1) of the Act.

Dated: January 23, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–01996 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–DS–P

[12] *See* 19 CFR 351.303(b)(1).

[13] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 71061, 71065 (October 14, 2016) (*Administrative Review Initiation Notice*). Although SXT is not listed in the *Administrative Review Initiation Notice,* the company subsequently applied for a separate rate. *See* Letter from SXT, ''Administrative Review of Antidumping Duty Order on Passenger Vehicle and Light Truck Tires from China; Application for Separate Rate,'' November 14, 2016.

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–017]

Passenger Vehicle and Light Truck Tires From the People's Republic of China: Preliminary Rescission of 2014–2016 Countervailing Duty New Shipper Review

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The U.S. Department of Commerce (the Department) is conducting a new shipper review (NSR) of the countervailing duty (CVD) order on passenger vehicle and light truck tires (passenger tires) from the People's Republic of China (the PRC). The NSR covers one exporter/producer of subject merchandise, Shandong Xinghongyuan Tire Co., Ltd. (SXT). The period of review (POR) is December 1, 2014, through January 31, 2016. The Department preliminarily determines that SXT did not satisfy the regulatory requirements to request an NSR, and, therefore, we are preliminarily rescinding this NSR. Interested parties are invited to comment on the preliminary results of this review.

DATES: Effective January 31, 2017.

FOR FURTHER INFORMATION CONTACT: Kaitlin Wojnar, AD/CVD Operations, Office VII, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–3857.

SUPPLEMENTARY INFORMATION:

Background

On June 6, 2016, the Department published notice of initiation of an NSR of passenger tires from the PRC for the period December 1, 2014, through January 31, 2016.[1] On October 27, 2016, the Department extended the deadline for the preliminary results to January 23, 2017.[2]

Scope of the Order

The product covered by this order is passenger tires from the PRC. For a complete description of the scope, see the Appendix to this notice.

On June 3, 2016, American Omni Trading Company, LLC (American Omni) and Unicorn Tire Corporation (Unicorn Tire) requested clarification of a prior ruling regarding the scope of the order.[3] The Department issued a preliminary clarification on October 20, 2016,[4] and subsequently received comments in support of the clarification from American Omni and Unicorn Tire.[5] Accordingly, the Department finalized the clarification, with no modifications, on November 29, 2016.[6]

Methodology

The Department is conducting this review in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214. For a full description of the

[1] *See Passenger Vehicle and Light Truck Tires from the People's Republic of China: Initiation of Countervailing Duty New Shipper Review; 2014–2016,* 81 FR 36262 (June 6, 2016).

[2] *See* Department Memorandum, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Extension of Deadline for Preliminary Results in Countervailing Duty New Shipper Review,'' October 27, 2016.

[3] *See* Department Memorandum, ''Countervailing Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Placing Scope Ruling Request on the Record,'' August 2, 2016, at Attachment.

[4] *See* Department Memorandum, ''Antidumping Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Clarification of Scope Ruling,'' October 20, 2016.

[5] *See* Letter from American Omni and Unicorn Tire, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Comments on Preliminary Clarification of Scope Ruling,'' October 27, 2016.

[6] *See* Department Memorandum, ''Antidumping Duty New Shipper Review of Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Clarification of Scope Ruling,'' November 29, 2016.

methodology underlying our conclusions, see the Preliminary Decision Memorandum, which is hereby adopted by this notice.[7] The Preliminary Decision Memorandum is a public document that is available 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 in the Central Records Unit, Room B8024, of the Department's main building. A complete version of the Preliminary Decision Memorandum can also be accessed 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 Rescission of the Countervailing Duty New Shipper Review

The Department preliminarily finds that, based on substantial evidence on the record, SXT has not satisfied the statutory and regulatory requirements to request an NSR. Specifically, the Department finds that SXT's request for an NSR was based on the inaccurately certified statement that SXT is not affiliated with any PRC exporter or producer that exported subject merchandise to the United States during the period of time examined in the original CVD investigation (*i.e.,* January 1, 2013, through December 31, 2013).[8] Further analysis of SXT's corporate affiliations and the factual information underlying this preliminary rescission is provided in the Preliminary Decision Memorandum.

Public Comment

Interested parties may submit case briefs or other written comments no later than 30 days after the publication of these preliminary results in the **Federal Register**.[9] Rebuttal briefs, limited to issues raised in the case briefs, may be submitted no later than five days after the deadline for case briefs.[10]

Interested parties who wish to request a hearing must submit a written request within 30 days of the publication of these preliminary results in the **Federal Register**.[11] Such requests should contain the party's name, address, and telephone number, as well as the number of participants and a list of the issues to be discussed. Oral arguments will be limited to issues raised in the 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, time, and location to be determined. Parties will be notified of the date, time, and location of any hearing.

Parties must file their case briefs and rebuttal briefs, as well as any requests for a hearing, electronically, using ACCESS. Electronically filed documents must be successfully received in their entirety via ACCESS no later than 5:00 p.m. Eastern Time on the abovementioned deadlines.[12]

The Department intends to issue the final results of this NSR, which will include an analysis of any issues raised in briefs, no more than 90 days after the release of these preliminary results, pursuant to section 751(a)(2)(B) of the Act.

Assessment Rates

If the Department proceeds to a final rescission of SXT's NSR, the assessment rate to which SXT's shipments will be subject will not be affected by this review. The Department, however, initiated an administrative review of the CVD order on passenger tires from the PRC covering numerous exporters for the period of December 1, 2014, through December 31, 2015, which encompasses the period covered by this NSR.[13] Therefore, if the Department proceeds to a final rescission, we will instruct U.S. Customs and Border Protection (CBP) to continue to suspend subject merchandise exported by SXT and entered into the United States during the period December 1, 2014, through January 31, 2016, until CBP receives instructions relating to the abovementioned administrative review of this order.

If the Department does not proceed to a final rescission of this NSR, pursuant to 19 CFR 351.212(b)(1), we will calculate an importer-specific assessment rate based on the final results of this review.

Cash Deposit Requirements

Effective upon publication of the final rescission or the final results of this NSR, the Department will instruct CBP to collect cash deposits for entries of SXT's subject merchandise. If the Department proceeds to a final rescission of this NSR, the cash deposit rate for SXT will continue to be the all-others rate because the Department will not have determined an individual subsidy rate for SXT. If the Department issues final results for this NSR, the Department will instruct CBP to collect cash deposits, effective upon publication of the final results, at the rates established therein.

Notification to Importers

This notice 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 countervailing duties prior to liquidation of the relevant entries during this POR. Failure to comply with this requirement could result in the Department's presumption that reimbursement of countervailing duties occurred and the subsequent assessment of double countervailing duties.

We are issuing and publishing these preliminary results in accordance with sections 751(a)(2)(B) and 771(i)(1) of the Act.

Dated: January 23, 2017.

Ronald K. Lorentzen,

Acting Assistant Secretary for Enforcement and Compliance.

[FR Doc. 2017–01997 Filed 1–30–17; 8:45 am]

BILLING CODE 3510–DS–P

[7] *See* Department Memorandum, ''Passenger Vehicle and Light Truck Tires from the People's Republic of China: Preliminary Rescission of Countervailing Duty New Shipper Review,'' January 23, 2017 (Preliminary Decision Memorandum).

[8] *See Countervailing Duty Investigation of Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: Final Affirmative Determination, and Final Affirmative Critical Circumstances Determination, in Part,* 80 FR 34888, 34888 (June 18, 2015); *see also* Letter from SXT, ''Certain Passenger Vehicle and Light Truck Tires from the People's Republic of China: New Shipper Review Request,'' February 25, 2016, at Exhibit 2 (certifying that ''since the investigation was initiated, {SXT} has never been affiliated with any exporter or producer who exported the subject merchandise to the United States during the period of investigation including those not individually examined during the investigation'').

[9] *See* 19 CFR 351.309(c)(1)(i).

[10] *See* 19 CFR 351.309(d)(1).

[11] *See* 19 CFR 351.310(c).

[12] *See* 19 CFR 351.303(b)(1).

[13] *See Initiation of Antidumping and Countervailing Duty Administrative Reviews,* 81 FR 71061, 71065 (October 14, 2016) (*Administrative Review Initiation Notice*).

DEPARTMENT OF DEFENSE

Department of the Army

Update to the 24 October 2016 Military Freight Traffic Unified Rules Publication (MFTURP) No. 1—New Carrier Performance Standard

AGENCY: Department of the Army, DOD.

ACTION: Notice.

SUMMARY: The Military Surface Deployment and Distribution Command (SDDC) is providing notice that it's implementing a new carrier

performance enterprise standard. SDDC will conduct reviews to monitor and evaluate Transportation Service Providers (TSP) performance nationwide. The enterprise standard will be 90% calculated by comparing shipments to service failures. Complete details of the program were released via an SDDC advisory 22 November 2017 and entered into SDDC's Docketing System for comment. The advisory and docket can be viewed at the following links:

https://www.sddc.army.mil/res/Pages/advisories.aspx

https://www.sddc.army.mil/res/Pages/docketing.aspx

The update is to section A, V., B. SERVICE ELEMENTS, CARRIER PERFROMANCE MODULE (CPM) AND STANDARDS. Enterprise performance language will added after item 5 on page 69. Even though the update will not be added to the publication until mid-summer 2017, the evaluation process will begin with the first calendar quarter of 2017 (Jan, Feb and Mar).

DATES: Effective immediately.

ADDRESSES: Military Surface Deployment and Distribution Command, ATTN: AMSSD–OPM, 1 Soldier Way, Scott AFB, IL 62225–5006. Requests for additional information may be sent by email to: *usarmy.scott.sddc.mbx.carrier-performance@mail.mil.*

FOR FURTHER INFORMATION CONTACT: Carrier Performance Team, (618) 220–5894.

SUPPLEMENTARY INFORMATION:

References: Military Freight Traffic Unified Rules Publication–1 (MFTURP–1)

Miscellaneous: This publication, as well as the other SDDC publications, can be accessed via the SDDC Web site at: *http://www.sddc.army.mil/GCD/default.aspx.*

Daniel J. Bradley,

Deputy Chief, Domestic Movement Support Division.

[FR Doc. 2017–02022 Filed 1–30–17; 8:45 am]

BILLING CODE 5001–03–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Withdrawal of Notice of Intent for the Environmental Impact Statement Process for the Delta Wetlands Project in San Joaquin and Contra Costa Counties, California.

AGENCY: Department of the Army; Corps of Engineers, DoD.

ACTION: Notice of intent; withdrawal.

SUMMARY: In accordance with the National Environmental Policy Act (NEPA), on February 28, 2013, the U.S. Army Corps of Engineers (Corps), Sacramento District, initiated the Supplemental Environmental Impact Statement (EIS) process to evaluate the effects of the proposed development of two Reservoir Islands (Bacon Island and Webb Tract) and to assist the Corps in deciding whether to approve Delta Wetlands Properties' application under Section 404 of the Clean Water Act. On July 25, 2016, the applicant for the proposed project withdrew their application for a Department of the Army Permit. Therefore, the Corps is terminating the EIS process, and is issuing this Notice of Intent to withdraw the February 28, 2013, Notice of Intent to Prepare an SEIS.

FOR FURTHER INFORMATION CONTACT: Questions about the proposed action and this Notice of Intent can be answered by Mr. Zachary Simmons at 916–557–6746, or email at *Zachary.M.Simmons@usace.army.mil.* Please refer to identification number SPK–1901–9804.

SUPPLEMENTARY INFORMATION: The Corps issued a Department of the Army Permit under Section 404 of the Clean Water Act on June 26, 2002, expiring on December 31, 2007. The applicant applied for a new Department of the Army Permit to fill approximately 2,156 acres of waters of the United States, including wetlands, to implement the project. Due to potentially significant environmental effects associated with the proposed action, on February 28, 2013, the Corps issued a Notice of Intent to Prepare a Supplemental EIS (78 FR 13643). Since publishing the Notice of Intent, the applicant has sold the properties and withdrawn their permit application. As such, the Corps is terminating the EIS process, in accordance with Corps regulations at 33 CFR part 230, Appendix C(2) and 33 CFR part 325, Appendix (8)(g).

Dated: January 18, 2017.

Michael S. Jewell,

Chief, Regulatory Division.

[FR Doc. 2017–02021 Filed 1–30–17; 8:45 am]

BILLING CODE 3720–58–P

DELAWARE RIVER BASIN COMMISSION

Notice of Public Hearing and Business Meeting February 15 and March 15, 2017

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, February 15, 2017. A business meeting will be held the following month, on Wednesday, March 15, 2017. The hearing and business meeting are open to the public and will be held at the Washington Crossing Historic Park Visitor Center, 1112 River Road, Washington Crossing, Pennsylvania.

Public Hearing. The public hearing on February 15, 2017 will begin at 1:30 p.m. Hearing items will include draft dockets for the withdrawals, discharges and other water-related projects subject to the Commission's review, and a resolution to adopt the Commission's Water Resources Program for fiscal years 2017–2019.

The list of projects scheduled for hearing, including project descriptions, will be posted on the Commission's Web site, *www.drbc.net,* in a long form of this notice at least ten days before the hearing date. The draft resolution scheduled for hearing also will be posted at *www.drbc.net* ten or more days prior to the hearing.

Written comments on matters scheduled for hearing on February 15 will be accepted through 5:00 p.m. on February 21. Time permitting, an opportunity for Open Public Comment will be provided upon the conclusion of Commission business at the March 15 Business Meeting; in accordance with recent format changes, this opportunity will not be offered upon completion of the Public Hearing.

The public is advised to check the Commission's Web site periodically prior to the hearing date, as items scheduled for hearing may be postponed if additional time is deemed necessary to complete the Commission's review, and items may be added up to ten days prior to the hearing date. In reviewing docket descriptions, the public is also asked to be aware that project details commonly change in the course of the Commission's review, which is ongoing.

Public Meeting. The public business meeting on March 15, 2017 will begin at 10:30 a.m. and will include: Adoption of the Minutes of the Commission's December 14, 2016 business meeting, announcements of upcoming meetings and events, a report on hydrologic conditions, reports by the Executive Director and the Commission's General Counsel, and consideration of any items

for which a hearing has been completed or is not required. The latter are expected to include resolutions for the Minutes (a) authorizing the Executive Director to enter into a professional services contract with LimnoTech to support the development of a hydrodynamic and water quality model of eutrophication effects for the Delaware River Estuary; and (b) providing for implementation of an e-comment system for the collection of public comments.

After all scheduled business has been completed and as time allows, the Business Meeting will also include up to one hour of Open Public Comment.

There will be no opportunity for additional public comment for the record at the March 15 Business Meeting on items for which a hearing was completed on February 15 or a previous date. Commission consideration on March 15 of items for which the public hearing is closed may result in approval of the item (by docket or resolution) as proposed, approval with changes, denial, or deferral. When the Commissioners defer an action, they may announce an additional period for written comment on the item, with or without an additional hearing date, or they may take additional time to consider the input they have already received without requesting further public input. Any deferred items will be considered for action at a public meeting of the Commission on a future date.

Advance Sign-Up for Oral Comment. Individuals who wish to comment on the record during the public hearing on February 15 or to address the Commissioners informally during the Open Public Comment portion of the meeting on March 15 as time allows, are asked to sign up in advance by contacting Ms. Paula Schmitt of the Commission staff, at *paula.schmitt@drbc.nj.gov.*

Addresses for Written Comment. Written comment on items scheduled for hearing may be delivered by hand at the public hearing or: By hand, U.S. Mail or private carrier to: Commission Secretary, P.O. Box 7360, 25 State Police Drive, West Trenton, NJ 08628; by fax to Commission Secretary, DRBC at 609–883–9522; or by email (preferred) to *paula.schmitt@drbc.nj.gov.* If submitted by email, written comments on a docket should also be sent to Mr. David Kovach, Manager, Project Review Section at *david.kovach@drbc.nj.gov.*

Accommodations for Special Needs. Individuals in need of an accommodation as provided for in the Americans with Disabilities Act who wish to attend the informational meeting, conference session or hearings should contact the Commission Secretary directly at 609–883–9500 ext. 203 or through the Telecommunications Relay Services (TRS) at 711, to discuss how we can accommodate your needs.

Additional Information, Contacts. Additional public records relating to hearing items may be examined at the Commission's offices by appointment by contacting Carol Adamovic, 609–883–9500, ext. 249. For other questions concerning hearing items, please contact Judith Scharite, Project Review Section assistant at 609–883–9500, ext. 216.

Dated: January 25, 2017.

Pamela M. Bush,

Commission Secretary and Assistant General Counsel.

[FR Doc. 2017–02011 Filed 1–30–17; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

Take notice that the Commission received the following electric corporate filings:

Docket Numbers: EC17–67–000.

Applicants: Moapa Southern Paiute Solar, LLC.

Description: Application for Authorization Under Section 203 of the FPA for the Disposition of Jurisdictional Facilities, Request for Shortened Comment Period, Expedited Consideration and Confidential Treatment of Moapa Southern Paiute Solar, LLC.

Filed Date: 1/24/17.

Accession Number: 20170124–5183.

Comments Due: 5 p.m. ET 2/14/17.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER16–277–006.

Applicants: Talen Energy Marketing, LLC.

Description: Report Filing: Refund Report to be effective N/A.

Filed Date: 1/24/17.

Accession Number: 20170124–5133.

Comments Due: 5 p.m. ET 2/14/17.

Docket Numbers: ER17–801–001.

Applicants: Constellation Power Source Generation, LLC.

Description: Tariff Amendment: Amended Cost Support and Amended Rate Schedules to be effective 3/1/2017.

Filed Date: 1/25/17.

Accession Number: 20170125–5151.

Comments Due: 5 p.m. ET 2/15/17.

Docket Numbers: ER17–848–000.

Applicants: Iron Horse Battery Storage, LLC.

Description: Baseline eTariff Filing: Application for Market Based Rate to be effective 2/21/2017.

Filed Date: 1/24/17.

Accession Number: 20170124–5178.

Comments Due: 5 p.m. ET 2/14/17.

Docket Numbers: ER17–849–000.

Applicants: AEP Indiana Michigan Transmission Company, Inc., PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: AEP submits Original CIAC, SA No. 4614 between NIPSCO and AEP I–M Transmission to be effective 1/25/2017.

Filed Date: 1/24/17.

Accession Number: 20170124–5179.

Comments Due: 5 p.m. ET 2/14/17.

Docket Numbers: ER17–850–000.

Applicants: Louisville Gas and Electric Company.

Description: § 205(d) Rate Filing: ITO Agreement 2017–2022 Att. Q to be effective 9/1/2017.

Filed Date: 1/25/17.

Accession Number: 20170125–5028.

Comments Due: 5 p.m. ET 2/15/17.

Docket Numbers: ER17–851–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 1727, Queue No. Z1–097 to be effective 12/9/2014.

Filed Date: 1/25/17.

Accession Number: 20170125–5133.

Comments Due: 5 p.m. ET 2/15/17.

Docket Numbers: ER17–852–000.

Applicants: PJM Interconnection, L.L.C.

Description: § 205(d) Rate Filing: Amendment to ISA No. 3763, Queue No. Z2–112 to be effective 7/1/2015.

Filed Date: 1/25/17.

Accession Number: 20170125–5145.

Comments Due: 5 p.m. ET 2/15/17.

The filings are accessible in the Commission's eLibrary system by clicking on the links or querying the docket number.

Any person desiring to intervene or protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Regulations (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. Protests may be considered, but intervention is necessary to become a party to the proceeding.

eFiling is encouraged. More detailed information relating to filing requirements, interventions, protests, service, and qualifying facilities filings can be found at: *http://www.ferc.gov/docs-filing/efiling/filing-req.pdf.* For other information, call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Dated: January 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–02039 Filed 1–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL17–28–000]

Kelly Creek Wind, LLC; Notice of Institution of Section 206 Proceeding and Refund Effective Date

On January 25, 2017, the Commission issued an order in Docket No. EL17–28–000, pursuant to section 206 of the Federal Power Act (FPA), 16 U.S.C. 824e (2012), instituting an investigation into whether the Reactive Service Rate Schedule of Kelly Creek Wind, LLC may be unjust, unreasonable, unduly discriminatory or preferential. *Kelly Creek Wind, LLC,* 158 FERC ¶ 61,059 (2017).

The refund effective date in Docket No. EL17–28–000, established pursuant to section 206(b) of the FPA, will be the date of publication of this notice in the **Federal Register**.

Any interested person desiring to be heard in Docket No. EL17–28–000 must file a notice of intervention or motion to intervene, as appropriate, with the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, in accordance with Rule 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.214, within 21 days of the date of issuance of the order.

Dated: January 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–02040 Filed 1–30–17; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. AD15–10–000]

Notice of Availabilty of the Revised Guidelines for Reporting on Cultural Resources Investigations for Natural Gas Projects and Request for Comments

The staff of the Federal Energy Regulatory Commission (FERC or Commission) is revising its *Guidelines for Reporting on Cultural Resources Investigations for Pipeline Projects,* dated December 2002. Based on comments received in the above-referenced docket,[1] the staff has revised the *Guidelines* and comments are now requested on this draft document from federal and state agencies, Native American tribes, environmental consultants, inspectors, natural gas industry, construction contractors, and other interested parties with special expertise with respect to historic and cultural resources commonly associated with natural gas pipeline projects. A 60-day public comment period is allotted to collect comments. Please note that this comment period will close on March 26, 2017.

Interested parties can help the Commission staff determine the appropriate updates and improvements by providing meaningful comments or suggestions that focus on the specific sections requiring clarification; updates to reflect current laws and regulations; or improved measures to avoid or minimize impacts on historic or cultural resources. The more specific your comments, the more useful they will be. A detailed explanation of your submissions and/or any references of scientific studies associated with your comments will greatly help us with this process. We will consider all timely comments on the revised *Guidelines* before issuing the final version.

The FERC staff provided copies of the revised *Guidelines* to federal and state agencies, Native American tribes, environmental consultants, inspectors, natural gas industry, construction contractors, and other interested parties. In addition, the revised *Guidelines* is available for public viewing on the FERC's Web site (*www.ferc.gov*) using the eLibrary link.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the docket number (AD15–10–000) 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 interested persons to submit brief, text-only comments;

(2) You can 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, 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.

All of the information related to the proposed updates to the *Guidelines* and submitted comments can be found 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.,* AD15–10). 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) 502–8258. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now 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: January 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–02038 Filed 1–30–17; 8:45 am]

BILLING CODE 6717–01–P

[1] A *Notice of Intent to Update the Guidelines for Reporting on Cultural Resources Investigations for Pipeline Projects and Request for Comments* was issued on April 21, 2015 under Docket Number AD15–10.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2232–650]

Duke Energy Carolinas, LLC; Notice of Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Shoreline Management Plan.

b. *Project No:* 2232–650.

c. *Date Filed:* October 4, 2016 and November 4, 2016 (dated October 3, 2016).

d. *Applicant:* Duke Energy Carolinas, LLC.

e. *Name of Project:* Catawba-Wateree Hydroelectric Project.

f. *Location:* Burke, McDowell, Caldwell, Catawba, Alexander, Iredell, Mecklenburg, Lincoln, and Gaston Counties, North Carolina, and York, Lancaster, Chester, Fairfield, and Kershaw Counties in South Carolina.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Kelvin Reagan, Lake Services—Duke Energy Carolinas, 526 South Church Street, Charlotte, North Carolina 28202, 704 382–9386 or email at *Kelvin.Reagan@duke-energy.com.*

i. *FERC Contact:* Jon Cofrancesco at (202) 502–8951, or email: *jon.cofrancesco@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* February 24, 2017.

All documents may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site 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* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Please include the project number (P–2232–650) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears 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. *Description of Request:* Pursuant to license article 409, in part, Duke Energy Carolinas, LLC (licensee) filed, for Commission approval, an updated shoreline management plan (SMP) for the Catawba-Wateree Project incorporating the 2003 Commission-approved SMP, as amended. As required, the updated SMP includes: (1) A provision for addressing any licensee-requested authority to make changes to the SMP, shoreline classification maps, or shoreline management guidelines without prior Commission approval; (2) a provision for addressing how and when shoreline reclassification requests, including identified mapping errors, will be filed with the Commission for approval; and (3) a provision for filing a report with the Commission every 10 years describing whether or not revisions to the SMP, are needed. The updated SMP also includes, as required, revised shoreline classification maps that incorporate the proposed shoreline classification maps included in the license application filed August 29, 2006 and the proposed shoreline management guidelines included in the Comprehensive Relicensing Agreement filed on December 29, 2006.

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* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field (P–2232) 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. Agencies may obtain copies of the application directly from the applicant.

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, respectively. 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 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 commenting, 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. Any filing made by an intervenor 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 385.2010.

Dated: January 25, 2017.

Nathaniel J. Davis, Sr.,

Deputy Secretary.

[FR Doc. 2017–02041 Filed 1–30–17; 8:45 am]

BILLING CODE 6717–01–P

FEDERAL ACCOUNTING STANDARDS ADVISORY BOARD

Notice of Issuance of Statement of Federal Financial Accounting Standards 51

AGENCY: Federal Accounting Standards Advisory Board.

ACTION: Notice.

Board Action: Pursuant to 31 U.S.C. 3511(d), the Federal Advisory Committee Act (Pub. L. 92–463), as amended, and the FASAB Rules of Procedure, as amended in October 2010, notice is hereby given that the Federal Accounting Standards Advisory Board (FASAB) has issued Statement of Federal Financial Accounting Standards (SFFAS) 51, *Insurance Programs.*

The Statement is available on the FASAB Web site at *http://www.fasab.gov/accounting-standards/.* Copies can be obtained by contacting FASAB at (202) 512–7350.

FOR FURTHER INFORMATION CONTACT: Ms. Wendy M. Payne, Executive Director, 441 G Street NW., Mailstop 6H19, Washington, DC 20548, or call (202) 512–7350.

Authority: Federal Advisory Committee Act, Pub. L. 92–463.

Dated: January 18, 2017.

Wendy M. Payne,

Executive Director.

[FR Doc. 2017–02028 Filed 1–30–17; 8:45 am]

BILLING CODE 1610–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meetings

AGENCY: Federal Election Commission.

DATE AND TIME: Wednesday, February 1, 2017 at 10:00 a.m.

PLACE: 999 E Street NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

FEDERAL REGISTER NOTICE OF PREVIOUS ANNOUNCEMENT: 82 FR 8613.

CHANGE IN THE MEETING: The February 1, 2017 Public Hearing on Internet Communication Disclaimers has been postponed.

PERSON TO CONTACT FOR INFORMATION: Judith Ingram, Press Officer, Telephone: (202) 694–1220.

Dayna C. Brown,

Acting Secretary and Clerk of the Commission.

[FR Doc. 2017–02090 Filed 1–27–17; 11:15 am]

BILLING CODE 6715–01–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 February 24, 2017.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Nicolet Bankshares, Inc.,* Green Bay, Wisconsin; to acquire 100 percent of First Menasha Bancshares, Inc., Neenah, Wisconsin, and thereby indirectly acquire The First National Bank—Fox Valley, Neenah, Wisconsin.

B. Federal Reserve Bank of Minneapolis (Jacquelyn K. Brunmeier, Assistant Vice President) 90 Hennepin Avenue, Minneapolis, Minnesota 55480–0291:

1. *Ameri Financial Group, Inc.,* Stillwater, Minnesota; to acquire 100 percent of First Resource Bank, Lino Lakes, Minnesota.

C. Federal Reserve Bank of San Francisco (Gerald C. Tsai, Director, Applications and Enforcement) 101 Market Street, San Francisco, California 94105–1579:

1. *BayCom Corp,* Walnut Creek, California; to merge with First ULB Corp., and thereby indirectly acquire United Business Bank, F.S.B., both of Oakland, California; and thereby engage in operating a savings association pursuant to 225.28(b)(4).

Board of Governors of the Federal Reserve System, January 25, 2017.

Yao-Chin Chao,

Assistant Secretary of the Board.

[FR Doc. 2017–01985 Filed 1–30–17; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Annual Update of the HHS Poverty Guidelines

AGENCY: Department of Health and Human Services.

ACTION: Notice.

SUMMARY: This notice provides an update of the Department of Health and Human Services (HHS) poverty guidelines to account for last calendar year's increase in prices as measured by the Consumer Price Index.

DATES: *Effective Date:* January 26, 2017 unless an office administering a program using the guidelines specifies a different effective date for that particular program.

ADDRESSES: Office of the Assistant Secretary for Planning and Evaluation, Room 404E, Humphrey Building, Department of Health and Human Services, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: For information about how the guidelines are used or how income is defined in a particular program, contact the Federal, state, or local office that is responsible for that program. For information about poverty figures for immigration forms, the Hill-Burton Uncompensated Services Program, and the number of people in poverty, use the specific telephone numbers and addresses given below.

For general questions about the poverty guidelines themselves, contact Suzanne Macartney, Office of the Assistant Secretary for Planning and Evaluation, Room 422F.3, Humphrey Building, Department of Health and Human Services, Washington, DC 20201—telephone: (202) 690–6143—or visit *http://aspe.hhs.gov/poverty/*.

For information about the percentage multiple of the poverty guidelines to be used on immigration forms such as USCIS Form I–864, Affidavit of Support, contact U.S. Citizenship and Immigration Services at 1–800–375–5283.

For information about the Hill-Burton Uncompensated Services Program (free or reduced-fee health care services at certain hospitals and other facilities for persons meeting eligibility criteria involving the poverty guidelines), contact the Health Resources and Services Administration Information Center at 1–800–275–4772. You also may visit *http://www.hrsa.gov/gethealthcare/affordable/hillburton/*.

For information about the number of people in poverty, visit the Poverty section of the Census Bureau's Web site at *http://www.census.gov/hhes/www/poverty/poverty.html* or contact the Census Bureau's Customer Service Center at 1–800–923–8282 (toll-free) or visit *https://ask.census.gov* for further information.

SUPPLEMENTARY INFORMATION:

Background

Section 673(2) of the Omnibus Budget Reconciliation Act (OBRA) of 1981 (42 U.S.C. 9902(2)) requires the Secretary of the Department of Health and Human Services to update the poverty guidelines at least annually, adjusting them on the basis of the Consumer Price

Index for All Urban Consumers (CPI–U). The poverty guidelines are used as an eligibility criterion by the Community Services Block Grant program and a number of other Federal programs. The *poverty guidelines* issued here are a simplified version of the *poverty thresholds* that the Census Bureau uses to prepare its estimates of the number of individuals and families in poverty.

As required by law, this update is accomplished by increasing the latest published Census Bureau poverty thresholds by the relevant percentage change in the Consumer Price Index for All Urban Consumers (CPI–U). The guidelines in this 2017 notice reflect the 1.3 percent price increase between calendar years 2015 and 2016. After this inflation adjustment, the guidelines are rounded and adjusted to standardize the differences between family sizes. In rare circumstances, the rounding and standardizing adjustments in the formula result in small decreases in the poverty guidelines for some household sizes even when the inflation factor is not negative. In cases where the year-to-year change in inflation is not negative and the rounding and standardizing adjustments in the formula result in reductions to the guidelines from the previous year for some household sizes, the guidelines for the affected household sizes are fixed at the prior year's guidelines. As in prior years, these 2017 guidelines are roughly equal to the poverty thresholds for calendar year 2016 which the Census Bureau expects to publish in final form in September 2017.

The poverty guidelines continue to be derived from the Census Bureau's current official poverty thresholds; they are not derived from the Census Bureau's Supplemental Poverty Measure (SPM).

The following guideline figures represent annual income.

2017 POVERTY GUIDELINES FOR THE 48 CONTIGUOUS STATES AND THE DISTRICT OF COLUMBIA

Persons in family/household	Poverty guideline
1	$12,060
2	16,240
3	20,420
4	24,600
5	28,780
6	32,960
7	37,140
8	41,320

For families/households with more than 8 persons add $4,180 for each additional person.

2017 POVERTY GUIDELINES FOR ALASKA

Persons in family/household	Poverty guideline
1	$15,060
2	20,290
3	25,520
4	30,750
5	35,980
6	41,210
7	46,440
8	51,670

For families/households with more than 8 persons, add $5,230 for each additional person.

2017 POVERTY GUIDELINES FOR HAWAII

Persons in family/household	Poverty guideline
1	$13,860
2	18,670
3	23,480
4	28,290
5	33,100
6	37,910
7	42,720
8	47,530

For families/households with more than 8 persons, add $4,810 for each additional person.

Separate poverty guideline figures for Alaska and Hawaii reflect Office of Economic Opportunity administrative practice beginning in the 1966–1970 period. (Note that the Census Bureau poverty thresholds—the version of the poverty measure used for statistical purposes—have never had separate figures for Alaska and Hawaii.) The poverty guidelines are not defined for Puerto Rico or other outlying jurisdictions. In cases in which a Federal program using the poverty guidelines serves any of those jurisdictions, the Federal office that administers the program is generally responsible for deciding whether to use the contiguous-states-and-DC guidelines for those jurisdictions or to follow some other procedure.

Due to confusing legislative language dating back to 1972, the poverty guidelines sometimes have been mistakenly referred to as the ''OMB'' (Office of Management and Budget) poverty guidelines or poverty line. In fact, OMB has never issued the guidelines; the guidelines are issued each year by the Department of Health and Human Services. The poverty guidelines may be formally referenced as ''the poverty guidelines updated periodically in the **Federal Register** by the U.S. Department of Health and Human Services under the authority of 42 U.S.C. 9902(2).''

Some federal programs use a percentage multiple of the guidelines (for example, 125 percent or 185 percent of the guidelines), as noted in relevant authorizing legislation or program regulations. Non-Federal organizations that use the poverty guidelines under their own authority in non-Federally-funded activities also may choose to use a percentage multiple of the guidelines.

The poverty guidelines do not make a distinction between farm and non-farm families, or between aged and non-aged units. (Only the Census Bureau poverty thresholds have separate figures for aged and non-aged one-person and two-person units.)

Note that this notice does not provide definitions of such terms as ''income'' or ''family,'' because there is considerable variation in defining these terms among the different programs that use the guidelines. These variations are traceable to the different laws and regulations that govern the various programs. This means that questions such as ''Is income counted before or after taxes?'', ''Should a particular type of income be counted?'', and ''Should a particular person be counted as a member of the family/household?'' are actually questions about how a specific program applies the poverty guidelines. All such questions about how a specific program applies the guidelines should be directed to the entity that administers or funds the program, since that entity has the responsibility for defining such terms as ''income'' or ''family,'' to the extent that these terms are not already defined for the program in legislation or regulations.

Dated: January 26, 2017.

Norris Cochran,

Acting Secretary of Health and Human Services.

[FR Doc. 2017–02076 Filed 1–27–17; 11:15 am]

BILLING CODE 4150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and

the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–143: Establishing Behavioral and Social Measures for Causal Pathway Research in Dental, Oral and Craniofacial Health.

Date: February 13, 2017.

Time: 1:30 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Tasmeen Weik, DRPH, MPH, Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3141, Bethesda, MD 20892, *weikts@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR Panel: Temporal Dynamics of Neurophysiological Patterns as Potential Targets for Treating Cognitive Deficits in Brain Disorders.

Date: February 14, 2017.

Time: 12:00 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Kirk Thompson, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5184, MSC 7844, Bethesda, MD 20892, 301–435–1242, *kgt@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; PAR 14–166 Early Phase Clinical Trials in Imaging and Image-Guided Interventions.

Date: February 23, 2017.

Time: 11:00 a.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Virtual Meeting).

Contact Person: Chiayeng Wang, Ph.D., Scientific Review Officer, Center for Scientific Review, 6701 Rockledge Drive, Room 5213, MSC 7852, Bethesda, MD 20892, 301–435–2397, *chiayeng.wang@nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Enabling Imaging Technologies.

Date: February 24, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Washington Marriott at Metro Center, 775 12th Street NW., Washington, DC 20005.

Contact Person: Michael L. Bloom, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6187, MSC 7804, Bethesda, MD 20892, 301–451–0132, *bloomm2@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01982 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; Fellowships in Diabetes, Endocrinology, and Metabolic Diseases.

Date: February 16–17, 2017.

Time: 8:00 a.m. to 6:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK–RC2 Review.

Date: February 16, 2017.

Time: 1:45 p.m. to 3:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Xiaodu Guo, M.D., Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7023, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–4719, *guox@extra.niddk.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; NIDDK–B Member Conflict Applications.

Date: February 17, 2017.

Time: 11:30 a.m. to 12:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Thomas A. Tatham, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7021, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–3993, *tathamt@mail.nih.gov.*

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel; A Community Research Resource of Microbiome-Derived Factors Modulating Host Physiology in Obesity, Digestive and Liver Diseases, and Nutrition (R24).

Date: February 28, 2017.

Time: 1:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Paul A. Rushing, Ph.D., Scientific Review Officer, Review Branch, DEA, NIDDK, National Institutes of Health, Room 7345, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8895, *rushingp@extra.niddk.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: January 25, 2017.

David Clary,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01989 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of 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 National Advisory Mental Health Council.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the 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/or contract proposals 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 and/or contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Advisory Mental Health Council.

Date: February 9, 2017.

Closed: 8:00 a.m. to 8:45 a.m.

Agenda: To review and evaluate the NIMH Division of Intramural Research Programs.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Open: 9:00 a.m. to 12:45 p.m.

Agenda: Presentation of the NIMH Director's Report and discussion of NIMH program.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Closed: 2:00 p.m. to 5:00 p.m.

Agenda: To review and evaluate grant applications and/or proposals.

Place: National Institutes of Health, Neuroscience Center, 6001 Executive Boulevard, Rockville, MD 20852.

Contact Person: Jean G. Noronha, Ph.D., Director, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6154, MSC 9609, Bethesda, MD 20892–9609, 301–443–3367, *jnoronha@mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's/Center's home page: *www.nimh.nih.gov/about/advisory-boards-and-groups/namhc/index.shtml.,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program No. 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: January 25, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01990 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meetings

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 meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: February 24, 2017.

Time: 9:00 a.m. to 12:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Amir E. Zeituni, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9834, Rockville, MD 20852, 301–496–2550, *amir.zeituni@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: February 24, 2017.

Time: 1:00 p.m. to 3:30 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Amir E. Zeituni, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9834, Rockville, MD 20852, 301–496–2550, *amir.zeituni@nih.gov.*

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; NIAID Peer Review Meeting.

Date: February 24, 2017.

Time: 3:30 p.m. to 6:00 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, 5601 Fishers Lane, Rockville, MD 20892 (Telephone Conference Call).

Contact Person: Amir E. Zeituni, Ph.D., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, NIAID/NIH/DHHS, 5601 Fishers Lane, MSC–9834, Rockville, MD 20852, 301–496–2550, *amir.zeituni@nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 25, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01988 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; 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 on Aging Special Emphasis Panel; GEMSSTAR.

Date: February 27, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Residence Inn Bethesda, 7335 Wisconsin Avenue, Bethesda, MD 20814.
Contact Person: Isis S. Mikhail, MD, MPH, DRPH, National Institute on Aging, Gateway Building, 7201 Wisconsin Avenue, Suite 2C212, Bethesda, MD 20892, 301–402–7704, *MIKHAILI@MAIL.NIH.GOV.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.866, Aging Research, National Institutes of Health, HHS)

Dated: January 25, 2017.

Melanie J. Pantoja,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01987 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center For Scientific Review; 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: Center for Scientific Review Special Emphasis Panel; R15 Academic Research Enhancement in Genetics and Molecular Mechanisms.
Date: February 2, 2017.
Time: 10:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892.
Contact Person: Luis Dettin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2208, Bethesda, MD 20892, 301–451–1327, *dettinle@nih.csr.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01983 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Oncology 1—Basic Translational Integrated Review Group; Cancer Genetics Study Section.
Date: February 27–28, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Juraj Bies, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4158, MSC 7806, Bethesda, MD 20892, 301–435–1256, *biesj@mail.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Clinical Oncology Study Section.
Date: February 27, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Sheraton Reston, 11810 Sunrise Valley Drive, Reston, VA 20191.
Contact Person: Malaya Chatterjee, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6192, MSC 7804, Bethesda, MD 20892, 301–806–2515, *chatterm@csr.nih.gov.*

Name of Committee: Cell Biology Integrated Review Group, Biology of the Visual System Study Section.
Date: February 27–28, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Hotel Kabuki, 1625 Post Street, San Francisco, CA 94115.
Contact Person: Michael H. Chaitin, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5202, MSC 7850, Bethesda, MD 20892, (301) 435–0910, *chaitinm@csr.nih.gov.*

Name of Committee: Biobehavioral and Behavioral Processes Integrated Review Group; Cognition and Perception Study Section.
Date: February 27–28, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Lorien Hotel & Spa, 1600 King Street, Alexandria, VA 22314.
Contact Person: Maribeth Champoux, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3182, MSC 7759, Bethesda, MD 20892, 301–594–3163, *champoum@csr.nih.gov.*

Name of Committee: Vascular and Hematology Integrated Review Group; Vascular Cell and Molecular Biology Study Section.
Date: February 27–28, 2017.
Time: 8:00 a.m. to 6:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.
Contact Person: Larry Pinkus, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4132, MSC 7802, Bethesda, MD 20892, (301) 435–1214, *pinkusl@csr.nih.gov.*

Name of Committee: Oncology 2—Translational Clinical Integrated Review Group; Radiation Therapeutics and Biology Study Section.
Date: February 27–28, 2017.
Time: 8:00 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: Embassy Suites at the Chevy Chase Pavilion, 4300 Military Road NW., Washington, DC 20015.
Contact Person: Bo Hong, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6194, MSC 7804, Bethesda, MD 20892, 301–996–6208, hongb@csr.nih.gov.

Name of Committee: Infectious Diseases and Microbiology Integrated Review Group; Virology—B Study Section.
Date: February 27–28, 2017.
Time: 8:30 a.m. to 5:00 p.m.
Agenda: To review and evaluate grant applications.
Place: The Westgate Hotel, 1055 Second Avenue, San Diego, CA 92101.
Contact Person: John C. Pugh, Ph.D., Scientific Review Officer, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 1206, MSC 7808, Bethesda, MD 20892, (301) 435–2398, *pughjohn@csr.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844,

93.846-93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: January 25, 2017.

Natasha M. Copeland,

Program Analyst, Office of Federal Advisory Committee Policy.

[FR Doc. 2017–01986 Filed 1–30–17; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[Docket ID: FEMA–2016–0033; OMB No. 1660–NW102]

Agency Information Collection Activities: Proposed Collection; Comment Request; Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: The Federal Emergency Management Agency (FEMA), as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on a new collection of surveys that replaces two unexpired collections. In accordance with the Paperwork Reduction Act of 1995, this notice seeks comments concerning the collection of Individual Assistance customer satisfaction survey responses and information for assessment and improvement of the delivery of disaster assistance to individuals and households.

DATES: Comments must be submitted on or before April 3, 2017.

ADDRESSES: To avoid duplicate submissions to the docket, please use only one of the following means to submit comments:

(1) *Online.* Submit comments at *www.regulations.gov* under Docket ID FEMA–2016–0033. Follow the instructions for submitting comments.

(2) *Mail.* Submit written comments to Docket Manager, Office of Chief Counsel, DHS/FEMA, 500 C Street SW., Room 8NE, Washington, DC 20472–3100.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available via the link in the footer of *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Jessica Guillory, Statistician, Customer Survey & Analysis Section, Recovery Directorate, FEMA at *Jessica.Guillory@fema.dhs.gov.* You may contact the Records Management Division for copies of the proposed collection of information at email address: *FEMA-Information-Collections-Management@fema.dhs.gov.*

SUPPLEMENTARY INFORMATION: This collection is in accordance with Executive Order 12862 and 13571 requiring all Federal agencies to survey customers to determine the kind and quality of services they want and their level of satisfaction with existing services. The Government Performance and Results Act (GPRA) requires agencies to set missions and goals and measure performance against them and the GPRA Modernization Act of 2010 requires quarterly performance assessments of government programs for the purposes of assessing agency performance and improvement. FEMA will fulfill these requirements by collecting customer satisfaction program information through surveys of the Recovery Directorate's external customers.

Collection of information

Title: Federal Emergency Management Agency Individual Assistance Customer Satisfaction Surveys.

Type of Information Collection: New Collection.

OMB Number: 1660–NW102.

FEMA Forms: FEMA Form 519–0–37, Initial Survey—Electronic; FEMA Form 519–0–36, Initial Survey—Phone; FEMA Form 519–0–39, Contact Survey—Electronic; FEMA Form 519–0–38, Contact Survey—Phone; FEMA Form 519–0–41, Assessment Survey—Electronic; FEMA Form 519–0–40, Assessment Survey—Phone.

Abstract: Federal agencies are required to survey their customers to determine the kind and quality of services customers want and their level of satisfaction with those services. Analysis from the survey is used to measure FEMA's survivor-centric mission of being accessible, simple, timely, and effective in meeting the needs of survivors.

Affected Public: Individuals and Households.

Number of Respondents: 24,096.

Number of Responses: 24,096.

Estimated Total Annual Burden Hours: 8,095.

Estimated Cost: The estimated annual non-labor cost to respondents for expenditures on training, travel, and other resources is 31,104.00. There are no annual start-up or capital costs. The cost to the Federal Government is $1,766,288.36.

Comments

Comments may be submitted as indicated in the **ADDRESSES** caption above. Comments are solicited to (a) evaluate whether the proposed data collection is necessary for the proper performance of the agency, including whether the information shall have practical utility; (b) 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; (c) enhance the quality, utility, and clarity of the information to be collected; and (d) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

Dated: January 17, 2017.

Richard W. Mattison,

Records Management Program Chief, Mission Support, Federal Emergency Management Agency, Department of Homeland Security.

[FR Doc. 2017–01994 Filed 1–30–17; 8:45 am]

BILLING CODE 9111–23–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–02]

30-Day Notice of Proposed Information Collection: Management Certifications and Management Entity Profile

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments Due Date:* March 2, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez C. Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339. Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A. The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 12, 2016 at 81 FR 70436.

A. Overview of Information Collection

Title of Information Collection: Management Certifications and Management Entity Profile.

OMB Approval Number: 2502–0305.

Type of Request: Extension of currently approved.

Form Number: HUD–9832; HUD–9832a; HUD–9832b; HUD–9832c.

Description of the need for the information and proposed use: Owners of HUD-held, -insured, or subsidized multifamily housing projects must provide information for HUD's oversight of management agents/entities.

Respondents: (*i.e.* affected public): Owners of HUD-held, -insured, or subsidized multifamily housing projects.

Estimated Number of Respondents: 3,017.

Estimated Number of Responses: 3,017.

Frequency of Response: Varies.

Average Hours per Response: Varies.

Total Estimated Burden: 3,488.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses. HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 17, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–02051 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–01]

60-Day Notice of Proposed Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans Including: Collection and Payment of Mortgage Insurance Premiums, Escrow Administration, Providing Loan Information and Customer Services, Assessment of Post Endorsement Fees and Charges and Servicing Section 235 Loans

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 3, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Ivery W. Himes, Director, Office of Single Family Asset Management, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email Ivery W. Himes at *Ivery.W.Himes@hud.gov* or telephone 202–708–1672, option 3. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Himes.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: FHA-Insured Mortgage Loan Servicing for Performing Loans Including: Collection and Payment of Mortgage Insurance Premiums, Escrow Administration, Providing Loan Information and Customer Services, Assessment of Post Endorsement Fees and Charges and Servicing Section 235 Loans.

OMB Approval Number: 2502–0583.

Type of Request: Revision of currently approved collection.

Form Numbers: HUD–300, HUD–93100, HUD–93101, HUD–93101–A, HUD–93102, HUD–93114.

Description of the need for the information and proposed use: This information request is a comprehensive collection for mortgagees that service Federal Housing Administration ''FHA'' insured mortgage loans and the mortgagors, who are involved with collection and payment of mortgage insurance premiums, payment processing, escrow account administration, providing loan information and customer service, assessing post endorsement fees and charges and servicing Section 235 loans.

Respondents (*i.e.* affected public): Servicers of FHA-insured mortgages.

Estimated Number of Respondents: 12,924.

Estimated Number of Responses: 77,498,091.

Frequency of Response: Monthly.

Average Hours per Response: 30 minutes.

Total Estimated Burdens: 2,644,446.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 18, 2017.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing Associate Deputy Federal Housing Commissioner.

[FR Doc. 2017–02052 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–03]

60-Day Notice of Proposed Information Collection: Contractor's Requisition-Project Mortgages

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 3, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Theodore K. Toon, Director, Office of Multifamily Production, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Theodore.K.Toon@hud.gov* or telephone (202) 402–8386. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Contractor's Requisition-Project Mortgages.

OMB Approval Number: 2502–0028.

Type of Request: Extension of currently approved collection.

Form Number: HUD–92448.

Description of the need for the information and proposed use: Contractor's submit a monthly application for distribution of insured mortgage proceeds for construction costs. Multifamily Hub Centers ensure that the work is actually completed satisfactory.

Estimated Number of Respondents: 1,325.

Estimated Number of Responses: 15,900.

Frequency of Response: 12.

Average Hours per Response: 6.

Total Estimated Burdens: 95,400.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 23, 2017.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2017–02049 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–6001–N–04]

60-Day Notice of Proposed Information Collection: Multifamily Accelerated Processing (MAP) Guide

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 60 days of public comment.

DATES: *Comments Due Date:* April 3, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding

this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Colette Pollard, Reports Management Officer, QDAM, Department of Housing and Urban Development, 451 7th Street SW., Room 4176, Washington, DC 20410–5000; telephone 202–402–3400 (this is not a toll-free number) or email at *Colette.Pollard@hud.gov* for a copy of the proposed forms or other available information. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

FOR FURTHER INFORMATION CONTACT: Theodore K. Toon, Director, Office of Multifamily Housing Development, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 408–1142 (this is not a toll free number) for copies of the proposed forms and other available information. This is not a toll-free number. Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Pollard.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

A. Overview of Information Collection

Title of Information Collection: Multifamily Accelerated Processing (MAP) Guide.

OMB Approval Number: 2502–0541.

Type of Request: Revision.

Form Number: 4430.G.

Description of the need for the information and proposed use: The Multifamily Accelerated Processing Guide, November 2011 is being renewed by the Department. The MAP Guide is a procedural guide that permits approved Federal Housing Administration (FHA) Lenders to prepare, process, and submit loan applications for FHA multifamily mortgage insurance.

Respondents (*i.e.,* affected public): FHA approved MAP Lenders.

Estimated Number of Respondents: 90.

Estimated Number of Responses: 1,045.

Frequency of Response: 1.

Average Hours per Response: 436.

Total Estimated Burden: 419,775.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35.

Dated: January 23, 2017.

Janet M. Golrick,

Associate General Deputy Assistant Secretary for Housing-Associate Deputy Federal Housing Commissioner.

[FR Doc. 2017–02048 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5997–N–03]

30-Day Notice of Proposed Information Collection: Utility Allowance Adjustments for Rental Assistance

AGENCY: Office of the Chief Information Officer, HUD.

ACTION: Notice.

SUMMARY: HUD is seeking approval from the Office of Management and Budget (OMB) for the information collection described below. In accordance with the Paperwork Reduction Act, HUD is requesting comment from all interested parties on the proposed collection of information. The purpose of this notice is to allow for 30 days of public comment.

DATES: *Comments due date:* March 2, 2017.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503; fax: 202–395–5806, Email: *OIRA Submission@omb.eop.gov*

FOR FURTHER INFORMATION CONTACT: Inez C. Downs, Reports Management Officer, QMAC, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410; email *Inez C. Downs@hud.gov,* or telephone 202–402–8046. This is not a toll-free number. Person with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Relay Service at (800) 877–8339.

Copies of available documents submitted to OMB may be obtained from Ms. Downs.

SUPPLEMENTARY INFORMATION: This notice informs the public that HUD is seeking approval from OMB for the information collection described in Section A.

The **Federal Register** notice that solicited public comment on the information collection for a period of 60 days was published on October 3, 2016 at 81 FR 68024.

A. Overview of Information Collection

Title of Information Collection: Utility Allowance Adjustments for Rental Assistance.

OMB Approval Number: 2502–0352.

Type of Request: Extension of currently approved.

Form Number: None.

Description of the need for the information and proposed use: Multifamily project owners are required to advise the Secretary of the need for and request approval of a new utility allowance for tenants.

Respondents: Projects with tenant paid utilities.

Estimated Number of Respondents: 5,644.

Estimated Number of Responses: 1,524.

Frequency of Response: Various.

Average Hours per Response: 0.5 hours.

Total Estimated Burden: 762.

B. Solicitation of Public Comment

This notice is soliciting comments from members of the public and affected parties concerning the collection of information described in Section A on the following:

(1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) The accuracy of the agency's estimate of the burden of the proposed collection of information;

(3) Ways to enhance the quality, utility, and clarity of the information to be collected; and

(4) Ways to minimize the burden of the collection of information on those who are to respond: Including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

HUD encourages interested parties to submit comment in response to these questions.

C. Authority

Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35

Dated: January 17, 2017.

Colette Pollard,

Department Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 2017–02050 Filed 1–30–17; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–HQ–ES–2017–N227; FF09E00000 178 FXES11130900000]

Information Collection Request Sent to the Office of Management and Budget for Approval; Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (the U.S. Fish and Wildlife Service) have sent an information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval. This request is for an extension of a currently approved collection. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on January 31, 2017. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before March 2, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_Submissions@omb.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail), or *madonna_baucum@fws.gov* (email). Please include ''1018–0094'' in the subject line of your comments. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum at *madonna_baucum@fws.gov* (email) or 703–358–2503 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract

We (the U.S. Fish and Wildlife Service) collect information associated with application forms 3–200–54, 3–200–55, and 3–200–56 to determine the eligibility of applicants for permits requested in accordance with the criteria in section 10 of the Endangered Species Act (16 U.S.C. 1531 *et seq.;* Act). Based on which permits are issued, reports are used to monitor activities associated with permitted activities. The following forms are new to this collection: 3–202–55b, 3–202–55c, 3–202–55d, 3–202–55e, 3–202–55f, and 3–202–55g.

Our regulations implementing the Act are in chapter I, subchapter B of title 50 of the Code of Federal Regulations (CFR) (50 CFR 13 and 50 CFR 17). The regulations stipulate general and specific requirements that, when met, allow us to issue permits to authorize activities that are otherwise prohibited.

II. Data

OMB Control Number: 1018–0094.

Title: Federal Fish and Wildlife Permit Applications and Reports—Native Endangered and Threatened Species; 50 CFR 13 and 17.

Service Form Numbers: FWS Forms 3–200–54, 3–200–55, 3–200–56, 3–202–55b, 3–202–55c, 3–202–55d, 3–202–55e, 3–202–55f, and 3–202–55g.

Type of Request: Revision of a currently approved collection.

Description of Respondents: Individuals; consultants; and local, State, and Tribal governments.

Respondent's Obligation: Voluntary.

Frequency of Collection: On occasion, annually, one time.

Estimated Annual Nonhour Burden Cost: $55,400.

Requirement	Annual number of respondents	Total annual responses	Completion time per response (in hours)	Total annual burden hours (rounded)
SHA/CCAA				
Application (Form 3–200–54)				
Individuals	5	5	3	15
CCAAs	2	2	30	60
SHAs	3	3	30	90
Private Sector	21	21	3	63
CCAAs	16	16	30	480
SHAs	5	5	30	150
Government	7	7	3	21
CCAAs	5	5	30	150
SHAs	2	2	30	60
Annual report				
Individuals	10	10	8	80
Private Sector	40	40	8	320

Requirement	Annual number of respondents	Total annual responses	Completion time per response (in hours)	Total annual burden hours (rounded)
Government	14	14	8	112
Notifications (Incidental Take)				
Individuals	1	1	1	1
Notifications (Change in Land Owner)				
Individuals	1	1	1	1
RECOVERY/INTERSTATE COMMERCE				
Application (Form 3–200–55)				
Individuals	280	280	3	840
Private Sector	280	280	3	840
Government	80	80	3	240
Annual report				
Individuals	700	700	3	2,100
Private Sector	748	748	3	2,244
Government	800	800	3	2,400
Request To Revise List of Authorized Individuals				
Private Sector	30	30	0.5	15
Annual Report—Form 3–202–55b (Region 3 Bat Reporting Spreadsheet)				
Individuals	15	15	2.5	38
Private Sector	15	15	2.5	38
Government	12	12	2.5	30
Annual Report—Form 3–202–55c (Region 4 Bat Reporting Spreadsheet)				
Individuals	5	5	2.5	13
Private Sector	5	5	2.5	13
Government	5	5	2.5	13
Annual Report—Form 3–202–55d (Region 5 Bat Reporting Spreadsheet)				
Individuals	5	5	2.5	13
Private Sector	5	5	2.5	13
Government	5	5	2.5	13
Annual Report—Form 3–202–55e (Region 6 Bat Reporting Spreadsheet)				
Individuals	5	5	2.5	13
Private Sector	5	5	2.5	13
Government	5	5	2.5	13
Annual Report—Form 3–202–55f Non-Releasable Sea Turtle Annual Report				
Individuals	0	0	0.5	0
Private Sector	2	2	0.5	1
Government	5	5	0.5	2.5
Notification (Escape of Wildlife)				
Private Sector	1	1	1	1
Quarterly Report—Form 3–202–55g Sea Turtle Rehabilitation				
Private Sector	20	20	.5	10
HABITAT CONSERVATION PLAN				
Application (Form 3–200–56)				
Individuals	6	6	3	18
Private Sector	6	6	3	18

Requirement	Annual number of respondents	Total annual responses	Completion time per response (in hours)	Total annual burden hours (rounded)
Government	3	3	3	9
Annual Report				
Individuals	30	30	10	300
Private Sector	100	100	10	1,000
Government	26	26	10	260
Plan				
Individuals	10	10	2,080	20,800
Private Sector	20	20	2,080	41,600
Government	16	16	2,080	33,280
Total	3,382	3,382	.....	107,805 *

* Figures rounded to match submission to OMB in ROCIS.

III. Comments

On October 3, 2016, we published in the **Federal Register** (81 FR 68029) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on December 2, 2016. We received no comments on this information collection.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017–02110 Filed 1–30–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–MB–2017–N013; FF09M21200–167–FXMB1231099BPP0L2]

Information Collection Request Sent to the Office of Management and Budget (OMB) for Approval; Approval Procedures for Nontoxic Shot and Shot Coatings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (U.S. Fish and Wildlife Service) have sent an Information Collection Request (ICR) to OMB for review and approval. We summarize the ICR below and describe the nature of the collection and the estimated burden and cost. This information collection is scheduled to expire on January 31, 2017. We 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. However, under OMB regulations, we may continue to conduct or sponsor this information collection while it is pending at OMB.

DATES: You must submit comments on or before March 2, 2017.

ADDRESSES: Send your comments and suggestions on this information collection to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–5806 (fax) or *OIRA_DOCKET@OMB.eop.gov* (email). Please provide a copy of your comments to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS BPHC, 5275 Leesburg Pike, Falls Church, VA 22041–3803 (mail), or *madonna_baucum@fws.gov* (email). Please include ''1018–0067'' in the subject line of your comments. You may review the ICR online at *http://www.reginfo.gov.* Follow the instructions to review Department of the Interior collections under review by OMB.

FOR FURTHER INFORMATION CONTACT: Madonna Baucum, at *madonna_baucum@fws.gov* (email) or (703) 358–2503 (telephone).

SUPPLEMENTARY INFORMATION:

I. Abstract:

The Migratory Bird Treaty Act (MBTA) (16 U.S.C. 703 *et seq.*) prohibits the unauthorized take of migratory birds and authorizes the Secretary of the Interior to regulate take of migratory birds in the United States. Under this authority, we control the hunting of migratory game birds through regulations in 50 CFR part 20. On January 1, 1991, we banned lead shot for hunting waterfowl and coots in the United States.

Regulations at 50 CFR 20.134 outline the application and approval process for new types of nontoxic shot. When considering approval of a candidate material as nontoxic, we must ensure that it is not hazardous in the environment and that secondary exposure (ingestion of spent shot or its components) is not a hazard to migratory birds. To make that decision, we require each applicant to provide information about the solubility and toxicity of the candidate material. Additionally, for law enforcement purposes, a noninvasive field detection device must be available to distinguish candidate shot from lead shot. This information constitutes the bulk of an application for approval of nontoxic shot. The Director uses the data in the application to decide whether or not to approve a material as nontoxic.

II. Data

OMB Control Number: 1018–0067.

Title: Approval Procedures for Nontoxic Shot and Shot Coatings (50 CFR 20.134).

Expiration Date: January 31, 2017.

Service Form Number(s): None.

Type of Request: Extension of currently approved collection.

Description of Respondents: Businesses that produce and/or market approved nontoxic shot types or nontoxic shot coatings.

Respondent's Obligation: Required to obtain or retain a benefit.

Frequency of Collection: On occasion.

Estimated Number of Annual Responses: 1.

Completion Time per Response: 3,200 hours.

Estimated Total Annual Burden Hours: 3,200 hours.

Estimated Annual Non-hour Cost Burden: $26,630 ($1,630 application processing fee and $25,000 for solubility testing).

III. Comments

On November 17, 2016, we published in the **Federal Register** (81 FR 81153) a notice of our intent to request that OMB renew approval for this information collection. In that notice, we solicited comments for 60 days, ending on January 17, 2017. We received the following comments in response to the notice:

Comment 1: Olin/Winchester Ammunition requested clarification on the intent of our notice of intent.

Service Response: The purpose of our notice was to inform the public of our intent to renew this information collection requirement and to invite comments concerning the current information collection burden (specific information sought further spelled out below).

Comment 2: A commenter questioned the estimated burden of 3,200 hours.

Service Response: Our current estimate of burden comes from over 25 years of experience dealing with nontoxic shot applications and the companies preparing them.

Comment 3: The American Veterinary Medical Association expressed support for the information collection. Additionally, they encouraged us to change our terminology of ''nontoxic shot and shot coatings'' to ''nontoxic ammunition and ammunition coatings'' thereby being more inclusive of ammunition types

Service Response: We understand the desire to be more inclusive; however, our authority under the MBTA authorizes the Secretary of the Interior to regulate the take of migratory birds in the United States. Under this authority, we promulgate regulations controlling the hunting of migratory game birds through regulations in 50 CFR part 20. We do not have any authority over general nontoxic ammunition and ammunition coatings, only that which is used for the hunting and take of migratory birds.

We again invite comments concerning this information collection on:

- Whether or not the collection of information is necessary, including whether or not the information will have practical utility;
- The accuracy of our estimate of the burden for this collection of information;
- Ways to enhance the quality, utility, and clarity of the information to be collected; and
- Ways to minimize the burden of the collection of information on respondents.

Comments that you submit in response to this notice are a matter of public record. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time. While you can ask OMB in your comment to withhold your personal identifying information from public review, we cannot guarantee that it will be done.

Tina A. Campbell,

Chief, Division of Policy, Performance, and Management Programs, U.S. Fish and Wildlife Service.

[FR Doc. 2017–02123 Filed 1–30–17; 8:45 am]

BILLING CODE 4333–15–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

[RR04073000, XXXR4081X3, RX.05940913.7000000]

Notice of Public Meeting for the Glen Canyon Dam Adaptive Management Work Group

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice.

SUMMARY: The Glen Canyon Dam Adaptive Management Work Group (AMWG) makes recommendations to the Secretary of the Interior concerning Glen Canyon Dam operations and other management actions to protect resources downstream of Glen Canyon Dam, consistent with the Grand Canyon Protection Act. The AMWG meets two to three times a year.

DATES: The meeting will be held on Wednesday, February 15, 2017, from approximately 9:30 a.m. to approximately 5:30 p.m.; and Thursday, February 16, 2017, from approximately 8:30 a.m. to approximately 3 p.m.

ADDRESSES: The meeting will be held at the Embassy Suites Phoenix-Tempe, 4400 S. Rural Road, Tempe, Arizona, 85282.

FOR FURTHER INFORMATION CONTACT: Katrina Grantz, Bureau of Reclamation, telephone (801) 524–3635; facsimile (801) 524–3807; email at *kgrantz@usbr.gov.*

SUPPLEMENTARY INFORMATION: The Glen Canyon Dam Adaptive Management Program (GCDAMP) was implemented as a result of the Record of Decision on the Operation of Glen Canyon Dam Final Environmental Impact Statement to comply with consultation requirements of the Grand Canyon Protection Act (Pub. L. 102–575) of 1992. The GCDAMP includes a Federal advisory committee, the AMWG, a technical work group (TWG), a Grand Canyon Monitoring and Research Center, and independent review panels. The TWG is a subcommittee of the AMWG and provides technical advice and recommendations to the AMWG.

Agenda: The primary purpose of the meeting will be to receive updates on: (1) The Long-Term Experimental and Management Plan Record of Decision and implementation, (2) current basin hydrology, operations, and the 2018 hydrograph, (3) the Glen Canyon Dam Adaptive Management Program ''wiki'' Web site, (4) the Science Advisors Program, (5) the Administrative History Project, (6) science results from Grand Canyon Monitoring and Research Center staff, and (7) progress on the Fiscal Year 2018–20 Budget and Work Plan. The AMWG will also discuss other administrative and resource issues pertaining to the GCDAMP.

To view a copy of the agenda and documents related to the above meeting, please visit Reclamation's Web site at *https://www.usbr.gov/uc/rm/amp/amwg/mtgs/17feb15.* Time will be allowed at the meeting for any individual or organization wishing to make formal oral comments. To allow for full consideration of information by the AMWG members, written notice must be provided to Katrina Grantz, Bureau of Reclamation, Upper Colorado Regional Office, 125 South State Street, Room 8100, Salt Lake City, Utah, 84138; telephone (801) 524–3635; facsimile (801) 524–3807; email at

kgrantz@usbr.gov, at least five (5) days prior to the meeting. Any written comments received will be provided to the AMWG members.

Public Disclosure of Comments

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: January 24, 2017.

Grayford F. Payne,

Deputy Commissioner—Policy, Administration and Budget.

[FR Doc. 2017–02033 Filed 1–30–17; 8:45 am]

BILLING CODE 4332–90–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–17–002]

Government in the Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: February 3, 2017 at 11:00 a.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agendas for future meetings: None
2. Minutes
3. Ratification List
4. Vote in Inv. Nos. 701–TA–552–553 and 731–TA–1308 (Final)
   (Certain New Pneumatic Off-the-Road Tires from India and Sri Lanka). The Commission is currently scheduled to complete and file its determinations and views of the Commission by February 23, 2017.
5. Outstanding action jackets: None

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: January 27, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–02116 Filed 1–27–17; 4:15 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–947]

Certain Light-Emitting Diode Products and Components Thereof Commission Determination To Grant a Joint Motion To Terminate the Investigation on the Basis of a Settlement and License Agreement; Termination of the Investigation in Its Entirety

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to grant a joint motion to terminate the investigation on the basis of a settlement and license agreement filed by complainant Cree, Inc. of Durham, North Carolina (''Cree'') and respondents Feit Electric Company, Inc. of Pico Rivera, California and Feit Electric Company, Inc. of Xiamen, China (collectively, ''Feit''). The investigation is terminated in its entirety.

FOR FURTHER INFORMATION CONTACT: Cathy Chen, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2392. Copies of non-confidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone (202) 205–2000. General information concerning the Commission may also be obtained by accessing its Internet server at *https://www.usitc.gov.* The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at *https://edis.usitc.gov.* Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 205–1810.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on February 18, 2015, based on a complaint filed by Cree. 80 FR 8685–86 (Feb. 18, 2015). The complaint alleged violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain light-emitting diode products and components thereof by reason of infringement of certain claims of U.S. Patent Nos. 7,976,187; 8,766,298; 6,657,236; 7,312,474; 8,596,819; and 8,628,214. The complaint also alleged violations of section 337 with respect to two other patents that have since been terminated from the investigation. The complaint further alleged violations of section 337 based on false and misleadingly advertised light-emitting diode products and components thereof in violation of section 43(a) of the Lanham Act, 15 U.S.C. 1125(a), and/or the federal common law of unfair competition. The notice of investigation named Feit; Unity Opto Technology Co., Ltd. of New Taipei City, Taiwan; and Unity Microelectronics, Inc. of Plano, Texas (collectively, ''Unity'') as respondents. The Office of Unfair Import Investigations was also a party to the investigation.

On July 29, 2016, the presiding administrative law judge issued a final initial determination (''ID''), finding a violation of section 337 by Respondents. On September 29, 2016, the Commission determined, upon the parties' respective petitions, to review the ID in part, and requested briefing from the parties on the issues under review. On October 7, 2016, Respondents moved the Commission to reopen the record in this investigation in order to admit the results of verification testing for certain Feit accused products. On October 13, 2016, the parties submitted their respective briefs on the issues under review.

On December 16, 2016, Cree and Feit filed a joint motion to terminate the investigation in its entirety based on a settlement and license agreement. *See* Joint Motion to Terminate Investigation Based on Settlement and License Agreement (Dec. 16, 2016). Cree and Feit state in their joint motion to terminate that the ''investigation should also be terminated as to [Unity], given that the Unity products-at-issue in this investigation are imported and/or made solely on behalf of Feit, and are thus covered by the Agreement.'' *Id.* at 1. Unity did not oppose the motion. On December 20, 2016, the Commission Investigative Attorney filed a response in support of the joint motion to terminate. Also, on December 16, 2016, Cree and Feit filed an unopposed joint motion to stay the issuance of the final determination based on the joint motion to terminate. On December 19, 2016, the Commission extended the target date for completion of this investigation to January 26, 2017.

Having examined the record of this investigation, the Commission has determined to grant the joint motion to terminate the investigation. Cree and Feit's joint motion to stay and Respondents' motion to reopen the

record are moot. The investigation is terminated in its entirety.

The authority for the Commission's determination is contained in section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, and in part 210 of the Commission's Rules of Practice and Procedure, 19 CFR part 210.

By order of the Commission.

Issued: January 25, 2017.

Lisa R. Barton,

Secretary to the Commission.

[FR Doc. 2017–02002 Filed 1–30–17; 8:45 am]

BILLING CODE 7020–02–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearings of the Judicial Conference Advisory Committee on the Federal Rules of Criminal Procedure

AGENCY: Advisory Committee on the Federal Rules of Criminal Procedure, Judicial Conference of the United States.

ACTION: Notice of cancellation of public hearing.

SUMMARY: The following public hearing on proposed amendments to the Federal Rules of Criminal Procedure has been canceled: Criminal Rules Hearing on February 24, 2017 in Washington, DC. The announcement for this meeting was previously published in 81 FR 52713.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Womeldorf, Rules Committee Secretary, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 26, 2017.

Rebecca A. Womeldorf,

Rules Committee Secretary.

[FR Doc. 2017–02015 Filed 1–30–17; 8:45 am]

BILLING CODE 2210–55–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—R Consortium, Inc.

Notice is hereby given that, on December 21, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), R Consortium, Inc. (''R Consortium'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Moore Foundation, Palo Alto, CA; and Datacamp, Cambridge, MA, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and R Consortium intends to file additional written notifications disclosing all changes in membership.

On September 15, 2015, R Consortium filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 2, 2015 (80 FR 59815).

The last notification was filed with the Department on October 7, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2016 (81 FR 76629).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–02020 Filed 1–30–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Media Workflow Association, Inc.

Notice is hereby given that, on December 22, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Media Workflow Association, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AJA Video Systems, Inc., Grass Valley, CA; dB Broadcast Limited, Witchford, Ely, UNITED KINGDOM; DELTACAST.TV, Ans, BELGIUM; and Streampunk Media, Aultbea, UNITED KINGDOM, have been added as parties to this venture.

Also, Australian Broadcasting Corp., Sydney, AUSTRALIA; InSync Technology, Ltd., Petersfield, UNITED KINGDOM; NBC Universal, New York, NY; NewTek, Inc., San Antonio, TX; Synco Services, Inc., New York, NY; Brooks Harris (individual member), New York, NY; and Christine MacNeill (individual member), Aultbea, Achnasheen, UNITED KINGDOM, have withdrawn as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Advanced Media Workflow Association, Inc. intends to file additional written notifications disclosing all changes in membership.

On March 28, 2000, Advanced Media Workflow Association, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 29, 2000 (65 FR 40127).

The last notification was filed with the Department on September 21, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on October 26, 2016 (81 FR 74480).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–02016 Filed 1–30–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

United States of America v. Duke Energy Corporation; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Duke Energy Corporation,* Civil Action No. 1:17–cv–00116. On January 18, 2017, the United States filed a Complaint alleging that Duke Energy Corporation violated Section 7A of the Clayton Act, 15 U.S.C. 18a, by acquiring the Osprey Energy Center from Calpine Corporation before filing the required notification form and observing the required waiting period. The proposed Final Judgment, filed at the same time as the Complaint, requires Duke Energy Corporation to pay a civil penalty of $600,000.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Caroline E. Laise, Assistant Chief, Transportation, Energy & Agriculture Section, Antitrust Division, Department of Justice, 450 Fifth Street NW., Suite 8000, Washington, DC 20530 (telephone: (202) 353–9797).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, U.S. Department of Justice, Antitrust Division, 450 Fifth St. NW., Suite 8000, Washington, DC 20530, Plaintiff, v. *Duke Energy Corporation, 550 South Tryon Street, Charlotte, NC 28202,* Defendants.

Case No.: 1:17–cv–00116
Judge: Beryl A. Howell
Filed: 01/18/2017

COMPLAINT

The United States of America, acting under the direction of the Attorney General of the United States, brings this civil action to obtain monetary relief in the form of civil penalties against the Defendant, Duke Energy Corporation (''Duke''), for violating Section 7A of the Clayton Act, as amended, 15 U.S.C. 18a, also commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (''HSR Act''), and alleges as follows:

I. NATURE OF THE ACTION

1. The HSR Act is an essential part of modern antitrust enforcement. The HSR Act and implementing regulations require purchasers to notify the Department of Justice and the Federal Trade Commission and wait for agency review before acquiring assets valued in excess of certain thresholds. A purchaser can ''acquire'' assets without taking formal legal title, for instance by obtaining operational control over the assets or otherwise obtaining ''beneficial ownership.'' The HSR Act's notice and waiting period requirements ensure that the parties to a proposed transaction continue to operate independently during review, preventing anticompetitive acquisitions from harming consumers before the government has had the opportunity to review them according to the procedures established by Congress in the Clayton Act. A purchaser that prematurely takes beneficial ownership of assets, sometimes referred to as ''gun jumping,'' is subject to statutory penalties for each day it is in violation.

2. In August 2014, Duke agreed to terms to purchase the Osprey Energy Center (''Osprey'') from its owner, Calpine Corporation (''Calpine''), a competing seller of wholesale electricity nationally and in Florida. Osprey is a combined-cycle natural gas-fired electrical generating plant located in Auburndale, Florida. Duke violated the HSR Act by obtaining beneficial ownership of Osprey before filing the required notification and observing the required waiting period.

3. Specifically, as part of the agreement to acquire the plant, Duke also entered into a ''tolling agreement'' whereby Duke immediately began exercising control over Osprey's output, and immediately began reaping the day-to-day profits and losses from the plant's business. Duke, for example, assumed control of purchasing all the fuel for the plant, arranging for delivery of that fuel, and arranging for transmission of all energy generated. Duke, not Calpine, retained the profit (or loss) from the difference between the price of the energy generated at Osprey and the cost to generate the energy, bearing all the risk of changes in the market price for fuel and the market price for energy. Based on these potential risks and rewards, Duke, and not Calpine, decided exactly how much energy would be generated by the plant on an hour-by-hour basis, and relayed those detailed instructions each day to plant personnel. Thus, from the moment the tolling agreement went into effect, Osprey ceased to be an independent competitive presence in the market for generating electricity for Florida consumers.

4. Duke was never interested in a tolling agreement alone—Duke was only interested in the tolling agreement as a step in the process of purchasing the plant. As a Duke executive explained in testimony to the Florida Public Service Commission, the tolling agreement reflected an effort to obtain expedited approval for the purchase of Osprey from the Federal Energy Regulatory Commission (''FERC''). When FERC reviews a proposed power plant acquisition, it typically employs a ''screen'' to assess how much the proposed acquisition would increase market concentration. While planning the acquisition of Osprey, Duke and Calpine anticipated the acquisition would fail the FERC screen. But with a tolling agreement in place, Duke hoped that FERC would treat Osprey as already effectively controlled by Duke, and would therefore conclude that an acquisition would lead to no change in Duke's market share and no increase in concentration under FERC's screen. Indeed, after entering into the tolling agreement, Duke argued to FERC that its acquisition of Osprey posed no competitive threat and did not increase concentration because Duke ''already controls [Osprey] pursuant to the Tolling Agreement.''

5. The combination of Duke's agreement to purchase Osprey and the contemporaneously negotiated and interdependent tolling agreement transferred beneficial ownership of Osprey's business to Duke before Duke had fulfilled its obligations under the HSR Act. As a result, Duke and Calpine did not continue to act as independent entities during the required waiting period while the Department of Justice investigated the proposed acquisition and determined whether to challenge it. Therefore, the Court should assess a civil penalty against Duke for its violation of the HSR Act.

II. JURISDICTION, VENUE, AND INTERSTATE COMMERCE

6. This Complaint is filed and these proceedings are instituted under Section 7A of the Clayton Act, 15 U.S.C. 18a, added by Title II of the HSR Act, to recover civil penalties for violations of that section.

1.

7. This Court has jurisdiction over the subject matter of this action pursuant to Section 7A(g) of the Clayton Act, 15 U.S.C. 18a(g), and pursuant to 28 U.S.C. 1331, 1337(a), 1345 and 1355.

8. The Defendant has consented to personal jurisdiction and venue in the District of Columbia for purposes of this action.

9. Duke is engaged in commerce, or in activities affecting commerce, within the meaning of Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1).

III. THE DEFENDANT

10. Defendant Duke Energy Corporation is organized under the laws of Delaware with its principal office and place of business at 550 South Tryon Street in Charlotte, North Carolina. Through various subsidiaries, Duke Energy Corporation generates and sells

electric power on a retail and/or wholesale basis in numerous local markets throughout the United States.

IV. WAITING PERIOD REQUIREMENTS OF THE HSR ACT

11. The HSR Act requires parties to file a notification with the Federal Trade Commission and the Department of Justice and to observe a waiting period before consummating acquisitions of voting securities or assets that exceed certain value thresholds. The required notification gives the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period provides the antitrust enforcement agencies with an opportunity to investigate and to seek an injunction to prevent harm from anticompetitive transactions.

12. The HSR Act requirements apply to a transaction if, as a result of the transaction, the acquirer will ''hold'' assets or voting securities valued above the thresholds. Section 801(c)(1) of the Premerger Notification Rules, 16 CFR 800 *et seq.,* defines ''hold'' to mean to have ''beneficial ownership.'' An acquiring person may prematurely obtain beneficial ownership of assets by, among other things, assuming the risk or potential benefit of changes in the value of the relevant assets and exercising control over day-to-day business decisions of the acquired person's business before the end of the HSR waiting period. This conduct, sometimes referred to as ''gun jumping,'' violates Section 7A of the Clayton Act.

13. Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), states that any person, or any officer, director, or partner thereof, who fails to comply with any provision of the HSR Act is liable to the United States for a civil penalty for each day during which the person is in violation. Beginning February 10, 2009, the maximum amount of civil penalty was increased to $16,000 per day, pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 74 FR 857 (Jan. 9, 2009). Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016), the maximum amount of civil penalty was increased to $40,000 per day.

V. THE TRANSACTION AND THE DEFENDANT'S UNLAWFUL CONDUCT

14. In August 2014, Duke and Calpine reached an agreement for Duke to purchase Osprey. The parties memorialized their agreement in an August 25, 2014 term sheet. The structure of the transaction included a tolling agreement to be put into effect until the closing of the acquisition. Duke and Calpine executed the tolling agreement on September 30, 2014, and it became effective the next day.

15. Tolling agreements are relatively common in the electricity industry, but the circumstances surrounding Duke's tolling agreement for the Osprey plant are not. Duke said in testimony to the Florida Public Service Commission that there was no separate rationale to enter this tolling agreement independent of the acquisition. Duke was only interested in the tolling agreement as a bridge to the acquisition of the plant itself. As a Duke executive testified, the tolling agreement was a ''mechanism to transfer the acquisition of the plant to [Duke].'' Duke insisted that it was only willing to enter into a tolling agreement in combination with an acquisition agreement, and only if Duke had the right to terminate the tolling agreement without penalty in the event that FERC rejected the acquisition.

16. The tolling agreement was designed to smooth approval by FERC by enabling Duke to argue that it ''already controls'' Osprey through the tolling agreement and thus that no new harm could come from permitting Duke to acquire Osprey outright. Under the tolling agreement, Duke was responsible for determining the amount of power that would be generated at Osprey, and for purchasing and delivering all the fuel necessary to produce that power. Duke was then entitled to receive all of the electricity generated by the facility.

17. After entering into the tolling agreement, Duke began to make all competitively significant decisions for the Osprey plant. Each day, Duke sent hour-by-hour instructions to Osprey personnel directing them to produce a certain amount of power. Duke also arranged to procure and deliver the necessary natural gas to Osprey—functions previously performed by Calpine. Duke also arranged for all of the power generated at Osprey to be transmitted to its destination. In other words, Duke decided when and how much natural gas would be delivered to the plant and decided when and how much energy would be produced by the plant. Duke was free to make all of these decisions based on its own business interests, and Osprey's function was limited to the mechanical operation of the facility consistent with Duke's instructions. Calpine ceased to make any significant competitive decisions for Osprey.

18. The combination of the tolling agreement and the asset purchase agreement transferred market risk (or potential gain) of a change in the fortunes of Osprey's business. Duke paid Calpine a fixed monthly fee plus a small amount to reimburse the plant's variable operations and maintenance costs. Duke also assumed financial responsibility for procuring natural gas, the plant's primary input cost. Thus, it was Duke who gained the profit or loss from sale of the energy, and it was Duke who assumed all the risk that fuel prices would increase or that energy market prices would fall. Calpine was no longer exposed to any risk of changes in the fuel or energy markets.

19. Months after the tolling agreement was executed and Duke had taken beneficial ownership of Osprey, Duke submitted a notification and report form pursuant to the HSR Act concerning its intent to acquire the Osprey plant, valued at approximately $166 million. On February 27, 2015, the antitrust agencies terminated the HSR waiting period. Duke had beneficial ownership of Osprey for the entire waiting period.

VI. VIOLATION OF SECTION 7A OF THE CLAYTON ACT

20. Plaintiff alleges and incorporates paragraphs 1 through 19 as if set forth fully herein.

21. Duke's acquisition of Osprey was subject to Section 7A premerger notification and waiting-period requirements.

22. Duke obtained beneficial ownership of Osprey prior to making its required premerger notification and observing the applicable waiting period in violation of Section 7A.

23. Accordingly, Defendant was continuously in violation of the requirements of the HSR Act each day beginning on October 1, 2014, until the waiting period was terminated on February 27, 2015.

VII. REQUEST FOR RELIEF

Wherefore, Plaintiff requests:

(a) that the Court adjudge and decree that Defendant violated the HSR Act and was in violation during the period of 150 days beginning on October 1, 2014, and ending on February 27, 2015;

(b) order that Defendant pay to the United States an appropriate civil penalty as provided under Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18(a)(g)(1), and 16 CFR 1.98(a);

(c) that the Court award the Plaintiff its costs of this suit; and,

(d) that the Court order such other and further relief as the Court may deem just and proper.

Dated: January 18, 2017.

Respectfully Submitted,

/s/

Renata B. Hesse (D.C. Bar #466107),
Acting Assistant Attorney General.

/s/

Jonathan B. Sallet,
Deputy Assistant Attorney General for Litigation.

/s/

Patricia A. Brink,
Director of Civil Enforcement.

/s/

Robert A. Potter,
Chief, Legal Policy Section.

/s/

Caroline E. Laise,
Assistant Chief, Transportation, Energy & Agriculture Section.

/s/

Robert A. Lepore,
Assistant Chief, Transportation, Energy & Agriculture Section.

/s/

Jade A. Eaton (D.C. Bar #939629)
Njeri Mugure,
Trial Attorneys, Transportation, Energy & Agriculture Section.

/s/

Kara B. Kuritz,
Attorney Advisor, Legal Policy Section.

U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8000, Washington, DC 20530, Phone: (202) 307–6316, Facsimile: (202) 307–2784, Email: *jade.eaton@usdoj.gov.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States Of America, Plaintiff,
v.
Duke Energy Corporation, Defendant.

Case No.: 1:17–cv–00116
Judge: Beryl A. Howell
Filed: 01/18/2017

COMPETITIVE IMPACT STATEMENT

Plaintiff United States of America (''United States''), pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THE PROCEEDING

On January 18, 2017, the United States filed a Complaint against Defendant Duke Energy Corporation (''Duke''), related to Duke's acquisition of the Osprey Energy Center (''Osprey'') from Calpine Corporation (''Calpine''). The Complaint alleges that Duke violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''HSR Act'').

The Complaint alleges that Duke acquired Osprey, through a transaction in excess of the then-applicable statutory thresholds, without making the required HSR Act filings with the agencies and without observing the required HSR Act waiting period. The HSR Act provides that ''no person shall acquire, directly or indirectly, any voting securities of any person'' exceeding certain thresholds until that person has filed pre-acquisition notification and report forms with the Department of Justice and the Federal Trade Commission (collectively, the ''federal antitrust agencies'' or ''agencies'') and the post-filing waiting period has expired. 15 U.S.C. 18a(a). A key purpose of the notification and waiting period is to protect consumers and competition from potentially anticompetitive transactions by providing the agencies an opportunity to conduct an antitrust review of proposed transactions before they are consummated.

At the same time the Complaint was filed, the United States also filed a Stipulation and proposed Final Judgment. Under the proposed Final Judgment, which is explained more fully below, Duke is required to pay a civil penalty to the United States in the amount of $600,000. The proposed Final Judgment is designed to deter HSR Act violations by Duke and similarly situated acquirers.

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATION

A. Duke's Acquisition of Osprey Energy Center From Calpine

In August 2014, Duke agreed to terms to purchase Osprey from Calpine, a competing seller of wholesale electricity nationally and in Florida. As part of the acquisition, Duke entered into a ''tolling agreement'' whereby Duke immediately began exercising control over Osprey's output, and immediately began reaping the day-to-day profits and losses from the plant's business. Duke, for example, assumed control of purchasing all the fuel for the plant, arranging for delivery of that fuel, and arranging for transmission of all energy generated. Duke retained the profit (or loss) from the difference between the price of the energy generated at Osprey and the cost to generate the energy, bearing all the risk of changes in the market price for fuel and the market price for energy. Based on these potential risks and rewards, Duke decided exactly how much energy would be generated by the plant on an hour-by-hour basis, and relayed those detailed instructions each day to plant personnel. Thus, from the moment the tolling agreement went into effect, Osprey ceased to be an independent competitive presence in the market for generating electricity for Florida consumers. The tolling agreement was entered months before Duke made its required HSR filing for the acquisition of Osprey.

Duke made clear in testimony filed with federal and state regulators that it only ever considered the tolling agreement in conjunction with an agreement to acquire Osprey. As Duke explained in its application to the Federal Energy Regulatory Commission (''FERC'') for permission to acquire the plant, Duke's negotiation with Calpine ''led to an agreement in principle whereby [Duke] would purchase power from Osprey Energy Center under a two-year power purchase agreement [the Tolling Agreement] and then purchase the facility itself.''

B. Duke's Alleged Violation of Section 7A

Before the HSR Act was enacted, the agencies were often forced to investigate anticompetitive mergers that had already been consummated without public notice. In those situations, the agencies' only recourse was to sue to unwind the parties' merger. During this time, the loss of competition continued to harm consumers, and if the court ultimately found that the merger was illegal, effective relief was often impossible to achieve. The HSR Act addressed these problems and strengthened antitrust enforcement by providing the antitrust agencies the ability to investigate certain large acquisitions before they are consummated. In particular, the HSR Act prohibits certain acquiring parties from undertaking an acquisition before required filings are made with the antitrust agencies and a prescribed waiting period expires or is terminated.

The HSR Act requirements apply to a transaction if, as a result of the transaction, the acquirer will ''hold''

assets or voting securities valued above the thresholds. Under HSR Rule 801.1(c), to ''hold'' assets or voting securities means ''beneficial ownership, whether direct, or indirect through fiduciaries, agents, controlled entities or other means.'' 16 CFR 801.1(c). Thus, under the Act, parties must make an HSR filing and observe a waiting period before transferring beneficial ownership of the assets or voting securities to be acquired. The Statement of Basis and Purpose accompanying the Rules explains that beneficial ownership is determined on a case-by-case basis, based on the indicia of beneficial ownership which include among others, the right to obtain the benefit of any increase in value or dividends, and the risk of loss of value. 43 FR 33,449 (July 31, 1978). The agencies have explained that a firm may also gain beneficial ownership by obtaining ''operational control'' of an asset.[1]

The combination of Duke's agreement to purchase Osprey and the tolling agreement transferred beneficial ownership of Osprey's business to Duke before Duke had fulfilled its obligations under the HSR Act. Duke's tolling agreement with Calpine gave it significant operational control over the Osprey plant, and allowed Duke to assume the risks or potential benefits of changes in the value of Osprey's business. Duke procured and decided how much fuel would be delivered to the plant, decided when and how much energy would be produced by the plant, and decided when and where that energy would be delivered. Calpine's function was limited to the mechanical operation of the Osprey facility consistent with Duke's instructions. In addition, Duke, and not Calpine, retained the margin between the cost of gas and the price of electricity. If the spread between the cost of gas and the market price of electricity increased or decreased prior to closing, Duke realized that gain or loss.

A tolling agreement alone does not necessarily confer beneficial ownership. Tolling agreements are relatively common in the electricity industry, and control over output and the shift of risk and benefit to the buyer over the term are typical features of such agreements. However, in this instance, as Duke admitted to regulators, the tolling agreement for the Osprey plant was entered as part and parcel of a broader agreement to acquire the plant and had no economic rationale independent from the acquisition. Considering the intertwined agreements in their totality, Calpine ceased to be an independent competitive presence in the market after entering the tolling agreement, and beneficial ownership of Osprey transferred to Duke.

Agreements that transfer some indicia of beneficial ownership, even if common in an industry, may violate Section 7A if entered into while the buyer intends to acquire the asset.[2] Entering into such agreements before filing the required HSR notifications and before the HSR waiting period expires defeats the purpose of the HSR Act by enabling the acquiring person to direct the acquired person's business to bring about the effects of an acquisition prior to completion of the agencies' antitrust review. Hence, Duke's obligation to file and observe the waiting period arose as of October 1, 2014, the effective date of the tolling agreement relating to the plant it intended to acquire.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment imposes a $600,000 civil penalty for violation of the HSR Act. The United States adjusted the penalty downward from the maximum permitted under the HSR Act in part because the Defendant was willing to resolve the matter by consent decree and avoid prolonged investigation and litigation. The relief will have a beneficial effect on competition because it will deter future instances in which parties seek to immediately remove an independent competitive presence from an industry before filing required pre-acquisition notifications with the agencies and observing the required waiting period. At the same time, the penalty will not have any adverse effect on competition.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

There is no private antitrust action for HSR Act violations; therefore, entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust action.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with this Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to: Caroline Laise, Assistant Chief, Transportation Energy and Agriculture Section, Antitrust Division, United States Department of Justice, 450 Fifth Street NW., Suite 8000, Washington, DC 20530, *Caroline.Laise@usdoj.gov*.

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against the Defendant. The United States is satisfied, however, that the proposed relief is an appropriate remedy in this matter. Given the facts of

[1] *See, e.g.,* Complaint, *United States* v. *Flakeboard Am. Ltd.,* No. 3:14–cv–4949 (N.D. Cal. Nov. 7, 2014), *available at https://www.justice.gov/atr/case-document/file/496511/download;* Complaint, *United States* v. *Smithfield Foods, Inc.,* No. 1:10–cv–00120 (D.D.C. Jan. 21, 2010), *available at https://www.justice.gov/atr/case-document/complaint-211;* Complaint, *United States* v. *Qualcomm Inc.,* No. 1:06CV00672 (PLF) (D.D.C. Apr. 13, 2006), *available at https://www.justice.gov/atr/case-document/complaint-civil-penalties-violation-premerger-reporting-requirements-hart-scott-0.*

[2] For example, the Department expressed this view in a 1996 speech by former Deputy Assistant Attorney General Larry Fullerton in which he discussed certain management contracts sometimes entered into by radio stations. Lawrence R. Fullerton, Deputy Assistant Attorney General, Antitrust Division, Dep't of Justice, Address at Business Development Associates Antitrust 1997 Conference (Oct. 21, 1996), *available at https://www.justice.gov/atr/file/518686/download.*

this case, the United States is satisfied that the proposed civil penalty is sufficient to address the violation alleged in the Complaint and to deter violations by similarly situated entities in the future, without the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

> (A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and
>
> (B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

Id. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States v. Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States v. SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v. U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting the court has broad discretion of the adequacy of the relief at issue); *United States v. InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3, (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[3]

As the United States Court of Appeals for the District of Columbia Circuit has held, a court conducting an inquiry under the APPA may consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States v. BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States v. Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States v. Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

> [t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[4] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States v. Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States v. Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom., Maryland v. United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States v. Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (concluding that ''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been

[3] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[4] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States v. Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language codified what Congress intended when it enacted the Tunney Act in 1974, as the author of this legislation, Senator Tunney, explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[5] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: January 18, 2017.

Respectfully Submitted,

_____/s/_____

Robert A. Lepore,

U.S. Department of Justice, Antitrust Division, 450 Fifth Street NW., Suite 8000, Washington, DC 20530, Phone: (202) 532–4928, Facsimile: (202) 307–2784, Email: robert.lepore@usdoj.gov.

IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Duke Energy Corporation,* Defendant.

Case No.: 1:17–cv–00116
Judge: Beryl A. Howell
Filed: 01/18/2017

[PROPOSED] FINAL JUDGMENT

WHEREAS, Plaintiff, United States of America, filed this action on January 18, 2017, alleging that Defendant, Duke Energy Corporation, violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and the United States and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law and without this Final Judgment constituting any evidence against or an admission by the Defendant with respect to any issue of fact or law;

NOW THEREFORE, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is ORDERED, ADJUDGED, AND DECREED:

I. JURISDICTION

The Court has jurisdiction over the subject matter of and each of the parties to this action. The Complaint states a claim upon which relief may be granted against the Defendant under Section 7A of the Clayton Act, 15 U.S.C. § 18a.

II. CIVIL PENALTY

Judgment is hereby entered in this matter in favor of Plaintiff United States of America and against Defendant Duke Energy Corporation, and pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104–134 § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54549 (Oct. 21, 1996), and 74 FR 857 (Jan. 9, 2009), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016). Defendant is hereby ordered to pay a civil penalty in the amount of six hundred thousand dollars ($600,000). Payment of the civil penalty ordered shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to: Janie Ingalls, United States Department of Justice, Antitrust Division, Antitrust Documents Group, 450 Fifth Street NW., Suite 1024, Washington, DC 20530.

Defendant shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of default to the date of payment.

III. COSTS

Each party shall bear its own costs of this action.

IV. PUBLIC INTEREST DETERMINATION

The entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Date: _____

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

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[5] *See also United States v. Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States v. Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

United States District Judge

[FR Doc. 2017–02026 Filed 1–30–17; 8:45 am]

BILLING CODE 4410–11–P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Mitchell P. Rales; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Mitchell P. Rales,* Civil Action No. 1:17–cv–00103. On January 17, 2017, the United States filed a Complaint alleging that Mitchell P. Rales violated the notice and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a, with respect to his acquisitions of voting securities of Colfax Corporation and Danaher Corporation. The proposed Final Judgment, filed at the same time as the Complaint, requires Mitchell P. Rales to pay a civil penalty of $720,000.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Daniel P. Ducore, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8416, Washington, DC 20580 (telephone: 202–326–2526; email: *dducore@ftc.gov*).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, c/o Department of Justice, Washington, D.C. 20530, Plaintiff, v. *Mitchell P. Rales, 2200 Pennsylvania Ave., N.W., Suite 800W, Washington, D.C. 20037*, Defendant.

Case No.: 1:17–cv–00103, Judge: Christopher R. Cooper, Filed: 01/17/2017

COMPLAINT FOR CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PREMERGER REPORTING AND WAITING REQUIREMENTS OF THE HART-SCOTT-RODINO ACT

The United States of America, Plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil antitrust action to obtain monetary relief in the form of civil penalties against Defendant Mitchell P. Rales (''Rales''). Plaintiff alleges as follows:

NATURE OF THE ACTION

1. Rales violated the notice and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a (''HSR Act'' or ''Act''), with respect to the acquisitions of voting securities of Colfax Corporation (''Colfax'') and Danaher Corporation (''Danaher'').

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 7A(g) of the Clayton Act, 15 U.S.C. 18a(g), and pursuant to 28 U.S.C. 1331, 1337(a), 1345, and 1355, and over the Defendant by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

3. Venue is properly based in this District by virtue of Defendant's principal office and place of business and Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

THE DEFENDANT

4. Defendant Rales is a natural person with his principal office and place of business at 2200 Pennsylvania Avenue, N.W., Suite 800W, Washington, D.C. 20037. Rales is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Rales had sales or assets in excess of $15.6 million.

OTHER ENTITIES

5. Colfax is a corporation organized under the laws of Delaware with its principal place of business at 420 National Business Parkway, 5th Floor, Annapolis Junction, MD 20701. Colfax is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Colfax had sales or assets in excess of $156.3 million.

6. Danaher is a corporation organized under the laws of Delaware with its principal place of business at 2200 Pennsylvania Avenue, N.W., Suite 800W, Washington, D.C. 20037. Danaher is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Danaher had sales or assets in excess of $156.3 million.

THE HART-SCOTT-RODINO ACT AND RULES

7. The HSR Act requires certain acquiring persons and certain persons whose voting securities or assets are acquired to file notifications with the federal antitrust agencies and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. 18a(a) and (b). These notification and waiting period requirements apply to acquisitions that meet the HSR Act's thresholds. As of February 1, 2001, the size of transaction threshold was $50 million. In addition, there is a separate filing requirement for transactions in which the acquirer will hold voting securities in excess of $100 million, and for transactions in which the acquirer will hold voting securities in excess of $500 million. One person involved in the transaction had to have sales or assets in excess of $10 million, and the other person had to have sales or assets in excess of $100 million. Since 2004, the size of transaction and size of person thresholds have been adjusted annually.

8. The HSR Act's notification and waiting period requirements are intended to give the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period is also intended to provide the federal antitrust agencies with an opportunity to investigate a proposed transaction and to successfully seek an injunction to prevent the consummation of a transaction that may violate the antitrust laws.

9. Pursuant to Section (d)(2) of the HSR Act, 15 U.S.C. 18a(d)(2), rules were promulgated to carry out the purposes of the HSR Act (the ''HSR Rules''). *See* 16 CFR 801–03. The HSR Rules, among

other things, define terms contained in the HSR Act.

10. Pursuant to section 801.1(c)(2) of the HSR Rules, 16 CFR 801.1(c)(2), the holdings of spouses and their minor children are considered holdings of each of them.

11. Pursuant to section 801.13(a)(1) of the HSR Rules, 16 CFR 801.13(a)(1), ''all voting securities of [an] issuer which will be held by the acquiring person after the consummation of an acquisition''—including any held before the acquisition—are deemed held ''as a result of'' the acquisition at issue.

12. Pursuant to sections 801.13(a)(2) and 801.10(c)(1) of the HSR Rules, 16 CFR 801.13(a)(2) and § 801.10(c)(1), the value of voting securities already held is the market price, defined to be the lowest closing price within 45 days prior to the subsequent acquisition.

13. Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), provides that any person, or any officer, director, or partner thereof, who fails to comply with any provision of the HSR Act is liable to the United States for a civil penalty for each day during which such person is in violation. From November 20, 1996, through February 9, 2009, the maximum amount of civil penalty was $11,000 per day, pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54548 (Oct. 21, 1996). As of February 10, 2009, the maximum amount of civil penalty was increased to $16,000 per day, pursuant to the Debt Collection Improvement Act of 1996, Pub. L. 104–134, 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 74 FR 857 (Jan. 9, 2009). Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016), the maximum amount of civil penalty was increased to $40,000 per day.

DEFENDANT'S PRIOR VIOLATION OF THE HSR ACT

14. On May 18, 1988, Equity Group Holdings (''Equity Group'') acquired sufficient voting securities of Interco Incorporated (''Interco'') so that its holdings exceeded the $15 million threshold then in effect under the HSR Act. Equity Group continued to acquire Interco voting securities through July 27, 1988. At that time, Rales was an ''ultimate parent entity'' of Equity Group within the meaning of the HSR Rules and controlled Equity Group for purposes of the HSR Act. *See* 16 CFR 801.1(a)(3). Accordingly, Equity Group's violations of the HSR Act are attributed to Rales.

15. Although it was required to do so, Equity Group did not file under the HSR Act prior to acquiring Interco voting securities on May 18, 1988.

16. On January 25, 1991, the United States filed a complaint for civil penalties alleging that Equity Group's acquisitions of Interco voting securities violated the HSR Act. At the same time, the United States filed a Stipulation signed by Equity Group and a proposed Final Judgment that would require Equity Group to pay a civil penalty of $850,000. The Final Judgment was entered by the court on January 30, 1991.

DEFENDANT'S VIOLATIONS OF THE HSR ACT

A. Failure to File HSR Act Notifications in Connection with Acquisitions of Colfax Voting Securities

17. Prior to May 7, 2008, Rales held approximately 57.9% of the voting securities of Colfax. Under the HSR Rules, because Rales held 50% or more of the voting securities of Colfax, any acquisitions he made of Colfax voting securities were exempt from the requirements of the HSR Act. *See* 16 CFR 802.30.

18. On May 7, 2008, Colfax made an Initial Public Offering of voting securities. As a result of the Initial Public Offering, Rales's holdings in Colfax decreased to approximately 20.8%. Because Rales no longer held over 50% of the voting securities of Colfax, Rales's subsequent acquisitions of Colfax voting securities were not exempt from the requirements of the HSR Act.

19. On October 31, 2011, Rales's wife acquired 25,000 shares of voting securities of Colfax on the open market. Pursuant to the HSR Rules, this acquisition was attributed to Rales. *See* 16 CFR 801.1(c)(2). As a result of this acquisition, Rales held voting securities of Colfax valued in excess of the $100 million threshold, as adjusted ($131.9 million).

20. Although he was required to do so, Rales did not file under the HSR Act prior to acquiring Colfax voting securities on October 31, 2011.

21. Rales continued to acquire voting securities of Colfax through August 5, 2015, but did not exceed the next highest HSR filing threshold.

22. On February 25, 2016, Rales made a corrective filing under the HSR Act for the 2011 acquisition of Colfax voting securities. The waiting period on the corrective filing expired on March 28, 2016.

28. Rales was in continuous violation of the HSR Act from October 31, 2011, when he acquired the Colfax voting securities valued in excess of the HSR Act's $100 million size-of-transaction threshold, as adjusted ($131.9 million), through March 28, 2016, when the waiting period expired.

B. Failure to File HSR Act Notifications in Connection with Acquisitions of Danaher Voting Securities

29. On January 31, 2008, Rales acquired 6,000 shares of voting securities of Danaher on the open market. As a result of this transaction, Rales held voting securities of Danaher valued at approximately $2.3 billion, in excess of the HSR Act's $500 million size-of-transaction threshold, as adjusted ($597.9 million).

30. Although he was required to do so, Rales did not file under the HSR Act prior to acquiring Danaher voting securities on January 31, 2008.

31. On February 25, 2016, Rales made a corrective filing under the HSR Act for the acquisition of Danaher voting securities. The waiting period on the corrective filing expired on March 28, 2016.

32. Rales was in continuous violation of the HSR Act from January 31, 2008, when he acquired the Danaher voting securities valued in excess of the HSR Act's $500 million size-of-transaction threshold, as adjusted ($597.9 million), through March 28, 2016, when the waiting period expired.

REQUESTED RELIEF

WHEREFORE, Plaintiff requests:

a. That the Court adjudge and decree that Defendant Rales's acquisition of Colfax voting securities on October 31, 2011, was a violation of the HSR Act, 15 U.S.C. 18a; and that Defendant Rales was in violation of the HSR Act each day from October 31, 2011, through March 28, 2016;

b. That the Court adjudge and decree that Defendant Rales's acquisition of Danaher voting securities on January 31, 2008, was a violation of the HSR Act, 15 U.S.C. 18a; and that Defendant Rales was in violation of the HSR Act each day from January 31, 2008, through March 28, 2016;

c. That the Court order Defendant Rales to pay to the United States an appropriate civil penalty as provided by the HSR Act. 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of

1996, Pub. L. 104–134, 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461 note), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54548 (Oct. 21, 1996), 74 FR 857 (Jan. 9, 2009), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016);

d. That the Court order such other and further relief as the Court may deem just and proper; and

e. That the Court award Plaintiff its costs of this suit.

FOR THE PLAINTIFF:

/s/

Renata B. Hesse, D.C. Bar No. 466107
Acting Assistant Attorney General, Department of Justice, Antitrust Division,
Washington, D.C. 20530

/s/

Daniel P. Ducore, D.C. Bar No. 933721
Special Attorney

/s/

Roberta S. Baruch, D.C. Bar No. 269266
Special Attorney

/s/

Kenneth A. Libby
Special Attorney

/s/

Jennifer Lee
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(202) 326–2694

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *Mitchell P. Rales*, Defendant.

Case No.: 1:17–cv–00103, Judge: Christopher R. Cooper, Filed: 01/17/2017

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement to set forth the information necessary to enable the Court and the public to evaluate the proposed Final Judgment that would terminate this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THIS PROCEEDING

On January 17, 2017, the United States filed a Complaint against Defendant Mitchell Rales (''Rales''), related to Rales's acquisitions of voting securities of Colfax Corporation (''Colfax'') and Danaher Corporation (''Danaher'') between January 2008 and August 2015. The Complaint alleges that Rales violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''HSR Act''). The HSR Act provides that ''no person shall acquire, directly or indirectly, any voting securities of any person'' exceeding certain thresholds until that person has filed pre-acquisition notification and report forms with the Department of Justice and the Federal Trade Commission (collectively, the ''federal antitrust agencies'' or ''agencies'') and the post-filing waiting period has expired. 15 U.S.C. 18a(a). A key purpose of the notification and waiting period is to protect consumers and competition from potentially anticompetitive transactions by providing the agencies an opportunity to conduct an antitrust review of proposed transactions before they are consummated.

The Complaint alleges that Rales acquired voting securities of Colfax and Danaher in excess of then-applicable statutory thresholds without making the required pre-acquisition HSR filings with the agencies and without observing the waiting period, and that Rales and each of Colfax and Danaher met the applicable statutory size of person thresholds.

At the same time the Complaint was filed in the present action, the United States also filed a Stipulation and proposed Final Judgment that eliminates the need for a trial in this case. The proposed Final Judgment is designed to deter Rales' HSR Act violations. Under the proposed Final Judgment, Rales must pay a civil penalty to the United States in the amount of $720,000.

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States first withdraws its consent. Entry of the proposed Final Judgment would terminate this case, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

A. Rales's Acquisitions of Colfax Voting Securities

Rales is an investor. At all times relevant to the Complaint, Rales had sales or assets in excess of $15.6 million. At all times relevant to the Complaint, Colfax had sales or assets in excess of $156.3 million.

Prior to May 7, 2008, Rales held approximately 57.9% of the voting securities of Colfax. Because he held 50% or more of the voting securities, pursuant to the HSR Rules he was able to acquire additional voting securities of Colfax without complying with the notification and waiting period requirements of the HSR Act. After Colfax completed its Initial Public Offering on May 7, 2008, Rales held approximately 20.8% of the voting securities of Colfax. Because he no longer held 50% or more of the voting securities of Colfax, subsequent acquisitions of Colfax voting securities were subject to the notification and waiting period requirements of the HSR Act. Further, under the HSR Rules, acquisitions of voting securities by spouses and minor children are attributed to each other.

On October 31, 2011, Rales's wife acquired 25,000 shares of voting securities of Colfax. As a result of this acquisition, Rales held voting securities of Colfax in excess of the $100 million filing threshold, as adjusted. Although Rales was required to file under the HSR Act prior to the October 31 transaction, he did not do so. Rales continued to acquire Colfax voting securities through August 5, 2015, without filing notification under the HSR Act.

Rales made a corrective HSR Act filing on February 25, 2016, after learning that his acquisitions were subject to the HSR Act's requirements and that he was obligated to file. The waiting period expired on March 28, 2016.

B. Rales's Acquisition of Danaher Voting Securities

Rales is a long-time investor in Danaher. Danaher is a manufacturer of tools and equipment. At all times relevant to the Complaint, Danaher had sales or assets in excess of $156.3 million.

On January 31, 2008, Rales acquired 6,000 shares of Danaher voting securities. As a result of the acquisition, Rales held Danaher voting securities valued over the $500 million threshold, as adjusted.

Rales made a corrective HSR Act filing on February 25, 2016, after learning that he was obligated to file. The waiting period expired on March 28, 2016.

The Complaint further alleges that Rales previously violated the HSR Act's notification requirements. In 1988, Equity Group Holdings (''Equity Group'') acquired voting securities of Interco Incorporated (''Interco'') without

filing under HSR and observing the waiting period. On January 25, 1991, the Department of Justice filed a complaint for civil penalties alleging that Equity Group's acquisitions of Interco voting securities violated the HSR Act. At the same time, the Department of Justice filed a Stipulation and proposed Final Judgment whereby Equity Group agreed to pay $850,000 in civil penalties. The Final Judgment was entered by the court on January 30, 1991. At the time of the acquisitions of Interco voting securities, Rales controlled Equity Group within the meaning of the HSR Rules and was an Ultimate Parent Entity of Equity Group. Accordingly, the violations by Equity Group were attributable to Rales.

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment imposes a $720,000 civil penalty designed to deter the Defendant and others from violating the HSR Act. The United States adjusted the penalty downward from the maximum permitted under the HSR Act because the violations were inadvertent, the Defendant promptly self-reported the violations after discovery, and the Defendant is willing to resolve the matter by consent decree and avoid prolonged investigation and litigation. The relief will have a beneficial effect on competition because the agencies will be properly notified of future acquisitions, in accordance with the law. At the same time, the penalty will not have any adverse effect on competition.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

There is no private antitrust action for HSR Act violations; therefore, entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust action.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with this Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to:

Daniel P. Ducore, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW, CC–8416, Washington, DC 20580, Email: *dducore@ftc.gov*

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

As an alternative to the proposed Final Judgment, the United States considered pursuing a full trial on the merits against the Defendant. The United States is satisfied, however, that the proposed relief is an appropriate remedy in this matter. Given the facts of this case, including the Defendant's self-reporting of the violation and willingness to promptly settle this matter, the United States is satisfied that the proposed civil penalty is sufficient to address the violation alleged in the Complaint and to deter violations by similarly situated entities in the future, without the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The APPA requires proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

Id. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States v, U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting that the court's ''inquiry is limited'' because the government has ''broad discretion'' to determine the adequacy of the relief secured through a settlement); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[1]

As the United States Court of Appeals for the District of Columbia Circuit has held, a court conducting an inquiry under the APPA may consider, among other things, the relationship between

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. 16(e) (2004), *with* 15 U.S.C. 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.''' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom., Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (concluding that ''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language codified what Congress intended when it enacted the Tunney Act in 1974, as the author of this legislation, Senator Tunney, explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3] A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: January 17, 2017

Respectfully Submitted,

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest'''').

[3] *See also United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

/s/

Kenneth A. Libby, *Special Attorney, U.S. Department of Justice, Antitrust Division,* c/o Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, Phone: (202) 326–2694

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, Plaintiff, v. *Mitchell P. Rales*, Defendant.

Case No.: 1:17-cv-00103, Judge: Christopher R. Cooper, Filed: 01/17/2017

FINAL JUDGMENT

Plaintiff, the United States of America, having commenced this action by filing its Complaint herein for violation of Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and Plaintiff and Defendant Mitchell P. Rales, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by the Defendant with respect to any such issue:

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED:

I.

The Court has jurisdiction of the subject matter of this action and of the Plaintiff and the Defendant. The Complaint states a claim upon which relief can be granted against the Defendant under Section 7A of the Clayton Act, 15 U.S.C. 18a.

II.

Judgment is hereby entered in this matter in favor of Plaintiff and against Defendant, and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), the Debt Collection Improvement Act of 1996, Pub. L. 104–134 § 31001(s) (amending the Federal Civil Penalties Inflation Adjustment Act of 1990, 28 U.S.C. 2461), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 61 FR 54549 (Oct. 21, 1996), and 74 FR 857 (Jan. 9, 2009), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74 § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016), Defendant is hereby ordered to pay a civil penalty in the amount of seven hundred twenty thousand dollars ($720,000). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to:

Janie Ingalls, *United States Department of Justice, Antitrust Division, Antitrust Documents Group,* 450 5th Street, NW, Suite 1024, Washington, DC 20530

Defendant shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

III.

Each party shall bear its own costs of this action.

IV.

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated:

United States District Judge

[FR Doc. 2017–02025 Filed 1–30–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Integrated Photonics Institute for Manufacturing Innovation Operating Under the Name of the American Institute for Manufacturing Integrated Photonics

Notice is hereby given that, on December 23, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), the Integrated Photonics Institute for Manufacturing Innovation operating under the name of the American Institute for Manufacturing Integrated Photonics (''AIM Photonics'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, The Regents of the University of California on behalf of its Berkeley campus, Berkeley, CA; The Regents of the University of California on behalf of its Davis campus, Davis, CA; University of Colorado Boulder, Boulder, CO; European Photonics Industry Consortium (EPIC), Paris, FRANCE; Microcircuit Laboratories LLC, Kennett Square, PA; and Toyota Research Institute of North America, Ann Arbor, MI, have been added as parties to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and AIM Photonics intends to file additional written notifications disclosing all changes in membership.

On June 16, 2016, AIM Photonics filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 25, 2016 (81 FR 48450).

The last notification was filed with the Department on September 27, 2016. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on November 3, 2016 (81 FR 76629).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–02023 Filed 1–30–17; 8:45 am]

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DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—FD.IO Project, Inc.

Notice is hereby given that, on December 21, 2016, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), fd.io Project, Inc. (''fd.io'') has filed written

notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, AT&T, Alpharetta, GA, has been added as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and fd.io intends to file additional written notifications disclosing all changes in membership.

On May 4, 2016, fd.io filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on June 9, 2016 (81 FR 37211).

Patricia A. Brink,

Director of Civil Enforcement, Antitrust Division.

[FR Doc. 2017–02019 Filed 1–30–17; 8:45 am]

BILLING CODE P

DEPARTMENT OF JUSTICE

Antitrust Division

United States v. Ahmet H. Okumus; Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)–(h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the District of Columbia in *United States of America* v. *Ahmet H. Okumus,* Civil Action No. 1:17–cv–00104. On January 17, 2017, the United States filed a Complaint alleging that Ahmet H. Okumus violated the notice and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a, with respect to his acquisition of voting securities of Web.com Group, Inc. The proposed Final Judgment, filed at the same time as the Complaint, requires Ahmet H. Okumus to pay a civil penalty of $180,000.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection on the Antitrust Division's Web site at *http://www.justice.gov/atr* and at the Office of the Clerk of the United States District Court for the District of Columbia. Copies of these materials may be obtained from the Antitrust Division upon request and payment of the copying fee set by Department of Justice regulations.

Public comment is invited within 60 days of the date of this notice. Such comments, including the name of the submitter, and responses thereto, will be posted on the Antitrust Division's Web site, filed with the Court, and, under certain circumstances, published in the **Federal Register**. Comments should be directed to Daniel P. Ducore, Special Attorney, United States, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW., CC–8416, Washington DC 20580 (telephone: 202–326–2526; email: *dducore@ftc.gov*).

Patricia A. Brink,

Director of Civil Enforcement.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, c/o Department of Justice, Washington, D.C. 20530, Plaintiff, v. *Ahmet H. Okumus, 767 Third Avenue, 35th Floor, New York, NY 10017*, Defendant.

Case No.: 1:17–cv–00104
Judge: Rosemary M. Collyer
Filed: 01/17/2017

COMPLAINT FOR CIVIL PENALTIES FOR FAILURE TO COMPLY WITH THE PREMERGER REPORTING AND WAITING REQUIREMENTS OF THE HART-SCOTT RODINO ACT

The United States of America, Plaintiff, by its attorneys, acting under the direction of the Attorney General of the United States and at the request of the Federal Trade Commission, brings this civil antitrust action to obtain monetary relief in the form of civil penalties against Defendant Ahmet H. Okumus (''Okumus''). Plaintiff alleges as follows:

NATURE OF THE ACTION

1. Okumus violated the notice and waiting period requirements of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, 15 U.S.C. 18a (''HSR Act'' or ''Act''), with respect to the acquisition of voting securities of Web.com Group, Inc. (''Web.com'').

JURISDICTION AND VENUE

2. This Court has jurisdiction over the subject matter of this action pursuant to Section 7A(g) of the Clayton Act, 15 U.S.C. 18a(g), and pursuant to 28 U.S.C. 1331, 1337(a), 1345, and 1355 and over the Defendant by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

3. Venue is properly based in this District by virtue of Defendant's consent, in the Stipulation relating hereto, to the maintenance of this action and entry of the Final Judgment in this District.

THE DEFENDANT

4. Defendant Okumus is a natural person with his principal office and place of business at 767 Third Avenue, 35th Floor, New York, NY 10017. Okumus is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Okumus had sales or assets in excess of $156.3 million.

OTHER ENTITIES

5. Web.com is a corporation organized under the laws of Delaware with its principal place of business at 12808 Gran Bay Parkway West, Jacksonville, FL 32258. Web.com is engaged in commerce, or in activities affecting commerce, within the meaning of Section 1 of the Clayton Act, 15 U.S.C. 12, and Section 7A(a)(1) of the Clayton Act, 15 U.S.C. 18a(a)(1). At all times relevant to this complaint, Web.com had sales or assets in excess of $15.6 million.

THE HART-SCOTT-RODINO ACT AND RULES

6. The HSR Act requires certain acquiring persons and certain persons whose voting securities or assets are acquired to file notifications with the federal antitrust agencies and to observe a waiting period before consummating certain acquisitions of voting securities or assets. 15 U.S.C. 18a(a) and (b). These notification and waiting period requirements apply to acquisitions that meet the HSR Act's thresholds. As of February 1, 2001, the size of transaction threshold was $50 million. In addition, there is a separate filing requirement for transactions in which the acquirer will hold voting securities in excess of $100 million, and for transactions in which the acquirer will hold voting securities in excess of $500 million. With respect to the size of person thresholds, the HSR Act requires one person involved in the transaction to have sales or assets in excess of $10 million, and the other person to have sales or assets in excess of $100 million. Since 2004, the size of transaction and size of person thresholds have been adjusted annually.

7. The HSR Act's notification and waiting period requirements are intended to give the federal antitrust agencies prior notice of, and information about, proposed transactions. The waiting period is also

intended to provide the federal antitrust agencies with an opportunity to investigate a proposed transaction and to determine whether to seek an injunction to prevent the consummation of a transaction that may violate the antitrust laws.

8. Section (c)(9) of the HSR Act, 15 U.S.C. 18a(c)(9), exempts from the requirements of the HSR Act acquisitions of voting securities made solely for the purpose of investment if, as a result of the acquisition, the securities acquired or held do not exceed ten percent of the outstanding voting securities of the issuer.

9. Pursuant to Section (d)(2) of the HSR Act, 15 U.S.C. 18a(d)(2), rules were promulgated to carry out the purposes of the HSR Act. 16 CFR 801–03 (''HSR Rules''). The HSR Rules, among other things, define terms contained in the HSR Act.

10. Pursuant to section 801.13(a)(1) of the HSR Rules, 16 CFR 801.13(a)(1), ''all voting securities of [an] issuer which will be held by the acquiring person after the consummation of an acquisition''—including any held before the acquisition—are deemed held ''as a result of'' the acquisition at issue.

11. Pursuant to sections 801.13(a)(2) and 801.10(c)(1) of the HSR Rules, 16 CFR 801.13(a)(2) and 801.10(c)(1), the value of voting securities already held is the market price, defined to be the lowest closing price within 45 days prior to the subsequent acquisition.

12. Section 802.21 of the HSR Rules, 16 CFR 802.21, provides that once a person has filed under the HSR Act and the waiting period has expired, the person can acquire additional voting securities of the issuer without making a new filing for five years from the expiration of the waiting period, so long as the holdings do not exceed a higher threshold than was indicated in the filing.

13. Section 7A(g)(1) of the Clayton Act, 15 U.S.C. 18a(g)(1), provides that any person, or any officer, director, or partner thereof, who fails to comply with any provision of the HSR Act is liable to the United States for a civil penalty for each day during which such person is in violation. Pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016), the maximum amount of civil penalty is $40,000 per day.

DEFENDANT'S PRIOR VIOLATION OF THE HSR ACT

14. On September 11, 2014, Okumus acquired voting securities of Web.com. As a result of this acquisition, Okumus held approximately 13.5% of the voting securities of Web.com. Okumus did not file under the HSR Act because he was relying on the exemption for acquisitions solely for the purpose of investment. However, that exemption is limited to acquisitions which result in holding 10% or less of the voting securities of the issuer. Accordingly, Okumus was required to file under the HSR Act prior to acquiring Web.com voting securities on September 11, 2014. Okumus continued to acquire voting securities of Web.com through November 6, 2014.

15. On November 21, 2014, Okumus made a corrective filing under the HSR Act for the acquisitions of Web.com voting securities. In a letter accompanying the corrective filing, Okumus acknowledged that the transaction was reportable under the HSR Act, but asserted that the failure to file and observe the waiting period was inadvertent.

16. On December 31, 2014, the Premerger Notification Office of the Federal Trade Commission sent a letter to Okumus indicating that it would not recommend a civil penalty action regarding the September 11, 2014, Web.com acquisition. The letter advised, however, that Okumus ''still must bear responsibility for compliance with the Act'' and was ''accountable for instituting an effective program to ensure full compliance with the Act's requirements.''

DEFENDANT'S VIOLATION OF THE HSR ACT

17. In his corrective HSR Act filing for the 2014 Web.com acquisitions, Okumus filed at the $50 million threshold. After the expiration of the waiting period, Okumus was permitted under the HSR Act to acquire additional voting securities of Web.com without making another HSR Act filing so long as he did not exceed the $100 million threshold, as adjusted. As of February 25, 2016, the adjusted $100 million threshold was $156.3 million.

18. On June 2, 2016, Okumus began acquiring additional voting securities of Web.com. Okumus continued to acquire additional voting securities of Web.com through June 27, 2016.

19. On June 27, 2016, Okumus acquired 236,589 voting securities of Web.com. As a result of this acquisition, Okumus held voting securities of Web.com valued in excess of the $156.3 million threshold then in effect.

20. Although required to do so, Okumus did not file under the HSR Act or observe the HSR Act's waiting period prior to completing the June 27, 2016, transaction.

21. On July 14, 2016, Okumus sold 33,200 voting securities of Web.com. As a result of this sale, Okumus no longer held voting securities of Web.com valued in excess of the $156.3 million HSR Act threshold.

22. Okumus was in continuous violation of the HSR Act from June 27, 2016, when he acquired the Web.com voting securities valued in excess of the HSR Act's then applicable $156.3 filing threshold, through July 14, 2016, when he no longer held voting securities of Web.com valued in excess of $156.3 million.

REQUESTED RELIEF

WHEREFORE, Plaintiff requests:

a. That the Court adjudge and decree that Defendant's acquisition of Web.com voting securities on June 27, 2016, was a violation of the HSR Act, 15 U.S.C. 18a; and that Defendant was in violation of the HSR Act each day from June 27, 2016, through July 14, 2016;

b. That the Court order Defendant to pay to the United States an appropriate civil penalty as provided by the HSR Act, 15 U.S.C. 18a(g)(1), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74, § 701 (further amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016);

c. That the Court order such other and further relief as the Court may deem just and proper; and

d. That the Court award Plaintiff its costs of this suit.

Dated: 01/17/2017

FOR THE PLAINTIFF UNITED STATES OF AMERICA:

/s/

Renata B. Hesse, D.C. Bar No. 466107

Acting Assistant Attorney General, Department of Justice, Antitrust Division, Washington, DC 20530, D.C. Bar No. 269266.

/s/

Daniel P. Ducore, D.C. Bar No. 933721

Special Attorney.

/s/

Roberta S. Baruch

Special Attorney.

/s/

Kenneth A. Libby

Special Attorney.

/s/

Jennifer Lee,

Special Attorney, Federal Trade Commission, Washington, DC 20580, (202) 326–2694.

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Ahmet H. Okumus*, Defendant.
Case No.: 1:17–cv–00104
Judge: Rosemary M. Collyer
Filed: 01/17/2017

COMPETITIVE IMPACT STATEMENT

The United States, pursuant to the Antitrust Procedures and Penalties Act (''APPA''), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement to set forth the information necessary to enable the Court and the public to evaluate the proposed Final Judgment that would terminate this civil antitrust proceeding.

I. NATURE AND PURPOSE OF THIS PROCEEDING

On January 17, 2017, the United States filed a Complaint against Defendant Ahmet H. Okumus (''Okumus''), related to Okumus's acquisition of voting securities of Web.com Group, Inc. (''Web.com'') in June 2016. The Complaint alleges that Okumus violated Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976 (the ''HSR Act''). The HSR Act provides that ''no person shall acquire, directly or indirectly, any voting securities of any person'' exceeding certain thresholds until that person has filed pre-acquisition notification and report forms with the Department of Justice and the Federal Trade Commission (collectively, the ''federal antitrust agencies'' or ''agencies'') and the post-filing waiting period has expired. 15 U.S.C. 18a(a). A key purpose of the notification and waiting period is to protect consumers and competition from potentially anticompetitive transactions by providing the agencies an opportunity to conduct an antitrust review of proposed transactions before they are consummated.

The Complaint alleges that Okumus acquired voting securities of Web.com in excess of then-applicable statutory thresholds without making the required pre-acquisition HSR filings with the agencies and without observing the waiting period, and that Okumus and Web.com met the applicable statutory size of person thresholds.

At the same time the Complaint was filed in the present action, the United States also filed a Stipulation and proposed Final Judgment that eliminates the need for a trial in this case. The proposed Final Judgment is designed to deter Okumus' HSR Act violations. Under the proposed Final Judgment, Okumus must pay a civil penalty to the United States in the amount of $180,000.

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered after compliance with the APPA, unless the United States first withdraws its consent. Entry of the proposed Final Judgment would terminate this case, except that the Court would retain jurisdiction to construe, modify, or enforce the provisions of the proposed Final Judgment and punish violations thereof.

II. DESCRIPTION OF THE EVENTS GIVING RISE TO THE ALLEGED VIOLATIONS OF THE ANTITRUST LAWS

Okumus is an investor with his principal office and place of business in New York City. At all times relevant to the Complaint, Okumus had sales or assets in excess of $156.3 million. At all times relevant to the Complaint, Web.com, a Delaware corporation headquartered in Jacksonville, Florida, had sales or assets in excess of $15.6 million.

On November 21, 2014, Okumus filed under the HSR Act to acquire voting securities of Web.com. Okumus filed at the $50 million threshold, as adjusted. After the waiting period expired, Okumus was permitted under the HSR Act to acquire additional voting securities of Web.com for five years without making a new HSR filing so long as his holdings did not exceed the $100 million threshold, as adjusted. On June 27, 2016, Okumus acquired additional voting securities of Web.com. As a result of this acquisition, Okumus held voting securities of Web.com valued at approximately $156.6 million, which was in excess of $156.3 million, the as adjusted $100 million threshold in effect at the time. Although he was required to do so under the HSR Act, Okumus failed to make an HSR filing and observe the statutory waiting period before consummating the June 27, 2016 acquisition.

On July 14, 2016, Okumus sold voting securities of Web.com. As a result of this sale, he no longer held voting securities valued in excess of $156.3 million, and was no longer in violation of the HSR Act.

The Complaint further alleges that Okumus's June 2016 HSR Act violation was not the first time Okumus had failed to observe the HSR Act's notification and waiting period requirements. On September 11, 2014, Okumus acquired voting securities of Web.com. As a result of this acquisition, Okumus held approximately 13.5 percent of the voting securities of Web.com. Okumus did not file under the HSR Act prior to making this acquisition, relying on the exemption for acquisitions made solely for the purpose of investment. *See* 15 U.S.C. 18a(c)(9). However, the exemption is limited to acquisitions that result in holdings that do not exceed ten percent of the voting securities of the issuer; acquisitions that result in holding in excess of ten percent require an HSR filing regardless of the purpose of the acquisition. On November 21, 2014, Okumus made a corrective HSR filing for the September 11, 2014 acquisition, and explained in a letter accompanying the corrective filing that his failure to file was inadvertent. On December 31, 2014, the Premerger Notification Office of the Federal Trade Commission notified Okumus by letter that it would not recommend a civil penalty for the violation, but advised Okumus that he was ''accountable for instituting an effective program to ensure full compliance with the Act's requirements.''

III. EXPLANATION OF THE PROPOSED FINAL JUDGMENT

The proposed Final Judgment imposes a $180,000 civil penalty designed to deter the Defendant and others from violating the HSR Act. The United States adjusted the penalty downward from the maximum permitted under the HSR Act because the violation was inadvertent, the Defendant promptly corrected the violation after discovery by selling voting securities, and the Defendant is willing to resolve the matter by consent decree and avoid prolonged investigation and litigation. The relief will have a beneficial effect on competition because the agencies will be properly notified of future acquisitions, in accordance with the law. At the same time, the penalty will not have any adverse effect on competition.

IV. REMEDIES AVAILABLE TO POTENTIAL PRIVATE LITIGANTS

There is no private antitrust action for HSR Act violations; therefore, entry of the proposed Final Judgment will neither impair nor assist the bringing of any private antitrust action.

V. PROCEDURES AVAILABLE FOR MODIFICATION OF THE PROPOSED FINAL JUDGMENT

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered by this Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent.

The APPA conditions entry of the decree upon this Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty (60) days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty (60) days of the date of publication of this Competitive Impact Statement in the **Federal Register**, or the last date of publication in a newspaper of the summary of this Competitive Impact Statement, whichever is later. All comments received during this period will be considered by the United States, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to entry. The comments and the response of the United States will be filed with this Court. In addition, comments will be posted on the U.S. Department of Justice, Antitrust Division's internet Web site and, under certain circumstances, published in the **Federal Register**. Written comments should be submitted to:

Daniel P. Ducore

Special Attorney, United States

c/o Federal Trade Commission

600 Pennsylvania Avenue NW.

CC–8416

Washington, DC 20580

Email: *dducore@ftc.gov*.

The proposed Final Judgment provides that this Court retains jurisdiction over this action, and the parties may apply to this Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. ALTERNATIVES TO THE PROPOSED FINAL JUDGMENT

As an alternative to the proposed Final Judgment, the United States considered pursuing a full trial on the merits against the Defendant. The United States is satisfied, however, that the proposed relief is an appropriate remedy in this matter. Given the facts of this case, including the Defendant's self-reporting of the violation and willingness to promptly settle this matter, the United States is satisfied that the proposed civil penalty is sufficient to address the violation alleged in the Complaint and to deter violations by similarly situated entities in the future, without the time, expense, and uncertainty of a full trial on the merits.

VII. STANDARD OF REVIEW UNDER THE APPA FOR THE PROPOSED FINAL JUDGMENT

The APPA requires proposed consent judgments in antitrust cases brought by the United States be subject to a sixty (60) day comment period, after which the court shall determine whether entry of the proposed Final Judgment is ''in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the court, in accordance with the statute as amended in 2004, is required to consider:

(A) the competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) the impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

Id. § 16(e)(1)(A) & (B). In considering these statutory factors, the court's inquiry is necessarily a limited one, as the government is entitled to ''broad discretion to settle with the defendant within the reaches of the public interest.'' *United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1461 (D.C. Cir. 1995); *see generally United States* v. *SBC Commc'ns, Inc.,* 489 F. Supp. 2d 1 (D.D.C. 2007) (assessing public interest standard under the Tunney Act); *United States* v. *U.S. Airways Group, Inc.,* 38 F. Supp. 3d 69, 75 (D.D.C. 2014) (noting that the court's ''inquiry is limited'' because the government has ''broad discretion'' to determine the adequacy of the relief secured through a settlement); *United States* v. *InBev N.V./S.A.,* No. 08–1965 (JR), 2009–2 Trade Cas. (CCH) ¶ 76,736, 2009 U.S. Dist. LEXIS 84787, at *3 (D.D.C. Aug. 11, 2009) (noting that the court's review of a consent judgment is limited and only inquires ''into whether the government's determination that the proposed remedies will cure the antitrust violations alleged in the complaint was reasonable, and whether the mechanism to enforce the final judgment are clear and manageable.'').[1]

As the United States Court of Appeals for the District of Columbia Circuit has held, a court conducting an inquiry under the APPA may consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See Microsoft,* 56 F.3d at 1458–62. With respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (quoting *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see also Microsoft,* 56 F.3d at 1460–62; *United States* v. *Alcoa, Inc.,* 152 F. Supp. 2d 37, 40 (D.D.C. 2001); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *3. Courts have held that:

[t]he balancing of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is ''*within the reaches of the public interest.*'' More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted).[2] In determining whether a proposed settlement is in the public interest, a district court ''must accord deference to the government's predictions about the

[1] The 2004 amendments substituted ''shall'' for ''may'' in directing relevant factors for court to consider and amended the list of factors to focus on competitive considerations and to address potentially ambiguous judgment terms. *Compare* 15 U.S.C. § 16(e) (2004), *with* 15 U.S.C. § 16(e)(1) (2006); *see also SBC Commc'ns,* 489 F. Supp. 2d at 11 (concluding that the 2004 amendments ''effected minimal changes'' to Tunney Act review).

[2] *Cf. BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

efficacy of its remedies, and may not require that the remedies perfectly match the alleged violations.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that a court should not reject the proposed remedies because it believes others are preferable); *Microsoft,* 56 F.3d at 1461 (noting the need for courts to be ''deferential to the government's predictions as to the effect of the proposed remedies''); *United States* v. *Archer-Daniels-Midland Co.,* 272 F. Supp. 2d 1, 6 (D.D.C. 2003) (noting that the court should grant due respect to the government's prediction as to the effect of proposed remedies, its perception of the market structure, and its views of the nature of the case).

Courts have greater flexibility in approving proposed consent decrees than in crafting their own decrees following a finding of liability in a litigated matter. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *Am. Tel. & Tel. Co.,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975)), *aff'd sub nom., Maryland* v. *United States,* 460 U.S. 1001 (1983); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (noting that room must be made for the government to grant concessions in the negotiation process for settlements (citing *Microsoft,* 56 F.3d at 1461)); *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy). To meet this standard, the United States ''need only provide a factual basis for concluding that the settlements are reasonably adequate remedies for the alleged harms.'' *SBC Commc'ns,* 489 F. Supp. 2d at 17.

Moreover, the court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint, and does not authorize the court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459; *see also U.S. Airways,* 38 F. Supp. 3d at 75 (noting that the court must simply determine whether there is a factual foundation for the government's decisions such that its conclusions regarding the proposed settlements are reasonable); *InBev,* 2009 U.S. Dist. LEXIS 84787, at *20 (concluding that ''the 'public interest' is not to be measured by comparing the violations alleged in the complaint against those the court believes could have, or even should have, been alleged''). Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Microsoft,* 56 F.3d at 1459–60. As this Court confirmed in *SBC Communications,* courts ''cannot look beyond the complaint in making the public interest determination unless the complaint is drafted so narrowly as to make a mockery of judicial power.'' 489 F. Supp. 2d at 15.

In its 2004 amendments, Congress made clear its intent to preserve the practical benefits of utilizing consent decrees in antitrust enforcement, adding the unambiguous instruction that ''[n]othing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2); *see also U.S. Airways,* 38 F. Supp. 3d at 76 (indicating that a court is not required to hold an evidentiary hearing or to permit intervenors as part of its review under the Tunney Act). This language codified what Congress intended when it enacted the Tunney Act in 1974, as the author of this legislation, Senator Tunney, explained: ''The court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Sen. Tunney). Rather, the procedure for the public interest determination is left to the discretion of the court, with the recognition that the court's ''scope of review remains sharply proscribed by precedent and the nature of Tunney Act proceedings.'' *SBC Commc'ns,* 489 F. Supp. 2d at 11.[3]

A court can make its public interest determination based on the competitive impact statement and response to public comments alone. *U.S. Airways,* 38 F. Supp. 3d at 76.

VIII. DETERMINATIVE DOCUMENTS

There are no determinative materials or documents within the meaning of the APPA that were considered by the United States in formulating the proposed Final Judgment.

Date: January 17, 2017
Respectfully submitted,
/s/
Kenneth A. Libby,
Special Attorney U.S. Department of Justice, Antitrust Division, c/o Federal Trade Commission, 600 Pennsylvania Avenue NW, Washington, DC 20580, Phone: (202) 326–2694, Email: *klibby@ftc.gov.*

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA

United States of America, Plaintiff, v. *Ahmet H. Okumus*, Defendant.
Case No.: 1:17–cv–00104
Judge: Rosemary M. Collyer
Filed: 01/17/2017

FINAL JUDGMENT

Plaintiff, the United States of America, having commenced this action by filing its Complaint herein for violation of Section 7A of the Clayton Act, 15 U.S.C. 18a, commonly known as the Hart-Scott-Rodino Antitrust Improvements Act of 1976, and Plaintiff and Defendant Ahmet H. Okumus, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this Final Judgment constituting any evidence against or an admission by the Defendant with respect to any such issue:

NOW, THEREFORE, before the taking of any testimony and without trial or adjudication of any issue of fact or law herein, and upon the consent of the parties hereto, it is hereby

ORDERED, ADJUDGED, AND DECREED:

I.

The Court has jurisdiction of the subject matter of this action and of the Plaintiff and the Defendant. The Complaint states a claim upon which relief can be granted against the Defendant under Section 7A of the Clayton Act, 15 U.S.C. 18a.

II.

Judgment is hereby entered in this matter in favor of Plaintiff and against Defendant, and, pursuant to Section 7A(g)(1) of the Clayton Act, 15 U.S.C.

[3] *See also United States* v. *Enova Corp.,* 107 F. Supp. 2d 10, 17 (D.D.C. 2000) (noting that the ''Tunney Act expressly allows the court to make its public interest determination on the basis of the competitive impact statement and response to comments alone''); *United States* v. *Mid-Am. Dairymen, Inc.,* No. 73–CV–681–W–1, 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71,980, *22 (W.D. Mo. 1977) (''Absent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should . . . carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.''); S. Rep. No. 93–298, at 6 (1973) (''Where the public interest can be meaningfully evaluated simply on the basis of briefs and oral arguments, that is the approach that should be utilized.'').

18a(g)(1), and the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015, Pub. L. 114–74 §701 (amending the Federal Civil Penalties Inflation Adjustment Act of 1990), and Federal Trade Commission Rule 1.98, 16 CFR 1.98, 81 FR 42,476 (June 30, 2016), Defendant is hereby ordered to pay a civil penalty in the amount of one hundred eighty thousand dollars ($180,000). Payment of the civil penalty ordered hereby shall be made by wire transfer of funds or cashier's check. If the payment is made by wire transfer, Defendant shall contact Janie Ingalls of the Antitrust Division's Antitrust Documents Group at (202) 514–2481 for instructions before making the transfer. If the payment is made by cashier's check, the check shall be made payable to the United States Department of Justice and delivered to:

Janie Ingalls

United States Department of Justice

Antitrust Division, Antitrust Documents Group

450 5th Street, NW

Suite 1024

Washington, D.C. 20530

Defendant shall pay the full amount of the civil penalty within thirty (30) days of entry of this Final Judgment. In the event of a default or delay in payment, interest at the rate of eighteen (18) percent per annum shall accrue thereon from the date of the default or delay to the date of payment.

III.

Each party shall bear its own costs of this action.

IV.

Entry of this Final Judgment is in the public interest. The parties have complied with the requirements of the Antitrust Procedures and Penalties Act, 15 U.S.C. 16, including making copies available to the public of this Final Judgment, the Competitive Impact Statement, and any comments thereon and the United States' responses to comments. Based upon the record before the Court, which includes the Competitive Impact Statement and any comments and response to comments filed with the Court, entry of this Final Judgment is in the public interest.

Dated: _____

_____

United States District Judge

[FR Doc. 2017–02024 Filed 1–30–17; 8:45 am]

BILLING CODE 4410–11–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice: (17–003)]

Notice of Intent To Grant Exclusive Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of intent to grant exclusive patent license.

SUMMARY: NASA hereby gives notice of its intent to grant an exclusive patent license in the United States to practice the invention described and claimed in U.S. Patent Number 7,867,589 entitled ''Hybrid Cryogenic Tank Construction and Method of Manufacture thereof;''

U.S. Patent Number 7,641,949 entitled ''Pressure Vessel with Improved Impact resistance and Method of making the same;'' U.S. Patent Number 8,561,829 entitled ''Composite Pressure Vessel including Crack Arresting Barrier;'' U.S. Patent Number 8,297,468 entitled ''Fuel Tank for Liquefied Natural Gas'' and U.S. Patent Number 6,953,129 entitled ''Pressure Vessel with Impact and Fire Resistant and Method of making same'' to Cimarron Composites, having its principal place of business in Huntsville, Alabama (USA). The fields of use may be limited to design and manufacturing of composite tanks and pressure vessels for aerospace and other commercial applications.

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 regarding the licensing of federally owned inventions as set forth in the Bayh-Dole Act and implementing regulations. 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 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.

ADDRESSES: Objections relating to the prospective license may be submitted to Mr. James J. McGroary, Chief Patent Counsel/LS01, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–0013.

FOR FURTHER INFORMATION CONTACT: Mr. Sammy Nabors, Technology Transfer Office/ZP30, Marshall Space Flight Center, Huntsville, AL 35812, (256) 544–5226.

SUPPLEMENTARY INFORMATION: This notice of intent to grant an exclusive patent license is issued in accordance with 35 U.S.C. 209(e) and 37 CFR 404.7(a)(1)(i). The 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 requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Information about other NASA inventions available for licensing can be found online at *http://technology.nasa.gov.*

Mark P. Dvorscak,

Agency Counsel for Intellectual Property.

[FR Doc. 2017–02007 Filed 1–30–17; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL SCIENCE FOUNDATION

Sunshine Act Meetings; National Science Board

The National Science Board's Committee on Strategy, pursuant to NSF regulations (45 CFR part 614), the National Science Foundation Act, as amended (42 U.S.C. 1862n–5), and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice of the scheduling of a teleconference for the transaction of National Science Board business, as follows:

DATE AND TIME: Tuesday, February 7, 2017 at 11:30 to 12:30 p.m. EST. Open session: 11:30 to 12:00 p.m.; closed session: 12:00 to 12:30 p.m.

SUBJECT MATTER: Open meeting subject: Review and discuss draft charge for the Committee on Strategy. Closed meeting subject: Review and discuss NSF draft Strategic Plan, 2018–2022.

STATUS: Partly open, partly closed.

This meeting will be held by teleconference. A public listening line will be available for the open portion of the meeting. Members of the public must contact the Board Office (call 703–292–7000 or send an email message to *nationalsciencebrd@nsf.gov*) at least 24 hours prior to the teleconference for the public listening number. Please refer to the National Science Board Web site for additional information and schedule updates (time, place, subject matter or status of meeting) which may be found at *http://www.nsf.gov/nsb/notices/.* The

point of contact for this meeting is Kathy Jacquart, *kjacquar@nsf.gov*.

Chris Blair,

Executive Assistant to the NSB Office.

[FR Doc. 2017–02096 Filed 1–27–17; 11:15 am]

BILLING CODE 7555–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 52–017; NRC–2008–0066]

Dominion Virginia Power, North Anna Unit 3

AGENCY: Nuclear Regulatory Commission.

ACTION: Combined license application; hearing.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding the application of Virginia Electric and Power Company, doing business as Dominion Virginia Power and Old Dominion Electric Power Company (Dominion) for a combined license (COL) to construct and operate an additional unit (Unit 3) at the North Anna site in Louisa County, Virginia. This mandatory hearing will concern safety and environmental matters relating to the requested COL.

DATES: The hearing will be held on March 23, 2017, beginning at 9:00 a.m. Eastern Daylight Time. For the schedule for submitting pre-filed documents and deadlines affecting Interested Government Participants, see Section V of the **SUPPLEMENTARY INFORMATION** section of this document.

ADDRESSES: Please refer to Docket ID 52–017 when contacting the NRC about the availability of information regarding this document. You may obtain publicly available information related to this document using any of the following methods: NRC's Electronic Hearing Docket: You may obtain publicly available documents related to this hearing online at *http://www.nrc.gov/about-nrc/regulatory/adjudicatory.html.*

- *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 a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Denise McGovern, Office of the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, telephone: 301–415–0681; email: *Denise.McGovern@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

The Commission hereby gives notice that, pursuant to Section 189a of the Atomic Energy Act of 1954, as amended (the Act), it will convene an evidentiary session to receive testimony and exhibits in the uncontested portion of this proceeding regarding Dominion's November 26, 2007, application for a COL under part 52 of title 10 of the *Code of Federal Regulations* (10 CFR), to construct and operate an additional unit (Unit 3) at the North Anna site in Louisa County, Virginia (*http://www.nrc.gov/reactors/new-reactors/col/north-anna.html*). This mandatory hearing will concern safety and environmental matters relating to the requested COL, as more fully described below. Participants in the hearing are not to address any contested issues in their written filings or oral presentations.

II. Evidentiary Uncontested Hearing

The Commission will conduct this hearing beginning at 9:00 a.m. Eastern Daylight Time on March 23, 2017, at the U.S. Nuclear Regulatory Commission, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852. The hearing on these issues will continue on subsequent days, if necessary.

III. Presiding Officer

The Commission is the presiding officer for this proceeding.

IV. Matters To Be Considered

The matter at issue in this proceeding is whether the review of the application by the Commission's staff has been adequate to support the findings found in 10 CFR 52.97 and 10 CFR 51.107. Those findings that must be made for a COL are as follows:

Issues Pursuant to the Atomic Energy Act of 1954, as Amended

The Commission will determine whether (1) the applicable standards and requirements of the Act and the Commission's regulations have been met; (2) any required notifications to other agencies or bodies have been duly made; (3) there is reasonable assurance that the facility will be constructed and will operate in conformity with the license, the provisions of the Act, and the Commission's regulations; (4) the applicant is technically and financially qualified to engage in the activities authorized; and (5) issuance of the license will not be inimical to the common defense and security or the health and safety of the public.

Issues Pursuant to the National Environmental Policy Act (NEPA) of 1969, as Amended

The Commission will (1) determine whether the requirements of Sections 102(2)(A), (C), and (E) of NEPA and the applicable regulations in 10 CFR part 51 have been met; (2) independently consider the final balance among conflicting factors contained in the record of the proceeding with a view to determining the appropriate action to be taken; (3) determine, after weighing the environmental, economic, technical, and other benefits against environmental and other costs, and considering reasonable alternatives, whether the combined license should be issued, denied, or appropriately conditioned to protect environmental values; and (4) determine whether the NEPA review conducted by the NRC staff has been adequate.

V. Schedule for Submittal of Pre-Filed Documents

No later than March 2, 2017, unless the Commission directs otherwise, the NRC staff and the applicant shall submit a list of its anticipated witnesses for the hearing.

No later than March 2, 2017, unless the Commission directs otherwise, the applicant shall submit its pre-filed written testimony. The NRC staff previously submitted its testimony on January 18, 2017.

The Commission may issue written questions to the applicant or the NRC staff before the hearing. If such questions are issued, an order containing such questions will be issued no later than February 17, 2017. Responses to such questions are due March 2, 2017, unless the Commission directs otherwise.

VI. Interested Government Participants

No later than February 15, 2017, any interested State, local government body, or affected, Federally-recognized Indian Tribe may file with the Commission a statement of any issues or questions to

which the State, local government body, or Indian Tribe wishes the Commission to give particular attention as part of the uncontested hearing process. Such statement may be accompanied by any supporting documentation that the State, local government body, or Indian Tribe sees fit to provide. Any statements and supporting documentation (if any) received by the Commission using the agency's E-filing system [1] by the deadline indicated above will be made part of the record of the proceeding. The Commission will use such statements and documents as appropriate to inform its pre-hearing questions to the NRC staff and applicant, its inquiries at the oral hearing and its decision following the hearing. The Commission may also request, prior to March 9, 2017, that one or more particular States, local government bodies, or Indian Tribes send one representative each to the evidentiary hearing to answer Commission questions and/or make a statement for the purpose of assisting the Commission's exploration of one or more of the issues raised by the State, local government body, or Indian Tribe in the pre-hearing filings described above. The decision of whether to request the presence of a representative of a State, local government body, or Indian Tribe at the evidentiary hearing to make a statement and/or answer Commission questions is solely at the Commission's discretion. The Commission's request will specify the issue or issues that the representative should be prepared to address.

States, local governments, or Indian Tribes should be aware that this evidentiary hearing is separate and distinct from the NRC's contested hearing process. Issues within the scope of contentions that have been admitted or contested issues pending before the Atomic Safety and Licensing Board or the Commission in a contested proceeding for a COL application are outside the scope of the uncontested proceeding for that COL application. In addition, although States, local governments, or Indian Tribes participating as described above may take any position they wish, or no position at all, with respect to issues regarding the COL application or the NRC staff's associated environmental review that do fall within the scope of the uncontested proceeding (*i.e.,* issues that are not within the scope of admitted contentions or pending contested issues), they should be aware that many of the procedures and rights applicable to the NRC's contested hearing process due to the inherently adversarial nature of such proceedings are not available with respect to this uncontested hearing. Participation in the NRC's contested hearing process is governed by 10 CFR 2.309 (for persons or entities, including States, local governments, or Indian Tribes, seeking to file contentions of their own) and 10 CFR 2.315(c) (for interested States, local governments, and Indian Tribes seeking to participate with respect to contentions filed by others). Participation in this uncontested hearing does not affect the right of a State, local government, or Indian Tribe to participate in the separate contested hearing process.

Dated at Rockville, Maryland, this 25th day of January, 2017.

For the Nuclear Regulatory Commission.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. 2017–02017 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

[1] The process for accessing and using the agency's E-filing system is described in the March 10, 2008, notice of hearing that was issued by the Commission for this proceeding. See Dominion Virginia Power; Notice of Hearing and Opportunity To Petition for Leave To Intervene on a Combined License for North Anna Unit 3 (73 FR 12760). Participants who are unable to use the electronic information exchange (EIE), or who will have difficulty complying with EIE requirements in the time frame provided for submission of written statements, may provide their statements by electronic mail to *hearingdocket@nrc.gov.*

NUCLEAR REGULATORY COMMISSION

[NRC–2017–0009]

Biweekly Notice; Applications and Amendments to Facility Operating Licenses and Combined Licenses Involving No Significant Hazards Considerations

AGENCY: Nuclear Regulatory Commission.

ACTION: Biweekly notice.

SUMMARY: Pursuant to section 189a. (2) of the Atomic Energy Act of 1954, as amended (the Act), the U.S. Nuclear Regulatory Commission (NRC) is publishing this regular biweekly notice. The Act requires the Commission to publish notice of any amendments issued, or proposed to be issued, and grants the Commission the authority to issue and make immediately effective any amendment to an operating license or combined license, as applicable, upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued, from December 31, 2016, to January 17, 2017. The last biweekly notice was published on January 17, 2017.

DATES: Comments must be filed by March 2, 2017. A request for a hearing must be filed by April 3, 2017.

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–2017–0009. 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: Lynn Ronewicz, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–1927, email: *Lynn.Ronewicz@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2017–0009, facility name, unit number(s), plant docket number, application date, and subject, when contacting the NRC about the availability of information for this action. You may obtain publicly-available information related to this action by any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0009.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by

email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that it is mentioned in this document.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

B. Submitting Comments

Please include Docket ID NRC–2017–0009, facility name, unit number(s), plant docket number, application date, and subject in your comment submission.

The NRC cautions you not to include identifying or contact information that you do not want to be publicly disclosed in your comment submission. The NRC will post all comment submissions at *http://www.regulations.gov,* as well as enter the comment submissions into ADAMS. The NRC does not routinely edit comment submissions to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the NRC, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that the NRC does not routinely edit comment submissions to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Notice of Consideration of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Proposed No Significant Hazards Consideration Determination

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in § 50.92 of title 10 of the *Code of Federal Regulations* (10 CFR), this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination.

Normally, the Commission will not issue the amendment until the expiration of 60 days after the date of publication of this notice. The Commission may issue the license amendment before expiration of the 60-day period provided that its final determination is that the amendment involves no significant hazards consideration. In addition, the Commission may issue the amendment prior to the expiration of the 30-day comment period if circumstances change during the 30-day comment period such that failure to act in a timely way would result, for example in derating or shutdown of the facility. If the Commission takes action prior to the expiration of either the comment period or the notice period, it will publish in the **Federal Register** a notice of issuance. If the Commission makes a final no significant hazards consideration determination, any hearing will take place after issuance. The Commission expects that the need to take this action will occur very infrequently.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d), the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to

establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by April 3, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or Federally-recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the

reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

For further details with respect to these license amendment applications, see the application for amendment which is available for public inspection in ADAMS and at the NRC's PDR. For additional direction on accessing information related to this document, see the ''Obtaining Information and Submitting Comments'' section of this document.

Duke Energy Florida, Inc., et al., Docket No. 50–302, Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: March 31, 2016. A publicly available version is in ADAMS under Accession No. ML16091A318.

Description of amendment request: The amendment would revise the Physical Protection license condition for the facility operating license to reflect a change to the Cyber Security Plan implementation schedule. Specifically, the completion date for Milestone 8 is proposed to be changed from December 31, 2017, to December 31, 2018.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed one year extension to the Cyber Security Plan implementation schedule for Milestone 8 does not alter the Fuel Handling Accident analysis, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications that affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and have no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the Cyber Security Plan implementation schedule for Milestone 8 does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications that affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation and safety analysis described in the FSAR [final safety analysis report]. The proposed change revises the Cyber Security Plan implementation schedule. The proposed Cyber Milestone 8 schedule change does not involve a significant reduction in a margin of safety because the proposed change does not involve changes to the initial conditions contributing to accident severity or consequences, or reduce response or mitigation capabilities. Because there is no change to these established safety margins as result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of § 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, 550 South Tryon Street, Charlotte, NC 28202.

NRC Branch Chief: Bruce A. Watson. CHP.

Duke Energy Florida, Inc., et al., Docket No. 50–302, Crystal River Unit 3 Nuclear Generating Plant, Citrus County, Florida

Date of amendment request: December 9, 2016. A publicly available version is in ADAMS under Accession No. ML16348A187.

Description of amendment request: The amendment would revise the Physical Protection license condition for the facility operating license by removing the existing cyber security license condition from the facility operating license.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed removal of the Cyber Security Plan does not alter the Fuel Handling Accident analysis, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications that affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and have no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed removal of the Cyber Security Plan does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications that affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation and safety analysis described in the FSAR [final safety analysis report]. The proposed removal of the Cyber Security Plan does not involve a significant reduction in a margin of safety because the proposed change does not involve changes to the initial conditions contributing to accident severity or consequences, or reduce response or mitigation capabilities. Because there is no change to these established safety margins as result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of § 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Lara S. Nichols, 550 South Tryon Street, Charlotte, NC 28202.

NRC Branch Chief: Bruce A. Watson, CHP.

Entergy Nuclear Operations, Inc., Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of amendment request: December 8, 2016. A publicly-available version is in ADAMS under Accession No. ML16343A947.

Description of amendment request: The amendment would revise the Cyber Security Plan (CSP) Milestone 8 full implementation date as set forth in the CSP Implementation Schedule as previously approved.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and has no impact on the probability or consequences of an accident previously evaluated.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

1. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change to the CSP Implementation Schedule is administrative in nature. This proposed change does not alter accident analysis assumptions, add any initiators, or affect the function of plant systems or the manner in which systems are operated, maintained, modified, tested, or inspected. The proposed change does not require any plant modifications which affect the performance capability of the structures, systems, and components relied upon to mitigate the consequences of postulated accidents and does not create the possibility of a new or different kind of accident from any accident previously evaluated.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

2. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

Plant safety margins are established through limiting conditions for operation, limiting safety system settings, and safety limits specified in the technical specifications. The proposed change to the CSP Implementation Schedule is administrative in nature. In addition, the milestone date delay for full implementation of the CSP has no substantive impact because other measures have been taken which provide adequate protection during this period of time. Because there is no change to established safety margins as a result of this change, the proposed change does not involve a significant reduction in a margin of safety.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jeanne Cho, Assistant General Counsel, Entergy Nuclear Operations, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Acting Branch Chief: Stephen S. Koenick.

Entergy Operations, Inc., Docket No. 50–368, Arkansas Nuclear One, Unit 2 (ANO–2), Pope County, Arkansas

Date of amendment request: October 27, 2016, as supplemented by letter dated December 2, 2016. Publicly-available versions are in ADAMS under Accession Nos. ML16302A227 and ML16340A018, respectively.

Description of amendment request: The amendment would revise the ANO–2 Renewed Facility Operating License NPF–6 specific to license conditions and requirements related to the adoption of National Fire Protection Association Standard 805 (NFPA 805), based on updated information associated with the modifications that were described and committed to in the ANO–2 license amendment request that was previously approved by the NRC to adopt a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c). The amendment would also provide updated information related to ignition frequencies, recovery actions, use of an NRC-approved fire modeling tool not previously recognized as being used by ANO, and dual unit control room abandonment.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The purpose of this amendment is to provide updated information associated with the modifications that were described and committed to the ANO–2 license amendment request that was submitted and subsequently approved by the NRC to adopt a new risk-informed, performance-based fire protection licensing basis that complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c), as well as the guidance contained in Regulatory Guide (RG) 1.205. The amendment also provides updated information related to ignition frequencies, recovery actions, use of an NRC-approved fire modeling tool not previously recognized as being used by ANO, and dual unit control room abandonment. The NRC considers that NFPA 805 provides an acceptable methodology and performance criteria for licensees to identify fire protection requirements that are an acceptable alternative to the 10 CFR part 50, Appendix R, fire protection features (69 FR 33536; June 16, 2004).

Operation of ANO–2 in accordance with the proposed amendment does not result in a significant increase in the probability or

consequences of accidents previously evaluated. The proposed amendment does not affect accident initiators or precursors as described in the ANO–2 Safety Analysis Report (SAR), nor does it adversely alter design assumptions, conditions, or configurations of the facility, and it does not adversely impact the ability of structures, systems, or components (SSCs) to perform their intended function to mitigate the consequences of accidents described and evaluated in the SAR. The proposed amendment does not adversely alter safety-related systems nor affect the way in which safety-related systems perform their functions as required by the accident analysis. The SSCs required to safely shut down the reactor and to maintain it in a safe shutdown condition will remain capable of performing the associated design functions.

Therefore, this change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

Implementation of the new risk-informed, performance-based fire protection licensing basis, with the revised modifications, recovery actions, application of an NRC-approved fire modeling method for ANO, and ignition frequencies, along with the demonstration of the risk impact of dual unit abandonment, complies with the requirements in 10 CFR 50.48(a) and 10 CFR 50.48(c), as well as the guidance contained in RG 1.205, and will not result in new or different kinds of accidents. The requirements in NFPA 805 address only fire protection. The impacts of fire effects on the plant have been evaluated. The proposed amendment does not involve new failure mechanisms or malfunctions that could initiate a new or different kind of accident beyond those already analyzed in the SAR.

Therefore, this change does not create the possibility of a new or different kind of accident from an accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment has been evaluated to ensure that risk and safety margins are maintained within acceptable limits. The risk evaluations for plant changes in relation to the potential for reducing a safety margin, were measured quantitatively for acceptability using the delta risk (*i.e.,* change in core damage frequency and change in large early release frequency) criteria from Section 5.3.5, ''Acceptance Criteria,'' of NEI [Nuclear Energy Institute] 04–02, ''Guidance for Implementing a Risk-Informed, Performance-based Fire Protection Program under 10 CFR 50.48(c),'' as well as the guidance contained in RG 1.205. Engineering analyses, which may include engineering evaluations, probabilistic safety assessments, and fire modeling calculations, have been performed to demonstrate that the performance-based methods of NFPA–805 do not result in a significant reduction in the margin of safety.

Therefore, this change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: William Glew, Associate General Counsel—Nuclear Legal, Nuclear and Environmental Entergy Services, Inc., 440 Hamilton Avenue, White Plains, NY 10601.

NRC Branch Chief: Robert J. Pascarelli.

Exelon Generation Company, LLC, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Calvert County, Maryland

Date of amendment request: September 22, 2016, as supplemented by letter dated November 10, 2016. Publicly available versions are in ADAMS under Accession Nos. ML16266A086 and ML16315A112, respectively.

Description of amendment request: The amendments would revise the Calvert Cliffs Nuclear Power Plant, Units 1 and 2, Technical Specification (TS) 3.3.8, ''Control Room Recirculation Signal (CRRS),'' and TS 3.7.8, ''Control Room Emergency Ventilation System (CREVS),'' to remove certain CREV system components and their associated testing, which no longer serve the purpose of establishing and isolating the control room boundary.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of any accident previously evaluated?

Response: No.

The proposed amendment eliminates certain CREV system components from the Technical Specifications that no longer serve the purpose of establishing and isolating the Control Room (CR) boundary. The testing related to those components would be eliminated as well.

The CREV system and its components are not an accident initiator. The CREV system and its components required to be operable and capable of performing any mitigation function assumed in the accident analysis continue to be operated and tested in accordance with the applicable TS requirements.

Therefore, the proposed amendment does not involve a significant increase in the probability or consequences of [any] accident previously evaluated.

2. Does the proposed amendment create the possibility of a new or different kind of accident from any previously evaluated?

Response: No.

The proposed amendment eliminates certain CREV system components that no longer serve the purpose of establishing and isolating the Control Room boundary.

The proposed amendment does not impose any new or different requirements. The change does not alter assumptions made in the safety analysis. The proposed change is consistent with the safety analysis assumptions and current plant operating practice.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: No.

The proposed amendment eliminates certain CREV system components that no longer serve the purpose of establishing and isolating the CR boundary. The testing related to those components would be eliminated as well.

The proposed amendment does not affect the design, operation, testing methods, and acceptance criteria for systems, structures, and components (SSCs), specified in applicable codes and standards (or alternatives approved for use by the NRC). The elimination of components that no longer serve the original purpose of establishing the CR envelope and isolating the control room from the outside atmosphere by placing the CREV system in full recirculation mode improves the overall mitigating capabilities of the system by eliminating the consequences of any potential failure of a component to realign. The CREV system will continue to meet all of its requirements as described in the plant licensing basis (including the Final Safety Analysis Report and TS Bases). Similarly, there is no impact to safety analysis acceptance criteria as described in the plant licensing basis.

Therefore, the proposed amendment does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation, 4300 Winfield Road, Warrenville, IL 60555.

NRC Acting Branch Chief: Stephen S. Koenick.

Exelon Generation Company, LLC, Docket No. 50–353, Limerick Generating Station, Unit 2, Montgomery County, Pennsylvania

Date of amendment request: December 20, 2016. A publicly-available version is in ADAMS under Accession No. ML16355A263.

Description of amendment request: The amendment would allow the use of the release fractions listed in Tables 1 and 3 of NRC Regulatory Guide (RG) 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' for partial length rods that are currently in the Limerick Generating Station (LGS) Unit 2 Cycle 14 reactor core for the remainder of the current operating cycle. These partial length rods are expected to exceed 62,000 megawatt days per metric ton of uranium (MWD/MTU), which is the current rod average burnup limit specified in Footnotes 10 and 11 of NRC RG 1.183, prior to the end of the operating cycle. In addition, the change will revise the LGS licensing basis to allow movement of irradiated fuel bundles containing partial length rods that have been in operation above the 62,000 MWD/MTU limit.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC Regulatory Guide 1.183 for partial length rods which are currently in the LGS Unit 2 Cycle 14 reactor core that are expected to exceed the 62,000 MWD/MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC Regulatory Guide 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the LGS licensing basis to allow movement of irradiated fuel bundles containing partial length rods that have been in operation above the 62,000 MWD/MTU limit. The proposed change does not involve any physical changes to the plant design and is not an initiator of an accident. The proposed change does not adversely affect accident initiators or precursors, and does not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated or maintained. Therefore, the proposed change does not affect the probability of a loss-of-coolant accident. In addition, the proposed change does not affect the probability of a fuel handling accident or control rod drop accident because the method and frequency of initiating activities are not changing.

Analyses have been performed that demonstrate that the power and burnup for a partial length rod is within 2.4% of the power and burnup in the same axial portion of neighboring full length rods, which is minor. Therefore, since the power and burnup of the full length rods comply with the limits specified in Footnotes 10 and 11 of NRC Regulatory Guide 1.183, the partial length rods may operate beyond the 62,000 MWD/MTU burnup limit and meet the intent of NRC Regulatory Guide 1.183. There are no changes in the dose consequences of the analyses of record for the fuel handling accident, control rod drop accident, and loss-of-coolant accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC Regulatory Guide 1.183 for partial length rods which are currently in the LGS Unit 2 Cycle 14 reactor core that are expected to exceed the 62,000 MWD/MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC Regulatory Guide 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the LGS licensing basis to allow movement of irradiated fuel bundles containing partial length rods that have been in operation above the 62,000 MWD/MTU limit. The proposed change does not introduce any changes or mechanisms that create the possibility of a new or different kind of accident. The proposed change does not install any new or different type of equipment, and installed equipment is not being operated in a new or different manner. No new effects on existing equipment are created nor are any new malfunctions introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC Regulatory Guide 1.183 for partial length rods which are currently in the LGS Unit 2 Cycle 14 reactor core that are expected to exceed the 62,000 MWD/MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC Regulatory Guide 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the LGS licensing basis to allow movement of irradiated fuel bundles containing partial length rods that have been in operation above the 62,000 MWD/MTU limit. Analyses have been performed that demonstrate that the power and burnup for a partial length rod is within 2.4% of the power and burnup in the same axial portion of neighboring full length rods, which is minor. There is no change in the dose consequences of the fuel handling accident, control rod drop accident, or loss-of-coolant accident analyses of record. The margin of safety, as defined by 10 CFR 50.67 and NRC Regulatory Guide 1.183, has been maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Acting Branch Chief: Stephen S. Koenick.

Exelon Generation Company, LLC, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit 1 (NMP1), Oswego, New York

Date of amendment request: January 3, 2017. A publicly-available version is in ADAMS under Accession No. ML17003A065.

Description of amendment request: The amendment would revise the NMP1 licensing basis related to alternate source term analysis in the updated final safety analysis report to allow the use of the release fractions listed in Tables 1 and 3 of NRC Regulatory Guide (RG) 1.183, ''Alternative Radiological Source Terms for Evaluating Design Basis Accidents at Nuclear Power Reactors,'' July 2000 (ADAMS Accession No. ML003716792), for partial length fuel rods (PLRs) that are operating above the peak burnup limit for the remainder of the current operating cycle. In addition, the proposed change would revise the NMP1 licensing basis to allow movement of irradiated fuel bundles containing PLRs that have been in operation above 62,000 megawatt-days per metric tons of uranium (MWD/MTU).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed change involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC RG 1.183 for PLRs which are currently in the NMP1 Cycle 22 reactor core that are expected to exceed the 62,000 MWD/

MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC RG 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the NMP1 licensing basis to allow movement of irradiated fuel bundles containing PLRs that have been in operation above the 62,000 MWD/MTU limit. The proposed change does not involve any physical changes to the plant design and is not an initiator of an accident. The proposed change does not adversely affect accident initiators or precursors, and does not alter the design assumptions, conditions, or configuration of the plant or the manner in which the plant is operated or maintained. Therefore, the proposed change does not affect the probability of a loss-of-coolant accident or control rod drop accident. In addition, the proposed change does not affect the probability of a fuel handling accident because the method and frequency of fuel movement activities are not changing.

Analyses have been performed that demonstrate that the power and burnup for a PLR is bounded by the power and burnup in the same axial portion of neighboring [full length fuel rods] FLRs. Therefore, since the FLR operating characteristics bound the PLR, and since the power and burnup of the FLRs comply with the limits specified in Footnotes 10 and 11 of NRC RG 1.183, the PLRs may operate beyond the 62,000 MWD/MTU burnup limit and meet the intent of NRC RG 1.183. There are no changes in the dose consequences of the analyses of record for the fuel handling accident, control rod drop accident and loss-of-coolant accident.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC RG 1.183 for PLRs which are currently in the NMP1 Cycle 22 reactor core that are expected to exceed the 62,000 MWD/MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC RG 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the NMP1 licensing basis to allow movement of irradiated fuel bundles containing PLRs that have been in operation above the 62,000 MWD/MTU limit. The proposed change does not introduce any changes or mechanisms that create the possibility of a new or different kind of accident. The proposed change does not install any new or different type of equipment, and installed equipment is not being operated in a new or different manner. No new effects on existing equipment are created nor are any new malfunctions introduced.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change would allow the use of the release fractions listed in Tables 1 and 3 of NRC RG 1.183 for PLRs which are currently in the NMP1 Cycle 22 reactor core that are expected to exceed the 62,000 MWD/MTU rod peak burnup limit specified in Footnotes 10 and 11 of NRC RG 1.183 prior to the end of the operating cycle. In addition, the proposed change would revise the NMP1 licensing basis to allow movement of irradiated fuel bundles containing PLRs that have been in operation above the 62,000 MWD/MTU limit. Analyses have been performed that demonstrate that the power and burnup for a PLR is bounded by the power and burnup in the same axial portion of neighboring FLRs. There is no change in the dose consequences of the fuel handling accident, control rod drop accident or loss-of-coolant accident analyses of record. The margin of safety, as defined by 10 CFR 50.67 and NRC RG 1.183, has been maintained.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Tamra Domeyer, Associate General Counsel, Exelon Generation Company, LLC, 4300 Winfield Road, Warrenville, IL 60555.

NRC Acting Branch Chief: Stephen S. Koenick.

Southern Nuclear Operating Company, Inc., Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Units 1 and 2, Houston County, Alabama, Docket Nos. 50–424, 50–425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: November 21, 2016. A publicly-available version is in ADAMS under Accession No. ML16326A256.

Description of amendment request: The proposed amendments would revise the requirements on control and shutdown rods, and rod and bank position indication in Technical Specification (TS) 3.1.4, ''Rod Group Alignment Limits''; TS 3.1.5, ''Shutdown Bank Insertion Limits''; TS 3.1.6, ''Control Bank Insertion Limits''; and TS 3.1.7, ''Rod Position Indication,'' consistent with NRC-approved Technical Specifications Task Force Traveler (TSTF)–547, Revision 1, ''Clarification of Rod Position Requirements,'' dated March 4, 2016 (ADAMS Accession Package No. ML16012A126).

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), the licensee has provided its analysis of the issue of no significant hazards consideration, which is presented below:

1. Does the proposed amendment involve a significant increase in the probability or consequences of an accident previously evaluated?

Response: No.

Control and shutdown rods are assumed to insert into the core to shut down the reactor in evaluated accidents. Rod insertion limits ensure that adequate negative reactivity is available to provide the assumed shutdown margin (SDM). Rod alignment and overlap limits maintain an appropriate power distribution and reactivity insertion profile.

Control and shutdown rods are initiators to several accidents previously evaluated, such as rod ejection. The proposed change does not change the limiting conditions for operation for the rods or make any technical changes to the Surveillance Requirements (SRs) governing the rods. Therefore, the proposed change has no significant effect on the probability of any accident previously evaluated.

Revising the TS Actions to provide a limited time to repair rod movement control has no effect on the SDM assumed in the accident analysis as the proposed Action require verification that SDM is maintained. The effects on power distribution will not cause a significant increase in the consequences of any accident previously evaluated as all TS requirements on power distribution continue to be applicable.

Revising the TS Actions to provide an alternative to frequent use of the moveable incore detector system to verify the position of rods with inoperable rod position indicator does not change the requirement for the rods to be aligned and within the insertion limits.

Therefore, the assumptions used in any accidents previously evaluated are unchanged and there is no significant increase in the consequences.

The proposed change to resolve the conflicts in the TS ensure that the intended Actions are followed when equipment is inoperable. Actions taken with inoperable equipment are not assumptions in the accidents previously evaluated and have no significant effect on the consequences.

The proposed change to eliminate an unnecessary action has no effect on the consequences of accidents previously evaluated as the analysis of those accidents did not consider the use of the action.

The proposed change to increase consistency within the TS has no effect on the consequences of accidents previously evaluated as the proposed change clarifies the application of the existing requirements and does not change the intent.

Therefore, the proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated.

2. Does the proposed change create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: No.

The proposed change does not involve a physical alteration of the plant (*i.e.,* no new or different type of equipment will be installed). The change does not alter assumptions made in the safety analyses. The proposed change does not alter the limiting conditions for operation for the rods or make any technical changes to the SRs governing the rods. The proposed change to actions maintains or improves safety when equipment is inoperable and does not introduce new failure modes.

Therefore, the proposed change does not create the possibility of a new or different kind of accident from any previously evaluated.

3. Does the proposed change involve a significant reduction in a margin of safety?

Response: No.

The proposed change to allow time for rod position indication to stabilize after rod movement and to allow an alternative method of verifying rod position has no effect on the safety margin as actual rod position is not affected. The proposed change to provide time to repair rods that are Operable but immovable does not result in a significant reduction in the margin of safety because all rods must be verified to be Operable, and all other banks must be within the insertion limits. The remaining proposed changes to make the requirements internally consistent and to eliminate unnecessary actions do not affect the margin of safety as the changes do not affect the ability of the rods to perform their specified safety function.

Therefore, the proposed change does not involve a significant reduction in a margin of safety.

The NRC staff has reviewed the licensee's analysis and, based on this review, it appears that the three standards of 10 CFR 50.92(c) are satisfied. Therefore, the NRC staff proposes to determine that the amendment request involves no significant hazards consideration.

Attorney for licensee: Jennifer M. Buettner, Associate General Counsel, Southern Nuclear Operating Company, Inc., 40 Inverness Center Parkway, Birmingham, AL 35242.

NRC Branch Chief: Michael T. Markley.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

A notice of consideration of issuance of amendment to facility operating license or combined license, as applicable, proposed no significant hazards consideration determination, and opportunity for a hearing in connection with these actions, was published in the **Federal Register** as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.22(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendment, (2) the amendment, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

FirstEnergy Nuclear Operating Company, et al., Docket No. 50–346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: February 9, 2016.

Brief description of amendment: The amendment revised the technical specification requirements for limitations on the radioactive material released in liquid and gaseous effluents and the references for the radioactive material effluent requirements.

Date of issuance: January 11, 2017.

Effective date: As of the date of issuance and shall be implemented within 90 days from the date of issuance.

Amendment No.: 293. A publicly-available version is in ADAMS under Accession No. ML16298A349; documents related to this amendment are listed in the Safely Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–3: The amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register***: March 29, 2016 (81 FR 17506).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 11, 2017.

No significant hazards consideration comments received: No.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Units 1 and 2, San Luis Obispo County, California

Date of amendment request: January 21, 2016, as supplemented by letter dated December 27, 2016.

Brief description of amendments: The amendments revised Technical Specification (TS) 3.4.6, ''RCS [Reactor Coolant System] Loops—MODE 4''; TS 3.4.7, ''RCS Loops—MODE 5, Loops Filled''; TS 3.4.8, ''RCS Loops—MODE 5, Loops Not Filled''; TS 3.5.2, ''ECCS [Emergency Core Cooling System]—Operating''; TS 3.6.6, ''Containment Spray and Cooling Systems''; TS 3.9.5, ''Residual Heat Removal (RHR) and Coolant Circulation—High Water Level''; and TS 3.9.6, ''Residual Heat Removal (RHR) and Coolant Circulation—Low Water Level.'' The amendments modified the TS requirements to address Generic Letter 2008–01, ''Managing Gas Accumulation in Emergency Core Cooling, Decay Heat Removal, and Containment Spray Systems'' (ADAMS Accession No. ML072910759), as described in Technical Specifications Task Force Traveler (TSTF)-523, Revision 2, ''Generic Letter 2008–01, Managing Gas Accumulation'' (ADAMS Accession No. ML13053A075).

Date of issuance: January 5, 2017.

Effective date: As of the date of issuance and shall be implemented within 180 days from the date of issuance.

Amendment Nos.: 228 (Unit 1); 230 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML16330A672; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. DPR–80 and DPR–82: The amendments revised the Facility Operating Licenses and TSs.

Date of initial notice in ***Federal Register***: March 15, 2016 (81 FR 13844). The supplemental letter dated December 27, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 5, 2017.

No significant hazards consideration comments received: No.

South Carolina Electric & Gas Company and South Carolina Public Service Authority, Docket Nos. 52–027 and 52–028, Virgil C. Summer Nuclear Station (VCSNS), Units 2 and 3, Fairfield County, South Carolina

Date of amendment request: May 12, 2016.

Description of amendment: The amendment authorized changes to the VCSNS, Units 2 and 3, changing the listed minimum volume of the passive core cooling system core makeup tanks (CMT) as reflected in the Combined License (COL) Appendix A, Technical Specifications (TSs), and Updated Final Safety Analysis Report (UFSAR) for VCSNS, Units 2 and 3. Specifically, this amendment is a departure from the generic AP1000 Design Control Document Tier 2 information as implemented in the plant-specific UFSAR, changing the minimum CMT volume from 2,500 ft^3 to 2,487 ft^3. The amendment resolves an inconsistency in the licensing documents by aligning the listed minimum CMT volume with that provided in the VCSNS COL Tier 1 information. The amendment also includes an addition to the TS Bases stating that the volume of one CMT is adequate for safety injection in the case of small-break loss-of-coolant accident. No changes were proposed to COL Tier 1 information.

Date of issuance: January 10, 2017.

Effective date: As of the date of issuance and shall be implemented within 30 days of issuance.

Amendment No.: 57. A publicly-available version is in ADAMS under Accession No. ML16327A646; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Combined Licenses Nos. NPF–93 and NPF–94: Amendment revised the Facility Combined Licenses.

Date of initial notice in ***Federal Register***: July 5, 2016 (81 FR 43646).

The Commission's related evaluation of the amendment is contained in the Safety Evaluation dated January 10, 2017.

No significant hazards consideration comments received: No.

Southern Nuclear Operating Company, Inc., Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–366, Edwin I. Hatch Nuclear Plant, Unit No. 2, Appling County, Georgia

Date of amendment request: August 29, 2016, as supplemented by letter dated November 18, 2016.

Brief description of amendment: The amendment revised the values for the Safety Limit Minimum Critical Power Ratios for both single and dual recirculation loop operation.

Date of issuance: January 6, 2017.

Effective date: As of the date of issuance and shall be implemented prior to reactor startup from the spring 2017 refueling outage.

Amendment No.: 226. A publicly-available version is in ADAMS under Accession No. ML16344A126; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–5: Amendment revised the Renewed Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register***: October 11, 2016 (81 FR 70184). The supplemental letter dated November 18, 2016, provided additional information that clarified the application, did not expand the scope of the application as originally noticed, and did not change the staff's original proposed no significant hazards consideration determination as published in the **Federal Register**.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 6, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket No. 50–391, Watts Bar Nuclear Plant, Unit 2, Rhea County, Tennessee

Date of amendment request: September 30, 2016.

Brief description of amendment: The amendment revised Technical Specification 3.0.2 to allow for a one-time extension of the intervals for Surveillance Requirements 3.6.11.2 and 3.6.11.3.

Date of issuance: January 5, 2017.

Effective date: As of the date of issuance and shall be implemented within 7 days of issuance.

Amendment No.: 3. A publicly-available version is in ADAMS under Accession No. ML16343A814; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Facility Operating License No. NPF–96: Amendment revised the Facility Operating License and Technical Specifications.

Date of initial notice in ***Federal Register:*** October 25, 2016 (81 FR 73442).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated January 5, 2017.

No significant hazards consideration comments received: No.

Tennessee Valley Authority, Docket Nos. 50–390 and 50–391, Watts Bar Nuclear Plant, Units 1 and 2, Rhea County, Tennessee

Date of amendment request: September 23, 2016.

Brief description of amendments: The amendments revised the completion date for License Condition 2.C.(9)b for Watts Bar Nuclear Plant, Unit 1, and License Condition 2.C.(3) for Watts Bar Nuclear Plant, Unit 2, regarding the completion of permanent modifications to the Fort Loudoun Dam from February 1, 2017, to June 30, 2018.

Date of issuance: January 11, 2017.

Effective date: As of the date of issuance and shall be implemented within 15 days of issuance.

Amendment Nos.: 109 (Unit 1); 4 (Unit 2). A publicly-available version is in ADAMS under Accession No. ML16354A024; documents related to these amendments are listed in the Safety Evaluation enclosed with the amendments.

Facility Operating License Nos. NPF–90 and NPF–96: Amendments revised the Facility Operating Licenses.

Date of initial notice in ***Federal Register:*** November 8, 2016 (81 FR 78653).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated January 11, 2017.

No significant hazards consideration comments received: No.

III. Notice of Issuance of Amendments to Facility Operating Licenses and Combined Licenses and Final Determination of No Significant Hazards Consideration and Opportunity for a Hearing (Exigent Public Announcement or Emergency Circumstances)

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended

(the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual notice of consideration of issuance of amendment, proposed no significant hazards consideration determination, and opportunity for a hearing.

For exigent circumstances, the Commission has either issued a **Federal Register** notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards consideration determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License or Combined License, as applicable, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items can be accessed as described in the ''Obtaining Information and Submitting Comments'' section of this document.

A. Opportunity To Request a Hearing and Petition for Leave To Intervene

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendment.

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and petition for leave to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in 10 CFR part 2. Interested persons should consult a current copy of 10 CFR 2.309. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d) the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

If a hearing is requested, and the Commission has not made a final determination on the issue of no significant hazards consideration, the

Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to establish when the hearing is held. If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing would take place after issuance of the amendment. If the final determination is that the amendment request involves a significant hazards consideration, then any hearing held would take place before the issuance of the amendment unless the Commission finds an imminent danger to the health or safety of the public, in which case it will issue an appropriate order or rule under 10 CFR part 2.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1). The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by April 3, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section, except that under 10 CFR 2.309(h)(2) a State, local governmental body, or federally recognized Indian Tribe, or agency thereof does not need to address the standing requirements in 10 CFR 2.309(d) if the facility is located within its boundaries. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

B. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having

granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site. With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Arizona Public Service Company (APS), et al., Docket No. STN 50–530, Palo Verde Nuclear Generating Station, Unit No. 3, Maricopa County, Arizona

Date of amendment request: December 30, 2016, as supplemented by letters dated January 2, 2017, and January 4, 2017.

Brief description of amendment: The amendment revised the Technical Specifications (TSs) for a one-time extension of the Unit 3 emergency diesel generator (3B DG) completion time described in TS 3.8.1.B.4. Specifically, the emergency risk-informed amendment extended, on a one-time basis, the TS required action 3.8.1.B.4 completion time from 21 days to 62 days for the purpose of completing repairs and testing to reestablish operability of the 3B DG.

During surveillance testing on December 15, 2016, the DG suffered a failure of the number nine right cylinder connecting rod and piston. Disassembly and inspection of the damaged 3B DG has been aggressively and continuously pursued since initial failure on December 15, 2016. APS established an Outage Control Center to schedule, manage, and oversee the work activities needed for the repairs. Multi-discipline teams were formed to assess the extent of damage, inspect and recover parts, and determine the cause of failure. APS has determined that the cause of failure of the 3B DG is attributed to high-cycle fatigue and that the mode of failure is not common to the ''A'' train DG or the DGs in Units 1 and 2.

Date of issuance: January 4, 2017.

Effective date: As of the date of issuance and shall be implemented prior to the expiration of the 21-day completion time, or January 5, 2017, at 3:56 a.m. Mountain Time.

Amendment No.: 200. A publicly-available version is in ADAMS under Accession No. ML17004A020; documents related to this amendment are listed in the Safety Evaluation enclosed with the amendment.

Renewed Facility Operating License No. NPF–74: The amendment revised the Facility Operating License and TSs.

Public comments requested as to proposed no significant hazards consideration (NSHC): No.

The Commission's related evaluation of the amendment, finding of emergency circumstances, state consultation, and final NSHC determination are contained in a Safety Evaluation dated January 4, 2017.

Attorney for licensee: Michael G. Green, Senior Regulatory Counsel, Pinnacle West Capital Corporation, P.O. Box 52034, Mail Station 8695, Phoenix, AZ 85072–2034.

NRC Branch Chief: Robert J. Pascarelli.

Dated at Rockville, Maryland, this 23rd day of January 2017.

For the Nuclear Regulatory Commission.

Anne T. Boland,

Director, Division of Operating Reactor Licensing, Office of Nuclear Reactor Regulation.

[FR Doc. 2017–02034 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0069]

Information Collection: Suspicious Activity Reporting Using the Protected Web Server (PWS)

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget (OMB); request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to OMB for review. The information collection is entitled ''Suspicious Activity Reporting using the Protected Web Server (PWS).''

DATES: Submit comments by March 2, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0219), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0069 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–2016–0069. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0069 on this Web site.
- *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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16158A401. The supporting statement is available in ADAMS under Accession No. ML16308A365.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.
- *NRC's Clearance Officer:* A copy of the collection of information and related

instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''Suspicious Activity Reporting using the Protected Web Server (PWS).'' The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on September 8, 2016 (81 FR 62179).

1. *The title of the information collection:* Suspicious Activity Reporting using the Protected Web Server (PWS).

2. *OMB approval number:* 3150–0219.

3. *Type of submission:* Extension.

4. *The form number if applicable:* Not applicable.

5. *How often the collection is required or requested:* On occasion. Reporting is done on a voluntary basis, as suspicious incidents occur.

6. *Who will be required or asked to respond:* Nuclear power reactor licensees provide the majority of reports, but other entities that may voluntarily send reports include fuel facilities, independent spent fuel storage installations, decommissioned power reactors, power reactors under construction, research and test reactors, agreement states, non-agreement states, as well as users of byproduct material (*e.g.* departments of health, medical centers, steel mills, well loggers, and radiographers.)

7. *The estimated number of annual responses:* 124.

8. *The estimated number of annual respondents:* 62.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 248 hours.

10. *Abstract:* NRC licensees voluntarily report information on suspicious incidents on an ad-hoc basis, as these incidents occur. This information is shared with authorized nuclear industry officials and Federal, State, and local government agencies using PWS. Information provided by licensees is considered OFFICIAL USE ONLY and is not made public.

Dated at Rockville, Maryland, this 26th day of January 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–02054 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–1162, NRC–2017–0010]

Western Nuclear Incorporated; Split Rock Wyoming Site

AGENCY: Nuclear Regulatory Commission.

ACTION: License amendment application; opportunity to request a hearing and to petition for leave to intervene.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has received a request from Western Nuclear Incorporated for amendment of Materials License No. SUA–56 to modify the Alternate Concentration Limit for nitrate at the Western Nuclear Incorporated site in Jeffery City, Wyoming. The amendment would increase the nitrate Alternate Concentration Limit at the Southwest Valley Point of Compliance from the current limit of 70.7 milligrams per liter to 500 milligrams per liter. The amendment would also revise the license to remove a specific well as the background well for the Alternate Concentration Limit and expand the proposed Long-term Care Boundary for the site.

DATES: A request for a hearing or petition for leave to intervene must be filed by April 3, 2017.

ADDRESSES: Please refer to Docket ID NRC–2017–0010 when contacting the NRC about the availability of information regarding this document. You may obtain publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2017–0010. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''*ADAMS Public Documents*'' and then select ''*Begin Web-based ADAMS Search*.'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced (if it is available in ADAMS) is provided the first time that a document is referenced.
- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Dominick Orlando, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington DC 20555–0001; telephone: 301–415–6749; email: *Dominick.orlando@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The NRC received, by letter dated October 25, 2016, a request from Western Nuclear Incorporated to amend Materials License No. SUA–56 (ADAMS Accession No. ML16328A410). This license authorizes the possession of natural uranium at the Split Rock site in Jeffery City, Wyoming, which ceased uranium milling operations in 1981. The license currently establishes Alternate Concentration Limits for six constituents in the Southwest Valley

portion of the site. If approved, the amendment would revise the Alternate Concentration Limit for one of the constituents, nitrate, from the current 70.7 milligrams per liter to 500 milligrams per liter. In addition, the amendment would remove a specifically cited well at the site as the background well and expand the proposed Long-term Care Boundary to include additional properties owned or controlled by Western Nuclear Incorporated.

Prior to approving the license amendment application, the NRC will need to make the findings required by the Atomic Energy Act of 1954, as amended (the Act), and the NRC's regulations. The NRC's findings will be documented in a technical evaluation report.

II. Opportunity To Request a Hearing and Petition for Leave To Intervene

Within 60 days after the date of publication of this notice, any persons (petitioner) whose interest may be affected by this action may file a request for a hearing and a petition to intervene (petition) with respect to the action. Petitions shall be filed in accordance with the Commission's ''Agency Rules of Practice and Procedure'' in part 2 of Title 10 of the *Code of Federal Regulations* (10 CFR). Interested persons should consult a current copy of 10 CFR 2.309, which is available at the NRC's PDR, located in One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. The NRC's regulations are accessible electronically from the NRC Library on the NRC's Web site at *http://www.nrc.gov/reading-rm/doc-collections/cfr/.* Alternatively, a copy of the regulations is available at the NRC's Public Document Room, located at One White Flint North, Room O1–F21, 11555 Rockville Pike (first floor), Rockville, Maryland 20852. If a petition is filed, the Commission or a presiding officer will rule on the petition and, if appropriate, a notice of a hearing will be issued.

As required by 10 CFR 2.309(d), the petition should specifically explain the reasons why intervention should be permitted with particular reference to the following general requirements for standing: (1) The name, address, and telephone number of the petitioner; (2) the nature of the petitioner's right under the Act to be made a party to the proceeding; (3) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (4) the possible effect of any decision or order which may be entered in the proceeding on the petitioner's interest.

In accordance with 10 CFR 2.309(f), the petition must also set forth the specific contentions which the petitioner seeks to have litigated in the proceeding. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner must provide a brief explanation of the bases for the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to the specific sources and documents on which the petitioner intends to rely to support its position on the issue. The petition must include sufficient information to show that a genuine dispute exists with the applicant or licensee on a material issue of law or fact. Contentions must be limited to matters within the scope of the proceeding. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to satisfy the requirements at 10 CFR 2.309(f) with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene. Parties have the opportunity to participate fully in the conduct of the hearing with respect to resolution of that party's admitted contentions, including the opportunity to present evidence, consistent with the NRC's regulations, policies, and procedures.

Petitions must be filed no later than 60 days from the date of publication of this notice. Petitions and motions for leave to file new or amended contentions that are filed after the deadline will not be entertained absent a determination by the presiding officer that the filing demonstrates good cause by satisfying the three factors in 10 CFR 2.309(c)(1)(i) through (iii). The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document.

A State, local governmental body, Federally-recognized Indian Tribe, or agency thereof, may submit a petition to the Commission to participate as a party under 10 CFR 2.309(h)(1).

The petition should state the nature and extent of the petitioner's interest in the proceeding. The petition should be submitted to the Commission by April 3, 2017. The petition must be filed in accordance with the filing instructions in the ''Electronic Submissions (E-Filing)'' section of this document, and should meet the requirements for petitions set forth in this section. Alternatively, a State, local governmental body, Federally-recognized Indian Tribe, or agency thereof may participate as a non-party under 10 CFR 2.315(c).

If a hearing is granted, any person who is not a party to the proceeding and is not affiliated with or represented by a party may, at the discretion of the presiding officer, be permitted to make a limited appearance pursuant to the provisions of 10 CFR 2.315(a). A person making a limited appearance may make an oral or written statement of his or her position on the issues but may not otherwise participate in the proceeding. A limited appearance may be made at any session of the hearing or at any prehearing conference, subject to the limits and conditions as may be imposed by the presiding officer. Details regarding the opportunity to make a limited appearance will be provided by the presiding officer if such sessions are scheduled.

III. Electronic Submissions (E-Filing)

All documents filed in NRC adjudicatory proceedings, including a request for hearing and petition for leave to intervene (petition), any motion or other document filed in the proceeding prior to the submission of a request for hearing or petition to intervene, and documents filed by interested governmental entities that request to participate under 10 CFR 2.315(c), must be filed in accordance with the NRC's E-Filing rule (72 FR 49139; August 28, 2007, as amended at 77 FR 46562, August 3, 2012). The E-Filing process requires participants to submit and serve all adjudicatory documents over the internet, or in some cases to mail copies on electronic storage media. Detailed guidance on making electronic submissions may be found in the Guidance for Electronic Submissions to the NRC and on the NRC's Web site at *http://www.nrc.gov/site-help/e-submittals.html.* Participants may not submit paper copies of their filings unless they seek an exemption in accordance with the procedures described below.

To comply with the procedural requirements of E-Filing, at least 10 days prior to the filing deadline, the participant should contact the Office of the Secretary by email at *hearing.docket@nrc.gov,* or by telephone at 301–415–1677, to (1) request a digital identification (ID) certificate, which allows the participant (or its counsel or representative) to digitally sign submissions and access the E-Filing system for any proceeding in which it is participating; and (2) advise the

Secretary that the participant will be submitting a petition or other adjudicatory document (even in instances in which the participant, or its counsel or representative, already holds an NRC-issued digital ID certificate). Based upon this information, the Secretary will establish an electronic docket for the hearing in this proceeding if the Secretary has not already established an electronic docket.

Information about applying for a digital ID certificate is available on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals/getting-started.html.* Once a participant has obtained a digital ID certificate and a docket has been created, the participant can then submit adjudicatory documents. Submissions must be in Portable Document Format (PDF). Additional guidance on PDF submissions is available on the NRC's public Web site at *http://www.nrc.gov/site-help/electronic-sub-ref-mat.html.* A filing is considered complete at the time the document is submitted through the NRC's E-Filing system. To be timely, an electronic filing must be submitted to the E-Filing system no later than 11:59 p.m. Eastern Time on the due date. Upon receipt of a transmission, the E-Filing system time-stamps the document and sends the submitter an email notice confirming receipt of the document. The E-Filing system also distributes an email notice that provides access to the document to the NRC's Office of the General Counsel and any others who have advised the Office of the Secretary that they wish to participate in the proceeding, so that the filer need not serve the document on those participants separately. Therefore, applicants and other participants (or their counsel or representative) must apply for and receive a digital ID certificate before adjudicatory documents are filed so that they can obtain access to the documents via the E-Filing system.

A person filing electronically using the NRC's adjudicatory E-Filing system may seek assistance by contacting the NRC's Electronic Filing Help Desk through the ''Contact Us'' link located on the NRC's public Web site at *http://www.nrc.gov/site-help/e-submittals.html,* by email to *MSHD.Resource@nrc.gov,* or by a toll-free call at 1–866–672–7640. The NRC Electronic Filing Help Desk is available between 9 a.m. and 6 p.m., Eastern Time, Monday through Friday, excluding government holidays.

Participants who believe that they have a good cause for not submitting documents electronically must file an exemption request, in accordance with 10 CFR 2.302(g), with their initial paper filing stating why there is good cause for not filing electronically and requesting authorization to continue to submit documents in paper format. Such filings must be submitted by: (1) First class mail addressed to the Office of the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001, Attention: Rulemaking and Adjudications Staff; or (2) courier, express mail, or expedited delivery service to the Office of the Secretary, 11555 Rockville Pike, Rockville, Maryland 20852, Attention: Rulemaking and Adjudications Staff. Participants filing adjudicatory documents in this manner are responsible for serving the document on all other participants. Filing is considered complete by first-class mail as of the time of deposit in the mail, or by courier, express mail, or expedited delivery service upon depositing the document with the provider of the service. A presiding officer, having granted an exemption request from using E-Filing, may require a participant or party to use E-Filing if the presiding officer subsequently determines that the reason for granting the exemption from use of E-Filing no longer exists.

Documents submitted in adjudicatory proceedings will appear in the NRC's electronic hearing docket which is available to the public at *https://adams.nrc.gov/ehd,* unless excluded pursuant to an order of the Commission or the presiding officer. If you do not have an NRC-issued digital ID certificate as described above, click cancel when the link requests certificates and you will be automatically directed to the NRC's electronic hearing dockets where you will be able to access any publicly available documents in a particular hearing docket. Participants are requested not to include personal privacy information, such as social security numbers, home addresses, or personal phone numbers in their filings, unless an NRC regulation or other law requires submission of such information. For example, in some instances, individuals provide home addresses in order to demonstrate proximity to a facility or site.

With respect to copyrighted works, except for limited excerpts that serve the purpose of the adjudicatory filings and would constitute a Fair Use application, participants are requested not to include copyrighted materials in their submission.

Dated at Rockville, Maryland, this 23rd day of January, 2017.

For the Nuclear Regulatory Commission.

Andrea Kock,

Deputy Director, Division of Decommissioning, Uranium Recovery and Waste Programs, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 2017–02036 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2015–0187]

Human Factors Engineering

AGENCY: Nuclear Regulatory Commission.

ACTION: Standard review plan-final section revision; issuance.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is issuing a final revision to Section 18.0, ''Human Factors Engineering,'' of NUREG–0800, ''Standard Review Plan (SRP) for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.''

DATES: The effective date of this SRP revision is March 2, 2017.

ADDRESSES: Please refer to Docket ID NRC–2015–0187 when contacting the NRC about the availability of information regarding this document. You may access publicly-available information related to this document using any of the following methods:

- *Federal Rulemaking Web site:* Go to *http://www.regulations.gov* and search for Docket ID NRC–2015–0187. Address questions about NRC dockets to Carol Gallagher; telephone: 301–415–3463; email: *Carol.Gallagher@nrc.gov.* For technical questions, contact the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.
- *NRC's Agencywide Documents Access and Management System (ADAMS):* You may obtain publicly-available documents online in the ADAMS Public Documents collection at *http://www.nrc.gov/reading-rm/adams.html.* To begin the search, select ''ADAMS Public Documents'' and then select ''*Begin Web-based ADAMS Search.*'' For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1–800–397–4209, 301–415–4737, or by email to *pdr.resource@nrc.gov.* The ADAMS accession number for each document referenced in this notice (if that document is available in ADAMS) is provided the first time that a document is referenced. The final revisions, previously issued draft revisions for public use and comment,

and redline strikeouts comparing final revisions with draft revisions are available in ADAMS under the following Accession Nos.: ML16125A114, ML13108A095, and ML16125A296, respectively.

- *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

FOR FURTHER INFORMATION CONTACT: Mark Notich, Office of New Reactors, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–3053; email: *Mark.Notich@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

On August 10, 2015 (80 FR 47958), the NRC published for public comment a proposed revision of Section 18.0, ''Human Factors Engineering,'' of NUREG–0800, ''Standard Review Plan (SRP) for the Review of Safety Analysis Reports for Nuclear Power Plants: LWR Edition.'' On October 8, 2015, the NRC received a request to extend the comment period for 30 days. Prior to granting the request, the NRC received a request for a public meeting to discuss industry comments. A public meeting was held on January 7, 2016, and on February 24, 2016 (81 FR 9226), the NRC published an extension of the public comment period for the SRP. The public comment period closed on March 11, 2016. A summary of comments received and the staff's disposition of the comments are available in a separate document, ''Response to Public Comments on Draft Standard Review Plan, Section 18.0, ''Human Factors Engineering,'' (ADAMS Accession No. ML16112A329). In addition to revising the text of SRP 18.0 to address public comments, the staff revised the text to add a reference to NUREG–1852; reinserted specific guidance that was in previous versions of SRP 18.0 but deleted during the draft phase of Revision 3; and made editorial changes. None of these revisions changed the staff's approach to reviewing human factors engineering information in licensing applications.

II. Backfitting and Issue Finality

Section 18 of the SRP provides guidance to the staff for reviewing applications for a construction permit and an operating license under part 50 of title 10 of the *Code of Federal Regulations* (10 CFR) with respect to systems associated with human factors engineering. Section 18.0 of the SRP provides guidance for reviewing an application for a standard design approval, a standard design certification, a combined license, and a manufacturing license under 10 CFR part 52 with respect to the same subject matters.

Issuance of this SRP section revision does not constitute backfitting as defined in 10 CFR 50.109 (the Backfit Rule) nor is it inconsistent with the issue finality provisions in 10 CFR part 52. The NRC's position is based upon the following considerations.

1. *The SRP positions would not constitute backfitting, inasmuch as the SRP is internal guidance to NRC staff.*

The SRP provides internal guidance to the NRC staff on how to review an application for NRC regulatory approval in the form of licensing. Changes in internal staff guidance are not matters for which either nuclear power plant applicants or licensees are protected under either the Backfit Rule or the issue finality provisions of 10 CFR part 52.

2. *The NRC staff has no intention to impose the SRP positions on existing licensees either now or in the future.*

The NRC staff does not intend to impose or apply the positions described in the SRP to existing licensees and regulatory approvals. Hence, the issuance of this SRP does not need to be evaluated as if it were a backfit or as being inconsistent with issue finality provisions. If, in the future, the NRC staff seeks to impose a position in the SRP on holders of already issued licenses in a manner that challenges issue finality as described in the applicable part 52 issue finality provision, then the staff must either make the requisite showing as set forth in the Backfit Rule or address the criteria for avoiding issue finality as described in the applicable part 52 issue finality provision.

3. *Backfitting and issue finality do not—with limited exceptions not applicable here—protect current or future applicants.*

Applicants and potential applicants are not, with certain exceptions, protected by either the Backfit Rule or any issue finality provisions under 10 CFR part 52. Neither the Backfit Rule nor the issue finality provisions under 10 CFR part 52—with certain exclusions—were intended to apply to every NRC action that substantially changes the expectations of current and future applicants.

The exceptions to the general principle are applicable whenever an applicant references a 10 CFR part 52 license (*e.g.,* an early site permit) or NRC regulatory approval (*e.g.,* a design certification rule) with specified issue finality provisions. The NRC staff does not, at this time, intend to impose the positions represented in the SRP in a manner that is inconsistent with any issue finality provisions. If, in the future, the staff seeks to impose a position in the SRP section in a manner that does not provide issue finality as described in the applicable issue finality provision, then the staff must address the criteria for avoiding issue finality as described in the applicable issue finality provision.

III. Congressional Review Act

This action is a rule as defined in the Congressional Review Act (5 U.S.C. 801–808). However, the Office of Management and Budget has not found it to be a major rule as defined in the Congressional Review Act.

Dated at Rockville, Maryland, this 26th day of January 2017.

For the Nuclear Regulatory Commission.

Joseph Colaccino,

Chief, New Reactor Rulemaking and Guidance Branch, Division of Engineering, Infrastruture and Advanced Reactors, Office of New Reactors.

[FR Doc. 2017–02060 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[NRC–2016–0070]

Information Collection: NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions''

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of submission to the Office of Management and Budget (OMB); request for comment.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) has recently submitted a request for renewal of an existing collection of information to OMB for review. The information collection is entitled, NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions.''

DATES: Submit comments by March 2, 2017.

ADDRESSES: Submit comments directly to the OMB reviewer at: Vlad Dorjets, Desk Officer, Office of Information and Regulatory Affairs (3150–0033), NEOB–10202, Office of Management and Budget, Washington, DC 20503; telephone: 202–395–7315, email: *oira_submission@omb.eop.gov.*

FOR FURTHER INFORMATION CONTACT: David Cullison, NRC Clearance Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC–2016–0070 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–2016–0070. A copy of the collection of information and related instructions may be obtained without charge by accessing Docket ID NRC–2016–0070 on this Web site.

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.* A copy of the collection of information and related instructions may be obtained without charge by accessing ADAMS Accession No. ML16168A217. The supporting statement is available in ADAMS under Accession No. ML16305A089.

• *NRC's PDR:* You may examine and purchase copies of public documents at the NRC's PDR, Room O1–F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland 20852.

• *NRC's Clearance Officer:* A copy of the collection of information and related instructions may be obtained without charge by contacting the NRC's Clearance Officer, David Cullison, Office of the Chief Information Officer, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001; telephone: 301–415–2084; email: *INFOCOLLECTS.Resource@NRC.GOV.*

B. Submitting Comments

The NRC cautions you not to include identifying or contact information in comment submissions that you do not want to be publicly disclosed in your comment submission. All comment submissions are posted at *http://www.regulations.gov* and entered into ADAMS. Comment submissions are not routinely edited to remove identifying or contact information.

If you are requesting or aggregating comments from other persons for submission to the OMB, then you should inform those persons not to include identifying or contact information that they do not want to be publicly disclosed in their comment submission. Your request should state that comment submissions are not routinely edited to remove such information before making the comment submissions available to the public or entering the comment into ADAMS.

II. Background

Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the NRC recently submitted a request for renewal of an existing collection of information to OMB for review entitled, ''NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions''. The NRC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The NRC published a **Federal Register** notice with a 60-day comment period on this information collection on August 3, 2016 (81 FR 51215).

1. The title of the information collection: NRC Form 212, ''Qualifications Investigation Professional, Technical, and Administrative Positions.''

2. OMB approval number: 3150–0033.

3. Type of submission: Extension.

4. The form number if applicable: NRC Form 212.

5. How often the collection is required or requested: The form is collected for every new hire to the NRC.

6. Who will be required or asked to respond: Former employers, supervisors, and other references indicated on the job application are asked to complete the NRC Form 212.

7. The estimated number of annual responses: 1,000.

8. The estimated number of annual respondents: 1,000.

9. *An estimate of the total number of hours needed annually to comply with the information collection requirement or request:* 500 hours.

10. *Abstract:* Information requested on NRC Form 212, ''Qualifications Investigation, Professional, Technical, and Administrative Positions'' is used to determine the qualifications and suitability of external applicants for employment with the NRC. The completed form may be used to examine, rate and/or assess the prospective employee's qualifications. The information regarding the qualifications of applicants for employment is reviewed by professional personnel of the Office of the Chief Human Capital Officer, in conjunction with other information in the NRC files, to determine the qualifications of the applicant for appointment to the position under consideration.

Dated at Rockville, Maryland, this 26th day of January 2017.

For the Nuclear Regulatory Commission.

David Cullison,

NRC Clearance Officer, Office of the Chief Information Officer.

[FR Doc. 2017–02053 Filed 1–30–17; 8:45 am]

BILLING CODE 7590–01–P

PENSION BENEFIT GUARANTY CORPORATION

Submission of Information Collections for OMB Review; Comment Request; Payment of Premiums; Termination Premium

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Notice of request for extension of OMB approval of collection of information.

SUMMARY: The Pension Benefit Guaranty Corporation (PBGC) is requesting that the Office of Management and Budget (OMB) extend approval, under the Paperwork Reduction Act, of the collection of information for the termination premium under its regulation on Payment of Premiums (29 CFR part 4007) (OMB control number 1212–0064; expires February 28, 2017), without changes. This notice informs the public of PBGC's request and solicits public comment on the collection of information.

DATES: Comments should be submitted by March 2, 2017.

ADDRESSES: Comments should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Pension Benefit Guaranty Corporation, via electronic mail at *OIRA_DOCKET@omb.eop.gov* or by fax to 202–395–6974.

The currently approved collection of information (Form T and instructions) and PBGC's premium payment regulation may be found on PBGC's Web site at *http://www.pbgc.gov/prac/prem/termination-premiums.html.* Copies of the proposed collection of information and PBGC's request will be posted at *http://www.pbgc.gov/res/laws-and-*

regulations/information-collections-under-omb-review.html. They may also be obtained without charge by writing to the Disclosure Division of the Office of the General Counsel of PBGC, 1200 K Street NW., Washington, DC 20005, or by calling 202–326–4040 during normal business hours. (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4040.)

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Assistant General Counsel for Regulatory Affairs, Office of the General Counsel, Pension Benefit Guaranty Corporation, 1200 K Street NW., Washington, DC 20005–4026, 202–326–4400 ext.3451 or *Murphy.Deborah@pbgc.gov.* (TTY and TDD users may call the Federal relay service toll-free at 800–877–8339 and ask to be connected to 202–326–4400 ext 3451.)

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation (PBGC) administers the pension plan termination insurance program under title IV of the Employee Retirement Income Security Act of 1974 (ERISA). Section 4006(a)(7) of ERISA provides for a ''termination premium'' (in addition to the flat-rate and variable-rate premiums under section 4006(a)(3) and (8) of ERISA) that is payable for three years following certain distress and involuntary plan terminations. PBGC's regulations on Premium Rates (29 CFR part 4006) and Payment of Premiums (29 CFR part 4007) implement the termination premium. Sections 4007.3 and 4007.13(b) of the premium payment regulation require the filing of termination premium information and payments with PBGC. PBGC has promulgated Form T and instructions for paying the termination premium.

In general, the termination premium applies where a single-employer plan terminates in a distress termination under ERISA section 4041(c) (unless contributing sponsors and controlled group members meet the bankruptcy liquidation requirements of ERISA section 4041(c)(2)(B)(i)) or in an involuntary termination under ERISA section 4042, and the termination date under section 4048 of ERISA is after 2005. The termination premium does not apply in certain cases where termination occurs during a bankruptcy proceeding filed before October 18, 2005.

The termination premium is payable for three years. The same amount is payable each year. The amount of each payment is based on the number of participants in the plan as of the day before the termination date. In general, the amount of each payment is equal to $1,250 times the number of participants. However, the rate is increased from $1,250 to $2,500 in certain cases involving commercial airline or airline catering service plans. The termination premium is due on the 30th day of each of three consecutive 12-month periods. The first 12-month period generally begins shortly after the termination date or after the conclusion of bankruptcy proceedings in certain cases.

The termination premium and related information must be filed by a person liable for the termination premium. The persons liable for the termination premium are contributing sponsors and members of their controlled groups, determined on the day before the plan termination date. Interest on late termination premiums is charged at the rate imposed under section 6601(a) of the Internal Revenue Code, compounded daily, from the due date to the payment date. Penalties based on facts and circumstances may be assessed both for failure to timely pay the termination premium and for failure to timely file required related information and may be waived in appropriate circumstances. A penalty for late payment will not exceed the amount of termination premium paid late. Section 4007.10 of the premium payment regulation requires the retention of records supporting or validating the computation of premiums paid and requires that the records be made available to PBGC.

OMB has approved the termination premium collection of information (Form T and instructions) under control number 1212–0064 through February 28, 2017. PBGC is requesting that OMB extend approval of this collection of information for three years, without changes. 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.

PBGC estimates that it will each year receive an average of about 1 filing for the first year a termination premium is due, 1 filing for the second year a termination premium is due, and 1 filing for the third year a termination premium is due, from a total of about 3 respondents. PBGC estimates that the total annual burden of the collection of information will be about 15 minutes and $200.

Deborah Chase Murphy,

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

[FR Doc. 2017–02018 Filed 1–30–17; 8:45 am]

BILLING CODE 7709–02–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79873; File No SR–CBOE–2017–007]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change To Amend the Fees Schedule

January 25, 2017.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on January 17, 2017, Chicago Board Options Exchange, Incorporated (the ''Exchange'' or ''CBOE'') filed with the Securities and Exchange Commission (the ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend its Fees Schedule. The text of the proposed rule change is also available on the Exchange's Web site (*http://www.cboe.com/AboutCBOE/CBOELegalRegulatoryHome.aspx*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to adopt a new Liquidity Provider Sliding Scale

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

Adjustment Table (''Adjustment Table'').[3] By way of background, under the Liquidity Provider Sliding Scale (''LP Sliding Scale''), a Liquidity Provider's (CBOE Market-Makers, DPMs and LMMs) standard per-contract transaction fees for all products except Underlying Symbol List A [4] and mini options are reduced based upon the Liquidity Provider (''LP'') reaching certain contract volume thresholds in a month.[5] The Exchange proposes to adopt the Adjustment Table which would establish Taker fees to be applied to ''Taker'' volume and a Maker rebate that would be applied to ''Maker'' volume in addition to the transaction fees assessed under the LP Sliding Scale. The amount of the Taker fee (or Maker rebate) would be determined by the LP's percentage of volume from the previous month that was Maker (''Make Rate''). The proposed Performance Tiers (determined by the Make Rate), fees and rebate are as follows:

Performance tier	Make rate	Maker rebate		Taker fee	
	(% based on prior month)	Penny classes	Non-penny classes	Penny classes	Non-penny classes
1	0–50	($0.00)	($0.00)	$0.04	$0.08
2	51–75	(0.00)	(0.00)	0.03	0.06
3	76–85	(0.00)	(0.00)	0.02	0.04
4	86–90	(0.00)	(0.00)	0.01	0.02
5	91–100	(0.01)	(0.00)	0.00	0.00

As indicated above, the adjustment to a LP's transaction fees will be determined by which Performance Tier a LP qualifies for, which is based on the LP's ''Make Rate.'' More specifically, the Make Rate is derived from an LP's electronic volume the previous month in all symbols excluding Underlying Symbol List A using the following formula: (i) The LP's total electronic automatic execution (''auto-ex'') Maker volume (*i.e.,* volume resulting from that LP's resting quotes or single sided quotes/orders that were executed by an incoming order or quote), divided by (ii) the LP's total auto-ex volume (*i.e.,* volume that resulted from the LP's resting quotes/orders and volume that resulted from that LP's quotes/orders that removed liquidity).[6] The Exchange notes that (i) trades on the open, and (ii) complex orders [7] will be excluded from Make Rate calculation. Additionally, as with the Liquidity Provider Sliding Scale, the Exchange will aggregate the trading activity of separate Liquidity Provider firms for purposes of the Adjustment Table if there is at least 75% common ownership between the firms as reflected on each firm's Form BD, Schedule A. The Exchange notes that the Performance Tiers are independent from the tier levels in the LP Sliding Scale (*e.g.,* a LP that falls in Tier 3 of the LP Sliding Scale can fall in Performance Tier 4 of the Adjustment Table). The Exchange also notes once a LP's Make Rate has been determined for a given month, the corresponding Performance Tier will applicable for the next month only. For example, the Performance Tier rates that will be applied in February 2017 will be based on a LP's Make Rate volume from January 2017. Similarly, the Performance Tier that would apply for a Market-Maker in March 2017, would be based off the LP's Make Rate for February 2017 and so forth.

The Exchange next proposes to establish the applicable Taker fees and Maker rebate set forth in the Performance Tiers for Penny and non-Penny classes. The Exchange proposes to apply these adjustments to a LP's electronic volume only, including auction responses, but excluding the following: (i) Trades on the open, (ii) Qualified Contingent Cross (''QCC'') orders, (iii) complex orders,[8] and (iv) original paired orders executed via an auction mechanism. As noted above, the Taker fees set forth in the Adjustment Table would be applied to ''Taker'' volume. Taker volume under the Adjustment Table would include the following: (i) Volume resulting from a LP's orders and/or quotes removing other market participants' resting orders and/or quotes and (ii) volume resulting from a LP's primary orders in unpaired auctions (*i.e.,* Hybrid Agency Liaison (''HAL'') and HAL on the Open (''HALO'')). The Exchange notes that Taker fees for Penny classes would be subject to a cap of $0.50 per contract, which includes the LP Sliding Scale transaction fee, Adjustment Table fee and Marketing Fee.[9] The Maker rebate set forth in the Adjustment Table would be applied to ''Maker'' volume, defined for this purpose as the following: (i) Volume resulting from executions against a LP's resting orders and/or quotes and (ii) volume resulting from a LP's responses to auctions (*i.e.,* Automated Improvement Mechanism (''AIM''), HAL, and/or HALO

[3] The Exchange initially filed the proposed fee change on January 3, 2017 (SR–CBOE–2017–002). On January 17, 2017, the Exchange withdrew that filing and submitted this filing.

[4] As of January 3, 2017, Underlying Symbol List A includes Underlying Symbol List A consists of [sic] OEX, XEO, RUT, RLG, RLV, RUI, AWDE, FTEM, FXTM, UKXM SPX/SPXW, SPXpm, SRO, VIX, Volatility Indexes and binary options.

[5] *See* CBOE Fees Schedule, Liquidity Provider Sliding Scale.

[6] For example, a Trading Permit Holder's electronic auto-ex Maker contract volume in December 2016 is 1,800,000 contracts and its total electronic auto-ex volume is 3,000,000 contracts, resulting in a Make Rate of 60% (Performance Tier 2). As such, the Trading Permit Holder's electronic Taker volume in January 2017 would be assessed $0.03 per contract for penny classes and $0.06 per contract for non-penny class volume.

[7] Simple, non-complex orders that execute against a complex order will not be excluded.

[8] Simple, non-complex orders that execute against a complex order will not be excluded.

[9] For example, if an LP is assessed the Marketing Fee on a given transaction ($0.25 per contract) for which it was a Taker in a Penny class, and that LP falls in Tier 1 of the LP Sliding Scale ($0.23 per contract) and Performance Tier 1 of the Adjustment Table ($0.04 per contract), the LP would be assessed $0.50 per contract for the transaction, instead of $0.52 per contract.

responses).[10] The Exchange notes that other Exchanges assess transactions fees based on whether volume is ''maker'' or ''taker''.[11] The Exchange lastly proposes to make clear in the ''Notes'' section of the Affiliate Volume Program (''AVP'') table that the transaction fee credits under AVP do not apply to the LP Adjustment Table.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with the Securities Exchange Act of 1934 (the ''Act'') and the rules and regulations thereunder applicable to the Exchange and, in particular, the requirements of Section 6(b) of the Act.[12] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [13] requirements that the rules of an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. Additionally, the Exchange believes the proposed rule change is consistent with Section 6(b)(4) of the Act,[14] which requires that Exchange rules provide for the equitable allocation of reasonable dues, fees, and other charges among its Trading Permit Holders and other persons using its facilities.

The Exchange believes that adopting the Adjustment Table is reasonable because the amount of LP transaction fees including the proposed Taker fees and Taker cap of $0.50 per contract are similar and in line with the amount assessed for similar transactions at other Exchanges.[15] Additionally, the Adjustment Table provides LPs an opportunity to qualify for a rebate they would not otherwise receive. The Exchange also notes that other exchanges have established transaction fees for Market-Makers based on maker and taker activity.[16] Additionally the proposed rule change is designed to encourage LPs to provide and post liquidity to the Exchange. The different tiers provide an incremental incentive for LPs to add, rather than take, liquidity.

The Exchange believes that it is reasonable, equitable and not unfairly discriminatory to only assess an additional Taker fee to those transactions removing liquidity from the market (''Takers'') and not Maker volume because the Exchange wants to continue to encourage market participation and price improvement. The Exchange's proposal to charge LPs who remove more liquidity higher fees is equitable and not unfairly discriminatory as it is common practice among options exchanges to differentiate fees for adding liquidity and fees for removing liquidity as discussed above.

The Exchange also believes it's equitable and not unfairly discriminatory to assess higher fees for non-Penny option classes than Penny option classes and provide a rebate only for Penny classes because Penny classes and Non-Penny classes offer different pricing, liquidity, spread and trading incentives. The spreads in Penny classes are tighter than those in Non-Penny classes (which trade in $0.05 increments). The wider spreads in non-Penny option classes allow for greater profit potential.

Limiting the Adjustment Table to orders entered electronically is equitable and not unfairly discriminatory because the Exchange seeks to improve the quality of posted electronic markets. Additionally, the Exchange cannot discern whether an order is a Maker or Taker in open-outcry.

The Exchange believes it's equitable and not unfairly discriminatory to exclude Trades on the Open because these transactions involve the matching of undisplayed pre-opening trading interest. As such, there is, in effect, no Maker or Taker activity occurring. The Exchange would also like to encourage users to submit pre-opening orders. This brings greater liquidity and trading opportunity, which benefits all market participants. Similarly, the Exchange believes it's equitable and not unfairly discriminatory to exclude the original paired orders entered into an auction mechanism because there is no Maker or Taker activity occurring with respect to the original paired order.

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to exclude complex orders from the Adjustment Table because complex orders are already subject to the Complex Surcharge.

The Exchange believes it's reasonable, equitable and not unfairly discriminatory to exclude QCC orders from the Adjustment Table because QCC orders are also not subject to the Liquidity Provider Sliding Scale.

Excluding auction responses from the Make Rate is equitable and not unfairly discriminatory because the Exchange wants to encourage improved resting liquidity. The Exchange notes however, that auction responses are included as Maker with respect to the potential Maker rebate, as it still wants to reward price improvement and using auction mechanisms.

Lastly, the Exchange believes the proposed change is also equitable and not unfairly discriminatory because all similarly situated LPs are subject to the same fee structure.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule changes will impose any burden on competition that are not necessary or appropriate in furtherance of the purposes of the Act. The Exchange does not believe that the proposed rule change will impose any burden on intramarket competition that is not necessary or appropriate in furtherance of the purposes of the Act because all similarly situated LPs are subject to the same fee structure. Additionally the proposed rule change is designed to encourage LPs to provide and post liquidity to the Exchange, which benefits all market participants.

The Exchange does not believe that the proposed rule changes will impose any burden on intermarket competition

[10] For example, based on December 2016's volume, a LP's Performance Tier is Tier 2 for January 2017. In January 2017, the LP has the following breakdown of volume:

1,162,500 contracts from AIM responses in Penny Classes

2,000,000 contracts from electronic Maker activity in Penny Classes

1,000,000 contracts from electronic Maker activity in Non-Penny Classes

500,000 contracts from electronic Taker activity in Penny Classes

100,000 contracts from electronic Taker activity in Non-Penny Classes

200,000 contracts from responses to HAL in Penny Classes

Per the proposed Adjustment Table, the LP would be assessed $0.03 per contract for the 500,000 Taker Penny contracts ($15,000) and $0.06 per contract for the 100,000 Taker non-Penny contracts ($6,000), resulting in an additional charge of $21,000. If based on December 2016's volume the LP had instead met Performance Tier 5, for January 2017, the LP would have been entitled to a rebate of $0.01 for its Penny Maker volume of 3,362,500 (1,162,500 AIM responses, 2,000,000 Maker auto-ex Penny contracts and 200,000 HAL responses) for a total rebate of $33,625. In this example, no additional fees would be assessed on the LP's Taker volume.

[11] *See e.g.,* Miami International Securities Exchange LLC (''MIAX'') Options Fees Schedule, Section 1(a), Market Maker Transaction Fees.

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

[14] 15 U.S.C. 78f(b)(4).

[15] *See e.g.,* International Securities Exchange (''ISE'') Schedule of Fees, Regular Order Fees and Rebates. *See also,* BOX Options Exchange Fees Schedule, Section I., Exchange Fees.

[16] *Id. See also* MIAX Options Fees Schedule, Section 1(a), Market Maker Transaction Fees.

that is not necessary or appropriate in furtherance of the purposes of the Act because the proposed change only affects trading on CBOE. To the extent that the proposed change makes CBOE a more attractive marketplace for market participants at other exchanges, such market participants are welcome to become CBOE market participants.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

The Exchange neither solicited nor received comments on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [17] and paragraph (f) of Rule 19b–4 [18] thereunder. At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission will institute proceedings to determine whether the proposed rule change should be approved or disapproved.

Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2017–007 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.

All submissions should refer to File Number SR–CBOE–2017–007. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet 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 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–CBOE–2017–007 and should be submitted on or before February 21, 2017.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[19]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01999 Filed 1–30–17; 8:45 am]

BILLING CODE 8011–01–P

[17] 15 U.S.C. 78s(b)(3)(A).

[18] 17 CFR 240.19b–4(f).

[19] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 32435; 812–14729]

Causeway ETMF Trust, et al.; Notice of Application

January 25, 2017.

AGENCY: Securities and Exchange Commission (''Commission'').

ACTION: Notice of an application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act.

APPLICANTS: Causeway ETMF Trust (the ''Trust''), Causeway Capital Management LLC (the ''Adviser'') and SEI Investments Distribution Co. (the ''Distributor'').

SUMMARY OF APPLICATION: Applicants request an order (''Order'') that permits: (a) Actively managed series of certain open-end management investment companies to issue shares (''Shares'') redeemable in large aggregations only (''Creation Units''); (b) secondary market transactions in Shares to occur at the next-determined net asset value plus or minus a market-determined premium or discount that may vary during the trading day; (c) certain series to pay redemption proceeds, under certain circumstances, more than seven days from the tender of Shares for redemption; (d) certain affiliated persons of the series to deposit securities into, and receive securities from, the series in connection with the purchase and redemption of Creation Units; (e) certain registered management investment companies and unit investment trusts outside of the same group of investment companies as the series to acquire Shares; and (f) certain series to create and redeem Shares in kind in a master-feeder structure. The Order would incorporate by reference terms and conditions of a previous order granting the same relief sought by applicants, as that order may be amended from time to time (''Reference Order'').[1]

FILING DATE: The application was filed on December 28, 2016.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on February 21, 2017, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Pursuant to rule 0–5 under the Act, hearing requests should state the nature of the writer's interest, any facts bearing upon the desirability of a hearing on the matter, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: *The Commission:* Secretary, U.S. Securities and Exchange

[1] Eaton Vance Management, *et al.,* Investment Company Act Rel. Nos. 31333 (Nov. 6, 2014) (notice) and 31361 (Dec. 2, 2014) (order).

Commission, 100 F Street NE., Washington, DC 20549–1090.
Applicants: Causeway ETMF Trust, Causeway Capital Management LLC, 11111 Santa Monica Boulevard, 15th Floor, Los Angeles, CA 90025; SEI Investments Distribution Co., One Freedom Valley Drive, Oaks, PA 19456.

FOR FURTHER INFORMATION CONTACT: Deepak T. Pai, Senior Counsel, or Daniele Marchesani, Assistant Chief Counsel, at (202) 551–6821 (Division of Investment Management, Chief Counsel's Office).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained via the Commission's Web site by searching for the file number, or for an applicant using the Company name box, at *http://www.sec.gov/search/search.htm* or by calling (202) 551–8090.

Applicants

1. The Trust will be registered as an open-end management investment company under the Act and is a statutory trust organized under the laws of the State of Delaware. Applicants seek relief with respect to three Funds (as defined below, and those Funds, the ''Initial Funds''). The portfolio positions of each Fund will consist of securities and other assets selected and managed by its Adviser or Subadviser (as defined below) to pursue the Fund's investment objective.

2. The Adviser, a Delaware limited liability company, will be the investment adviser to the Initial Funds. An Adviser (as defined below) will serve as investment adviser to each Fund. The Adviser is, and any other Adviser will be, registered as an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). The Adviser and the Trust may retain one or more subadvisers (each a ''Subadviser'') to manage the portfolios of the Funds. Any Subadviser will be registered, or not subject to registration, under the Advisers Act.

3. The Distributor is a Pennsylvania corporation and a broker-dealer registered under the Securities Exchange Act of 1934 and will act as the principal underwriter of Shares of the Funds. Applicants request that the requested relief apply to any distributor of Shares, whether affiliated or unaffiliated with the Adviser (included in the term ''Distributor''). Any Distributor will comply with the terms and conditions of the Order.

Applicants' Requested Exemptive Relief

4. Applicants seek the requested Order under section 6(c) of the Act for an exemption from sections 2(a)(32), 5(a)(1), 22(d) and 22(e) of the Act and rule 22c–1 under the Act, under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and 17(a)(2) of the Act, and under section 12(d)(1)(J) of the Act for an exemption from sections 12(d)(1)(A) and (B) of the Act. The requested Order would permit applicants to offer exchange-traded managed funds. Because the relief requested is the same as the relief granted by the Commission under the Reference Order and because the Adviser has entered into, or anticipates entering into, a licensing agreement with Eaton Vance Management, or an affiliate thereof in order to offer exchange-traded managed funds,[2] the Order would incorporate by reference the terms and conditions of the Reference Order.

5. Applicants request that the Order apply to the Initial Funds and to any other existing or future open-end management investment company or series thereof that: (a) Is advised by the Adviser or any entity controlling, controlled by, or under common control with the Adviser (any such entity included in the term ''Adviser''); and (b) operates as an exchange-traded managed fund as described in the Reference Order; and (c) complies with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein (each such company or series and Initial Fund, a ''Fund'').[3]

6. Section 6(c) of the Act provides that the Commission may exempt any person, security or transaction, or any class of persons, securities or transactions, from any provisions of the Act, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Section 17(b) of the Act authorizes the Commission to exempt a proposed transaction from section 17(a) of the Act if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policies of the registered investment company and the general purposes of the Act. Section 12(d)(1)(J) of the Act provides that the Commission may exempt any person, security, or transaction, or any class or classes of persons, securities or transactions, from any provision of section 12(d)(1) if the exemption is consistent with the public interest and the protection of investors.

7. Applicants submit that for the reasons stated in the Reference Order: (1) With respect to the relief requested pursuant to section 6(c) of the Act, the relief is appropriate, in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act; (2) with respect to the relief request pursuant to section 17(b) of the Act, the proposed transactions are reasonable and fair and do not involve overreaching on the part of any person concerned, are consistent with the policies of each registered investment company concerned and consistent with the general purposes of the Act; and (3) with respect to the relief requested pursuant to section 12(d)(1)(J) of the Act, the relief is consistent with the public interest and the protection of investors.

By the Division of Investment Management, pursuant to delegated authority.

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–01998 Filed 1–30–17; 8:45 am]

BILLING CODE 8011–01–P

[2] Eaton Vance Management has obtained patents with respect to certain aspects of the Funds' method of operation as exchange-traded managed funds.

[3] All entities that currently intend to rely on the Order are named as applicants. Any other entity that relies on the Order in the future will comply with the terms and conditions of the Order and of the Reference Order, which is incorporated by reference herein.

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79874; File No. SR–NASDAQ–2016–141]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Notice of Withdrawal of a Proposed Rule Change To Amend Rule 4702 To Adopt a New Retail Post-Only Order

January 25, 2017.

On October 13, 2016, The Nasdaq Stock Market LLC (''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change to amend Exchange Rule 4702 to adopt a new Retail Post-Only Order. The proposed rule change was published for comment in the **Federal Register** on

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

November 1, 2016.[3] On December 14, 2016, pursuant to Section 19(b)(2) of the Act,[4] the Commission designated a longer period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change.[5] The Commission received one comment letter on the proposed rule change.[6] On January 20, 2017, the Exchange withdrew the proposed rule change (SR–NASDAQ–2016–141).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[7]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–02000 Filed 1–30–17; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–79876; File No. SR–NASDAQ–2016–131]

Self-Regulatory Organizations; The Nasdaq Stock Market LLC; Order Granting Approval of Proposed Rule Change, as Modified by Amendment Nos. 2 and 3, To Enhance the Reopening Auction Process Following a Trading Halt Declared Pursuant to the Plan To Address Extraordinary Market Volatility

January 25, 2017.

I. Introduction

On October 13, 2016, The Nasdaq Stock Market LLC (''Nasdaq'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] a proposed rule change related to the Exchange's re-opening process following a trading halt declared pursuant to the National Market System Plan to Address Extraordinary Market Volatility (''Plan''). The proposed rule change was published for comment in the **Federal Register** on November 1, 2016.[3] On December 5, 2016, the Exchange filed Amendment No. 1 to the proposed rule change. On December 14, 2016, the Commission extended the time period within which to approve the proposed rule change, disapprove the proposed rule change, or institute proceedings to determine whether to disapprove the proposed rule change to January 30, 2017.[4] On December 21, 2016, the Exchange withdrew Amendment No. 1 and filed Amendment No. 2 to the proposed rule change. On January 19, 2017, the Exchange filed Amendment No. 3 to the proposed rule change.[5] The Commission received no comments on the proposed rule change. This order approves the proposed rule change, as modified by Amendment Nos. 2 and 3.

II. Description of the Proposed Rule Change, as Modified by Amendment Nos. 2 and 3

In conjunction with the Twelfth Amendment to the Plan,[6] the Exchange proposes to revise its re-opening process following a trading halt declared pursuant to the Plan (''Trading Pause'') and to make related changes.

Auction Reference Price and Auction Collar for the Re-Opening Process Following a Trading Pause

The Exchange proposes to establish an ''Auction Reference Price'' and an ''Auction Collar'' for the re-opening process following a Trading Pause. Specifically, for a Limit Down triggered pause, the Auction Reference Price would be the Lower Band price of the LULD Band in place at the time the Trading Pause was triggered.[7] For a Limit Up triggered pause, the Auction Reference Price would be the Upper Band price of the LULD Band in place at the time the Trading Pause was triggered.[8] With respect to Auction Collars, for a Limit Down triggered pause, the lower Auction Collar price would be derived by subtracting 5% of the Auction Reference Price, rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $3 or less, $0.15, from the Auction Reference Price, and the upper Auction Collar price would be the Upper Band price of the LULD Band in place at the time the Trading Pause was triggered.[9] For a Limit Up triggered pause, the upper Auction Collar price would be derived by adding 5% of the Auction Reference Price, rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $3 or less, $0.15, to the Auction Reference Price, and the lower Auction Collar price would be the Lower Band price of the LULD Band in place at the time the Trading Pause was triggered.[10]

Extension of Re-Opening Time and Expansion of Auction Collars

As proposed, for any security listed on the Exchange, prior to terminating a Trading Pause, there would be a 5-minute ''Initial Display Only Period'' during which market participants may enter quotations and orders in that security in Nasdaq systems.[11] At the conclusion of the Initial Display Only Period, the security would be released for trading unless, at the end of the Initial Display Only Period, the Exchange detects an order imbalance in the security.[12] In that case, the Exchange would extend the Display Only Period for an additional 5-minute period

[3] *See* Securities Exchange Act Release No. 79163 (October 26, 2016), 81 FR 75862.

[4] 15 U.S.C. 78s(b)(2).

[5] *See* Securities Exchange Act Release No. 79554, 81 FR 92927 (December 20, 2016). The Commission designated January 30, 2017, as the date by which it shall approve, disapprove, or institute proceedings to determine whether to disapprove the proposed rule change.

[6] *See* Letter from Joseph Saluzzi and Sal Arnuk, Partners, Themis Trading LLC, to Brent J. Fields, Secretary, Commission, dated November 7, 2016.

[7] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 79158 (October 26, 2016), 81 FR 75879 (''Notice'').

[4] *See* Securities Exchange Act Release No. 79551, 81 FR 92885 (December 20, 2016).

[5] In Amendment No. 2, the Exchange proposed to use the Auction Reference Price to determine whether a security subject to a Trading Pause is priced at $3 or less, which would determine the method of calculating the Auction Collars. The Exchange also made a conforming change to Nasdaq Rule 4754(b)(6) relating to Trading Pauses that exist at or after 3:50 p.m. In Amendment No. 3, the Exchange proposed to implement the proposed rule change in the third quarter of 2017, following the Commission's approval of the Twelfth Amendment to the Plan. The Exchange also explained that this implementation is contingent on the Securities Information Processors successfully implementing changes to their systems to allow for the new re-opening process, and the other Primary Listing Exchanges gaining approval of their related filings and their ability to implement the changes concurrent with Nasdaq. Because Amendment Nos. 2 and 3 do not materially alter the substance of the proposed rule change or raise unique or novel regulatory issues, they are not subject to notice and comment. Both amendments are available at: *https://www.sec.gov/comments/sr-nasdaq-2016-131/nasdaq2016131.shtml.*

[6] *See* Securities Exchange Act Release No. 79845 (January 19, 2017) (File No. 4–631).

[7] *See* proposed Nasdaq Rule 4120(c)(10)(A)(i)(a).

[8] *See* proposed Nasdaq Rule 4120(c)(10)(A)(i)(b). The proposed definition of Auction Reference Price for a Trading Pause is designed to be consistent across listing exchanges.

[9] *See* proposed Nasdaq Rule 4120(c)(10)(A)(ii)(a).

[10] *See* proposed Nasdaq Rule 4120(c)(10)(A)(ii)(b). The proposed Auction Collars for a Trading Pause are designed to be consistent across listing exchanges.

[11] *See* proposed Nasdaq Rule 4120(c)(10). The proposed rule would also provide that the Trading Pause shall be terminated when Nasdaq releases the security for trading. *See id.* The Exchange proposes a conforming change in Nasdaq Rule 4120(c)(7)(A).

[12] *See* proposed Nasdaq Rule 4120(c)(10)(B). According to proposed Nasdaq Rule 4120(c)(10)(E), upon completion of the cross calculation, an order imbalance shall be established as follows: (i) The calculated price at which the security would be released for trading is above (below) the upper (lower) Auction Collar price calculated under paragraphs (A), (B), or (C) of Nasdaq Rule 4120(c)(10); or (ii) all market orders would not be executed in the cross.

(''Extended Display Only Period'') and the Auction Collars would be adjusted.[13] Specifically, If the Display Only Period is extended because the calculated price at which the security would be released for trading is below the lower Auction Collar price or all sell market orders would not be executed in the cross, then the new lower Auction Collar price would be derived by subtracting 5% of the initial Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $3 or less, $0.15, from the previous lower Auction Collar price, and the upper Auction Collar price would not be changed.[14] If the Display Only Period is extended because the calculated price at which the security would be released for trading is above the upper Auction Collar price or all buy market orders would not be executed in the cross, then the new upper Auction Collar price would be derived by adding 5% of the initial Auction Reference Price, which was rounded to the nearest minimum price increment, or in the case of securities with an Auction Reference Price of $3 or less, $0.15, to the previous upper Auction Collar price, and the lower Auction Collar price would not be changed.[15]

At the conclusion of the Extended Display Only Period, the security would be released for trading unless, at the end of the Extended Display Only Period, the Exchange detects an order imbalance in the security.[16] In that case, the Exchange would further extend the Display Only Period and continue to adjust the Auction Collar prices every five minutes in the manner described in proposed Nasdaq Rule 4120(c)(10)(B) until the security is released for trading.[17] With respect to these additional extensions, the Exchange would release the security for trading at the first point there is no order imbalance.[18]

As proposed, if a Trading Pause for a security exists at or after 3:50 p.m., the Exchange would conduct a LULD Closing Cross pursuant to Nasdaq Rule 4754(b)(6).[19]

Other Changes Related to the Re-Opening Process Following a Trading Pause

Nasdaq Rule 4753(a)(3) currently defines ''Order Imbalance Indicator'' to mean a message disseminated by electronic means containing information about Eligible Interest and the price at which such interest would execute at the time of dissemination. The Exchange proposes to add that, for purposes of a Trading Pause initiated pursuant to Nasdaq Rule 4120(a)(12), ''Order Imbalance Indicator'' would also include Auction Reference Prices and Auction Collars, as defined in proposed Nasdaq Rule 4120(c)(10)(A).[20]

The Exchange also proposes to amend Nasdaq Rule 11890 to provide that executions as a result of a Halt Auction under Nasdaq Rule 4120(c)(10) would not be eligible for a request to review as clearly erroneous under Nasdaq Rule 11890.[21]

Other Changes Relating to Trading Pauses

The Exchange proposes to amend Nasdaq Rule 4120(a)(12)(G) to state that if the Exchange is unable to re-open trading due to a systems or technology issue, it shall notify the Processor immediately.[22] The Exchange also proposes to amend Nasdaq Rule 4120(a)(12)(H) to state that if a Trading Pause was initiated by another exchange, the Exchange may resume trading only upon receipt of Price Bands from the Processor.[23]

The Exchange proposes to implement this proposed rule change in the third quarter of 2017.[24] The Exchange represents that it will announce the implementation date of this proposed rule change via a notice to be issued after this proposed rule change is approved by the Commission.[25]

III. Discussion and Commission Findings

After careful review, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[26] In particular, the Commission finds that the proposed rule change is consistent with Section 6(b)(5) of the Act,[27] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. As noted above, the Commission received no comment letters regarding the proposed rule change.

The Commission notes that the proposed rule change is designed, together with the Twelfth Amendment to the Plan,[28] to address the issues experienced on August 24, 2015 by reducing the number of repeat Trading Pauses in a single NMS Stock.[29] The Commission notes that the proposed rule change is also designed to further the goal of establishing a standardized approach for how Primary Listing Exchanges would conduct certain aspects of an automated re-opening following a Trading Pause, which should provide certainty for market participants regarding how a security would re-open following a Trading Pause, regardless of the listing exchange.[30]

With respect to the proposed Auction Reference Price and Auction Collars, the Commission finds reasonable the Exchange's belief that the price of the limit state that preceded the Trading Pause (*i.e.,* either the Lower or Upper Price Band price) would better reflect the most recent price of the security, and therefore should be used as the

[13] *See* proposed Nasdaq Rule 4120(c)(10)(B).

[14] *See* proposed Nasdaq Rule 4120(c)(10)(B)(i).

[15] *See* proposed Nasdaq Rule 4120(c)(10)(B)(ii).

[16] *See* proposed Nasdaq Rule 4120(c)(10)(C).

[17] *See id.*

[18] *See id.* The proposed extensions and widening of the Auction Collars are designed to be consistent across listing exchanges.

[19] *See* proposed Nasdaq Rule 4120(a)(10)(D). The Exchange also proposes conforming changes to Nasdaq Rules 4120(a)(12)(H) and 4754(b)(6). The concept of holding a closing auction instead of a re-opening auction if a Trading Pause exists in the last ten minutes of trading is designed to be consistent across listing exchanges and to reflect the Twelfth Amendment to the Plan.

[20] *See* proposed Nasdaq Rule 4753(a)(3)(F).

[21] The proposal to exclude re-opening auction trades from the clearly erroneous execution rule is designed to be consistent across listing exchanges.

[22] *See* proposed Nasdaq Rule 4120(a)(12)(G). This change is designed to be consistent across listing exchanges and to reflect the Twelfth Amendment to the Plan. The Exchange also proposes to delete rule text in Nasdaq Rule 4120(a)(12)(G) concerning phased implementation of the Plan, because the Plan has been fully implemented.

[23] *See* proposed Nasdaq Rule 4120(a)(12)(H). This change is designed to be consistent across listing exchanges and to reflect the Twelfth Amendment to the Plan.

[24] The Exchange explains that implementation of the proposed changes is contingent on the Securities Information Processors successfully implementing changes to their systems to allow for the new re-opening process, and the other Primary Listing Exchanges gaining approval of their related filings and their ability to implement the changes concurrent with Nasdaq. *See* Amendment No. 3, *supra* note 5.

[25] *See id.* For a more detailed description of the proposed rule change, *see* Notice, *supra* note 3.

[26] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[27] 15 U.S.C. 78f(b)(5).

[28] *See supra* note 6.

[29] *See* Notice, *supra* note 3, at 75882.

[30] *See id.*

Auction Reference Price.[31] Moreover, the Commission believes that the proposed method for calculating the initial Auction Collars (*i.e.,* the Auction Collar on the opposite side of the trading pressure would be the Price Band in place before the Trading Pause was triggered) would address the concept of mean reversion, as well as avoid a security from trading outside of a price that it would have been permitted to trade before the Trading Pause.[32]

The Commission believes that extending the Trading Pause and widening the Auction Collar on the side of the order imbalance would be a measured approach to provide additional time to attract offsetting interest, to help to address an imbalance that may not be resolved within the prior Auction Collars, and to reduce the potential for triggering another Trading Pause.[33] Also, as the Exchange noted, widening the Auction Collar only in the direction of the order imbalance would address issues relating to the concept of mean reversion.[34] Moreover, the Commission notes that the proposal to conduct a LULD Closing Cross pursuant to Nasdaq Rule 4754(b)(6) should a Trading Pause exist at or after 3:50 p.m. would be consistent with the Twelfth Amendment to the Plan.

The Commission believes that it is appropriate to preclude requests to review executions as a result of a Halt Auction under Nasdaq Rule 4120(c)(10) as clearly erroneous. The Commission notes that the proposed re-opening procedures would allow for widened collars, which may result in a re-opening price that would be away from prior trading prices, but the re-opening price would be the result of a measured and transparent process that reduces the potential that such a trade would be considered erroneous.[35]

The Commission believes that the proposed enhancements to the Order Imbalance Indicator would further promote transparency around the re-opening process following a Trading Pause.

Finally, the Commission notes that the proposed amendments to Nasdaq Rule 4210(a)(12)(G) and (H) would remove obsolete rule text and conform the remaining rule text to the Twelfth Amendment to the Plan.

Based on the Exchange's representations mentioned above and in the Notice, and for the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment Nos. 2 and 3, is consistent with Section 6(b)(5) of the Act[36] and the rules and regulations thereunder applicable to a national securities exchange.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[37] that the proposed rule change (SR–NASDAQ–2016–131), as modified by Amendment Nos. 2 and 3, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[38]

Eduardo A. Aleman,

Assistant Secretary.

[FR Doc. 2017–02001 Filed 1–30–17; 8:45 am]

BILLING CODE 8011–01–P

[31] *See* Notice, *supra* note 3, at 75882–83.

[32] *See* Notice, *supra* note 3, at 75883.

[33] *See* Notice, *supra* note 3, at 75882.

[34] *See* Notice, *supra* note 3, at 75883.

[35] *See id.*

[36] 15 U.S.C. 78f(b)(5).

[37] 15 U.S.C. 78s(b)(2).

[38] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Public Law 94–409, that the Securities and Exchange Commission will hold a closed meeting on Thursday, February 2, 2017 at 2 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters also may be present.

The General Counsel of the Commission, or her designee, has certified that, in her opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(3), (5), (7), 9(B) and (10) and 17 CFR 200.402(a)(3), (a)(5), (a)(7), (a)(9)(ii) and (a)(10), permit consideration of the scheduled matter at the closed meeting.

Acting Chairman Piwowar, as duty officer, voted to consider the items listed for the closed meeting in closed session.

The subject matter of the closed meeting will be:

Institution and settlement of injunctive actions;

Institution and settlement of administrative proceedings;

Resolution of litigation claims; and

Other matters relating to enforcement proceedings.

At times, changes in Commission priorities require alterations in the scheduling of meeting items.

For further information and to ascertain what, if any, matters have been added, deleted or postponed; please contact Brent J. Fields from the Office of the Secretary at (202) 551–5400.

Dated: January 26, 2017.

Brent J. Fields,

Secretary.

[FR Doc. 2017–02079 Filed 1–27–17; 11:15 am]

BILLING CODE 8011–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 706–NA

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995. Currently, the IRS is soliciting comments concerning Form 706–NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

DATES: Written comments should be received on or before April 3, 2017 to be assured of consideration.

ADDRESSES: Direct all written comments to Tuawana Pinkston, Room 6526, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Sara Covington, at Internal Revenue Service, Room 6526, 1111 Constitution Avenue NW., Washington DC 20224, or through the internet, at *Sara.L.Covington@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.

OMB Number: 1545–0531.

Form Number: 706–NA.

Abstract: Form 706–NA is used to compute estate and generation-skipping transfer tax liability for nonresident alien decedents in accordance with section 6018 of the Internal Revenue Code. IRS uses the information on the

form to determine the correct amount of tax and credits.

Current Actions: There are no changes being made to the form at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Responses: 800.

Estimated Time per Respondent: 4 hours, 29 minutes.

Estimated Total Annual Burden Hours: 3,584.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: January 17, 2017.

Tuawana Pinkston,

Supervisory Tax Analyst.

[FR Doc. 2017–01992 Filed 1–30–17; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0458]

Agency Information Collection Activity: Certification of School Attendance or Termination (VA Form 21–8960 & VA Form 21–8960–1)

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed revision of a currently approved collection, and allow 60 days for public comment in response to the notice.

VA Forms 21–8960 & 21–8960–1 are used to gather the necessary information to determine continued benefit entitlement to or for a child between the ages of 18 and 23 who is attending school.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 3, 2017.

ADDRESSES: Submit written comments on the collection of information through Federal Docket Management System (FDMS) at *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M33), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420 or email to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0458'' in any correspondence. During the comment period, comments may be viewed online through the FDMS.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 632–8924 or Fax (202) 632–8925.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–21), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Certification of School Attendance or Termination (VA Form 21–8960 & VA Form 21–8960–1).

OMB Control Number: 2900–0458.

Type of Review: Revision of an approved collection.

Abstract: VA Forms 21–8960 & 21–8960–1 are used to gather the necessary information to determine continued benefit entitlement to or for a child between the ages of 18 and 23 who is attending school.

Affected Public: Individuals or households.

Estimated Annual Burden: 11,667 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 70,000.

By direction of the Secretary.

Cynthia Harvey-Pryor,

Department Clearance Officer, Office of Privacy and Records Management, Department of Veterans Affairs.

[FR Doc. 2017–02003 Filed 1–30–17; 8:45 am]

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